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Title 3—

The President

Proclamation 7108 of July 13, 1998

50th Anniversary of the Integration of the Armed Services, 1998

By the President of the United States of America

A Proclamation

On July 26, 1948, with the stroke of a pen, President Harry Truman changed the course of American history. By signing Executive Order 9981, ''Establishing the President's Committee on Equality of Treatment and Opportunity in the Armed Services,'' he officially declared that ''there shall be equality of treatment and opportunity for all persons in the armed services without regard to race, color, religion or national origin.'' His action reflected the growing realization by more and more Americans that our Nation could no longer reconcile segregation with the values we had fought a war to uphold.

The United States had emerged from World War II with a new understanding of the importance of racial and ethnic diversity to our Nation's strength and unity. Nazi racism and the horrors of the concentration camps shocked Americans and revealed the true dangers of prejudice and discrimination. Hundreds of thousands of our fellow citizens from many different ethnic and racial backgrounds served and sacrificed in the war. The valor of segregated African American soldiers—from the Tuskegee Airmen and the 761st Tank Battalion to individuals like General Benjamin O. Davis and General Daniel ''Chappie'' James—could not be ignored. These heroes risked their lives for our country overseas, and yet still faced discrimination here at home. By signing Executive Order 9981, President Truman set America on the path to right this wrong.

We have come a long way in the subsequent 50 years, and the United States Armed Forces have been in the vanguard of our crusade to abolish discrimination in our society. Today our men and women in uniform represent so many aspects of the diversity that has made our Nation great, and they have proved that different people, sharing the same values, can work together as a mighty force for peace and freedom at home and around the world. We still have much to accomplish in our journey to become a society that respects our differences, celebrates our diversity, and unites around our shared values, but we should proudly mark the milestones on that journey and rejoice in the progress we have made thus far.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim July 26, 1998, as the 50th Anniversary of the Integration of the Armed Services. I call upon all Americans to observe this day with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of July, in the year of our Lord nineteen hundred and ninety-eight, and of the Independence of the United States of America the two hundred and twenty-third.

William J. Clinton

[FR Doc. 98–19040
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Rules and Regulations

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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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM147; Special Conditions No. 25–139–SC]

Special Conditions: Boeing Model 757–300; High-Intensity Radiated Fields

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for the Boeing Model 757–300 airplane. This airplane will utilize new avionics/electronic systems that provide critical data to the flightcrew. The applicable regulations do not contain adequate or appropriate safety standards for the protection of these systems from the effects of high-intensity radiated fields. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

EFFECTIVE DATE: August 14, 1998.

FOR FURTHER INFORMATION CONTACT: John Dimtroff, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington, 98055–4056, telephone (425) 227–2117 or facsimile (425) 227–1320.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1996, the Boeing Commercial Airplane Group, P. O. Box 3707, Seattle, Washington 98124–2207, applied for an amendment to Type Certificate No. A2NM to include the new Model 757–300, a derivative of the 757–200. The 757–300 is a swept-wing, conventional-tail, twin-engine, turbofan-powered transport. Each engine is capable of delivering 43,100 pounds of thrust. The flight controls are unchanged beyond those changes deemed necessary to accommodate the stretched configuration. The airplane has a seating capacity of up to 295, and a maximum takeoff weight of 270,000 pounds (122,470 Kg).

Type Certification Basis

Under the provisions of Title 14 CFR 21.101, Boeing must show that the Model 757–300 meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A2NM, or the applicable regulations in effect on the date of application for the change to the Model 757–300. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A2NM include 14 CFR part 25, as amended by Amendments 25–1 through 25–45, and certain other later amended sections of part 25 that are not relevant to these special conditions. Except for certain earlier amended sections of part 25 that are not relevant to these special conditions, Boeing has chosen to comply with part 25 as amended by Amendments 25–1 through 25–85, the applicable regulations in effect on the date of application. In addition to the applicable airworthiness regulations and special conditions, the 757–300 must comply with the fuel vent and exhaust emission requirements of part 34, effective September 10, 1990, plus any amendments in effect at the time of certification; and the noise certification requirements of part 36, effective December 1, 1969, as amended by Amendment 36–1 through the amendment in effect at the time of certification. These special conditions form an additional part of the type certification basis.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the 757–300 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16 to establish a level of safety equivalent to that established in the regulations.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, or should any other model already included on the same type certificate be modified to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The 757–300 airplane avionics enhancement utilizes electronic systems that perform critical functions, including the following airframe Line Replaceable Units (LRU): Multi-Mode Receiver (MMR), Flight Control Computer (FCC), Yaw Damper Stabilizer Trim Module (YSM), Air Data Inertial Reference System (ADIRS), and the Allied Signal Radio Altimeter (RA). These systems may be vulnerable to high-intensity radiated fields (HIRF) external to the airplane.

Discussion

There is no specific regulation that addresses protection requirements for electrical and electronic systems from HIRF. Increased power levels from ground based radio transmitters, and the growing use of sensitive electrical and electronic systems to command and control airplanes, have made it necessary to provide adequate protection.

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the 757–300, which require that new technology electrical and electronic systems, such as the MMR, FCC, YSM, ADIRS, and RA, be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields

With the trend toward increased power levels from ground based transmitters, plus the advent of space and satellite communications, coupled with electronic command and control of

the airplane, the immunity of critical digital avionics systems to HIRF must be established.

It is not possible to precisely define the HIRF to which the airplane will be exposed in service. There is also uncertainty concerning the effectiveness of airframe shielding for HIRF. Furthermore, coupling of electromagnetic energy to cockpit-installed equipment through the cockpit window apertures is undefined. Based on surveys and analysis of existing HIRF emitters, an adequate level of protection exists when compliance with the HIRF protection special condition is shown with either paragraphs 1 or 2 below:

1. A minimum threat of 100 volts per meter peak electric field strength from 10 KHz to 18 GHz.

a. The threat must be applied to the system elements and their associated wiring harnesses without the benefit of airframe shielding.

b. Demonstration of this level of protection is established through system tests and analysis.

2. A threat external to the airframe of the following field strengths for the frequency ranges indicated.

Frequency	Field strength (volts per meter)					
	US		UK/European		Consolidated	
	Peak	Avg.	Peak	Avg.	Peak	Avg.
10 kHz–100 kHz	30	30	50	50	50	50
100 kHz–500 kHz	40	30	60	60	60	60
500 kHz–2 MHz	30	30	70	70	70	70
2 MHz–30 MHz	190	190	200	200	200	200
30 MHz–70 MHz	20	20	30	30	30	30
70 MHz–100 MHz	20	20	30	30	30	30
100 MHz–200 MHz	30	30	150	30	150	30
200 MHz–400 MHz	30	30	70	70	70	70
400 MHz–700 MHz	80	80	700	40	700	80
700 MHz–1 GHz	690	240	1700	80	1700	240
1 GHz–2 GHz	970	70	5000	360	5000	360
2 GHz–4 GHz	1570	350	4500	360	4500	360
4 GHz–6 GHz	7200	300	5200	300	7200	300
6 GHz–8 GHz	130	80	2000	330	2000	330
8 GHz–12 GHz	2100	80	3500	270	3500	270
12 GHz–18 GHz	500	330	3500	180	3500	330
18 GHz–40 GHz	780	20	NA	NA	780	20

The field strengths are expressed in terms of peak root-mean-square (rms) values.

The threat levels identified above differ from those used in previous special conditions and are the result of an FAA review of existing studies on the subject of HIRF, in light of the ongoing work of the Electromagnetic Effects Harmonization Working Group of the Aviation Rulemaking Advisory Committee. In general, these standards are less critical than the threat level that was previously used as the basis for earlier special conditions

Discussion of Comments

Notice of Proposed Special Conditions No. 25–98–02–SC for the 757–300 was published in the **Federal Register** on March 25, 1998 (63 FR 14381). Three commenters responded.

The first commenter, representing the interests of airline pilots, concurs with the special conditions as proposed.

The second commenter, the United Kingdom Civil Aviation Authority (CAA), states that harmonized HIRF requirements and associated guidance material arising from FAA/Joint Aviation Authorities (JAA) participation in a working group of the Aviation Rulemaking Advisory Committee (ARAC) are well established and known to the FAA and should be applied by the FAA where special conditions of this nature are required. The commenter also states that the JAA has applied the harmonized requirements and means of compliance, and as the FAA may be faced with finding compliance on behalf of the JAA, it may be inappropriate for the FAA to apply any special condition or means of compliance that is not in accordance with the harmonized standards.

The FAA concurs with this commenter; however, at the time of application for certification of the 757–300, the requirements depicted in the certification program were not fully harmonized. The HIRF requirements in place at the time were as depicted in the proposed special condition. Future airplane certification programs will include the fully harmonized requirements. Also, Boeing can elect to use the newer, harmonized requirement table if they so choose.

The applicant, Boeing Commercial Airplane Group, also provided comments on the proposed special conditions. Boeing does not believe a HIRF special condition should be applied to existing production airplane models. The FAA does not agree. Section 21.101 of 14 CFR part 21 states that special conditions can be applied to both new and substantially complete redesigns of a component, equipment installation, or system installation. Upgrades of existing production airplanes, if the upgrade incorporates new or substantially complete redesigns of a component, equipment installation, or system installation, do fall within the scope of § 21.101.

Boeing also states that applying the HIRF special conditions would deter them from upgrading existing airplane models. The FAA has consistently applied the requirements in the HIRF special condition to avionics upgrades of existing production model airplanes. Many of these upgrades have been in the form of supplemental type certifications on Boeing airplanes and were designed and installed by applicants other than Boeing. The special conditions have not deterred other applicants from upgrading existing Boeing airplanes. Also, Boeing already applies the requirements within the HIRF special conditions to existing production model airplanes. When Boeing certified the Model 777–200 and the Model 777–300, components, equipment installations, or system installations from the Model 777–200, which were new or substantially redesigned, were shown to comply with the requirements of the HIRF special condition. When the engines on the Model 767 were upgraded to include Full Authority Digital Engine Controls

(FADECs), the FADECs were shown to comply with the HIRF special conditions. The FAA HIRF requirements have been consistent, and Boeing has been aware of and complied with these requirements for several years.

Boeing further states that the HIRF special condition would effectively deter them from upgrading electronic equipment that incorporates safety and reliability enhancing features. The FAA requirements in the HIRF special condition reflect the need to address a known environmental hazard, recognized by the technical and regulatory community worldwide. Protection against this known environmental hazard is required by FAA for all systems performing functions whose failure would contribute to or cause a catastrophic failure condition that would prevent the continued safe flight and landing of the airplane. This policy applies, regardless of whether the new or significantly changed component, equipment, or system is intended to improve an unrelated safety or reliability issue. Improving one aspect of safety or reliability should not degrade another aspect of safety.

The FAA has consistently applied the requirements in the HIRF special conditions to certification programs for over 12 years, regardless of whether the certification was based on a new airplane type, or a change to an existing airplane. Changing this policy for one model of Boeing airplanes would not be consistent with the FAA policy over the last 12 years. Therefore, special conditions for the 757–300 are adopted as proposed in Notice 25–98–02–SC.

Applicability

As discussed above, these special conditions are applicable initially to the Model 757–300 airplane. Should Boeing apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well, under the provisions of § 21.101(a)(1).

Conclusion

This action affects certain design features only on the Model 757–300. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on this model.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 757–300 series airplanes.

1. *Protection from Unwanted Effects of High-Intensity Radiated Fields (HIRF).* Each electrical and electronic system that performs critical functions must be designed and installed to ensure that the operation and operational capability of these systems to perform critical functions are not adversely affected when the airplane is exposed to high-intensity radiated fields.

2. For the purpose of this special condition, the following definition applies:

Critical Functions. Functions whose failure would contribute to or cause a failure condition that would prevent the continued safe flight and landing of the airplane.

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

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18857 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–41–AD; Amendment 39–10651; AD 98–15–01]

RIN 2120–AA64

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

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain EMBRAER Model EMB–145 series airplanes, that requires a one-time inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment; and cleaning the tubes or replacing drain tubes with new tubes, if necessary. This amendment also requires modification of the pitot/static system. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment caused by cycles of water freezing and expanding inside the tubes, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight.

DATES: Effective August 19, 1998.

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

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

FOR FURTHER INFORMATION CONTACT: Neil Berryman, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30337–2748; telephone (770) 703–6066; fax (770) 703–6097.

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 EMBRAER Model EMB–145 series airplanes was published in the **Federal Register** on April 8, 1998 (63 FR 17130). That action proposed to require a one-time inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment; and cleaning the tubes or replacing drain tubes with new tubes, if necessary. That action also proposed modification of the pitot/static system.

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.

Request to Provide Option for Compliance With Inspection

One commenter suggests that clarification should be added to paragraph (b) of the proposed AD to specify that if operators have accomplished the actions described in EMBRAER Service Bulletin 145–34–0008, it is no longer necessary to accomplish the one-time visual inspection described in EMBRAER Service Bulletin 145–34–0010, as required by paragraph (a) of the proposed AD. The commenter states that EMBRAER Service Bulletin 145–34–0008 accomplishes the same system check as that specified in EMBRAER Service Bulletin 145–34–0010 and, in addition, replaces the problem lines.

The FAA agrees that accomplishment of the actions specified in EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997, would eliminate the need to accomplish the one-time visual inspection described in EMBRAER Service Bulletin 145–34–0010, Change 01, dated September 25, 1997. A new paragraph (c) has been added to this final rule to remove the requirement to accomplish paragraph (a) if the action required by paragraph (b) has been accomplished prior to the effective date of this AD, or is accomplished within the compliance time specified in paragraph (a).

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 with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 15 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $1,800, or $120 per airplane.

In addition, it will take approximately 2 work hours per airplane to accomplish the modification required by this AD, at an average labor rate of $60 per work hour. Required parts will be supplied by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the modification required by this AD on U.S. operators is estimated to be $1,800, or $120 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:

98–15–01 Empresa Brasileira de Aeronautica, S.A. (EMBRAER): Amendment 39–10651. Docket 98–NM–41–AD.

Applicability: Model EMB–145 series airplanes, serial numbers 145004 through 145028 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct bulging and cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, which could result in erroneous airspeed indications to the flight crew and reduced operational safety in all phases of flight, accomplish the following:

(a) Except as provided by paragraph (c) of this AD, within 50 hours time-in-service after the effective date of this AD, perform a one-time visual inspection to detect bulging or cracking of the pitot 1 and pitot 2 drain tubes in the forward electronic compartment, in accordance with EMBRAER Service Bulletin 145–34–0010, Change 01, dated September 25, 1997.

(1) If no bulging or cracking is detected, prior to further flight, clean the pitot tubes in accordance with the service bulletin.

(2) If any bulging or cracking is detected in any drain tube, prior to further flight, replace the pitot drain tube with a new tube in accordance with the service bulletin.

Note 2: Accomplishment of the visual inspection, cleaning, or replacement of the pitot 1 and pitot 2 drain tubes prior to the effective date of this AD in accordance with EMBRAER Service Bulletin 145–34–0010, dated July 25, 1997, is considered acceptable for compliance with the applicable action specified by paragraph (a) of this AD.

(b) Within 400 hours time-in-service after the effective date of this AD: Modify the pitot/static system in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

(c) For airplanes on which the modification required by paragraph (b) of this AD has been accomplished prior to the effective date of this AD, or is accomplished within the compliance time specified in paragraph (a) of this AD (i.e., within 50 hours time-in-service after the effective date of this AD), the one-

time visual inspection specified in paragraph (a) of this AD is not required.

(d) As of the effective date of this AD, no person shall install a pitot/static system on any airplane, unless it has been modified in accordance with EMBRAER Service Bulletin 145–34–0008, dated September 10, 1997.

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

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

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

(g) The actions shall be done in accordance with the following EMBRAER service bulletins, which contain the specified list of effective pages:

Service bulletin referenced and date	Page number shown on page	Revision level shown on page	Date shown on page
145–34–0010, Change 01, September 25, 1997	1, 2	1	September 25, 1997.
	3–9	Original	July 25, 1997.
145–34–0008, September 10, 1997	1–22	Original	September 10, 1997.

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

Note 4: The subject of this AD is addressed in Brazilian airworthiness directive 97–07–12R1, dated November 3, 1997.

(h) This amendment becomes effective on August 19, 1998.

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

John J. Hickey,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18470 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–87–AD; Amendment 39–10656; AD 98–15–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146–200A Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain British Aerospace Model BAe 146–200A series airplanes, that requires a one-time inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged, and of the horizontal stabilizer to detect cracking of elevator hinge rib 1; 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 detect and correct cracking of elevator hinge rib 1 of the horizontal stabilizer, which could occur if the gust damper of the elevator control system discharges and allows the elevator to move freely in ground gust conditions. Such cracking could result in damage to the structural attachment of the elevator to the horizontal stabilizer, and consequent reduced controllability of the airplane.

DATES: Effective August 19, 1998.

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

ADDRESSES: The service information referenced in this AD may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the 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 British Aerospace Model BAe 146–200A series airplanes was published in the **Federal Register** on April 16, 1998 (63 FR 18852). That action proposed to require a one-time inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged, and of the horizontal stabilizer to detect cracking of elevator hinge rib 1; 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.

Request To Revise Cost Information

One commenter, the manufacturer, advises that the cost information provided in the proposed AD contains an error. The commenter states that the number of BAe 146–200A series airplanes of U.S. registry that would be affected by the AD is 5, rather than 19, as stated in the proposed AD. The FAA concurs with the commenter. The cost impact information, below, has been revised to reflect the correct number of affected airplanes on the U.S. register.

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 with the change described previously. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

The FAA estimates that 5 British Aerospace Model BAe 146–200A 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 inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $300, 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:

198–15–05 British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Amendment 39–10656. Docket 98–NM–87–AD.

Applicability: Model BAe 146–200A series airplanes, as listed in British Aerospace Service Bulletin SB.55–16, dated July 14, 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 (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 detect and correct cracking of elevator hinge rib 1 of the horizontal stabilizer, which could result in damage to the structural attachment of the elevator to the horizontal stabilizer and consequent reduced controllability of the airplane; accomplish the following:

(a) Within 60 days after the effective date of this AD, accomplish paragraphs (a)(1) and (a)(2) of this AD, in accordance with British Aerospace Service Bulletin SB.55–16, dated July 14, 1997.

(1) Perform a visual inspection of the gust damper of the elevator control system to determine if the gust damper is properly charged. If any gust damper is found to be improperly charged, prior to further flight, recharge the gust damper in accordance with the service bulletin.

(2) Perform a detailed visual inspection, using a borescope, to detect cracking of elevator hinge rib 1, on the left and right side of the airplane, in accordance with the service bulletin. If any cracking is found, prior to further flight, replace any cracked hinge rib 1 with a new or serviceable part, in accordance with a method approved by either the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate; or procedures provided by the manufacturer that are approved by the Civil Aviation Authority.

(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.

(d) The inspections and recharge shall be done in accordance with British Aerospace Service Bulletin SB.55–16, dated July 14, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 010–07–97, dated March 2, 1998.

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

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18651 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–197–AD; Amendment 39–10655; AD 98–15–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A320 series airplanes, that requires repetitive inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43; and repair, if necessary. This amendment also requires a one-time inspection for fatigue cracking of the fastener holes in the longitudinal floor beams, and modification of the floor

beams, which constitutes terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this 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: Effective August 19, 1998.

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

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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 Airbus Model A320 series airplanes was published in the **Federal Register** on April 14, 1998 (63 FR 18158). That action proposed to require repetitive inspections for fatigue cracking of the bottom flanges of the longitudinal floor beams at frame 43; and repair, if necessary. That action also proposed to 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.

Comments

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

One commenter supports the proposed rule.

Request To Allow Flight With Cracks

One commenter requests that the proposed AD be revised to allow continued operation of the airplane following the detection of cracks, provided operators follow the defined values for follow-on inspections and repairs as recommended in Airbus Service Bulletin A320–53–1085. The commenter states that the structure of Airbus A320 series airplanes is classified as damage tolerant. Additionally, based on fatigue test results and calculations of the crack propagation rate, the manufacturer has defined in the service bulletin an appropriate number of flight cycles for continued flight with cracks, depending on the crack length detected. Finally, the commenter notes that the inspection program recommended in the service bulletin was developed in order to prevent the need for extensive repair of the aircraft.

The FAA does not concur with the commenter's request to allow continued operation of the airplane following the detection of cracks. Generally, the FAA considers that damage tolerance assessment methodologies are effective for establishing an inspection program that will detect cracks before failure occurs, but they are not sufficiently accurate to predict precisely and reliably the rates at which identified cracks will propagate to failure. Additionally, the FAA recognizes that there are adverse human factors associated with the performance of repetitive inspections that may reduce safety if such repair deferrals are practiced routinely.

Therefore, it is FAA policy to require repair of known cracks prior to further flight whether the airplane structure is classified as damage tolerant or not, rather than to use the principles of damage tolerance as a tool to manage existing cracks. There may be certain exceptions to this policy for cases where there is an unusual need for a temporary deferral of the repair, such as difficulty in acquiring parts to accomplish a repair in a timely manner. Since the commenter has not identified any unusual need that would warrant an exception to FAA policy in this instance, the FAA has determined that, due to 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. No change to the final rule is necessary.

Conclusion

After careful review of the available data, including the comments 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 5 airplanes of U.S. registry will be affected by this AD. It will take approximately 3 work hours per airplane to accomplish the required 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 required by this AD on U.S. operators is estimated to be $900, or $180 per airplane, per inspection cycle.

It will take approximately 32 work hours per airplane to accomplish the required inspection of the fastener holes and required modification, at an average labor rate of $60 per work hour. Required parts will 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 required 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 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:

98–15–04 Airbus Industrie: Amendment 39–10655. 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.

(e) The visual inspection shall be done in accordance with Airbus Service Bulletin A320–53–1085, dated March 31, 1995. The eddy current inspection and the modification shall be done in accordance with Airbus Service Bulletin A320–53–1008, dated March 31, 1995. 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. 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 French airworthiness directive 96–236–089(B), dated October 23, 1996.

(f) This amendment becomes effective on August 19, 1998.

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

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18650 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing Benefits

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans prescribes interest assumptions for valuing benefits under terminating single-employer plans. This final rule amends the regulation to adopt interest assumptions for plans with valuation dates in August 1998.

EFFECTIVE DATE: August 1, 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: The PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) prescribes actuarial assumptions for valuing plan benefits of terminating single-employer plans covered by title IV of the Employee Retirement Income Security Act of 1974.

Among the actuarial assumptions prescribed in part 4044 are interest assumptions. These interest assumptions are intended to reflect current conditions in the financial and annuity markets.

Two sets of interest assumptions are prescribed, one set for the valuation of benefits to be paid as annuities and one set for the valuation of benefits to be paid as lump sums. This amendment adds to appendix B to part 4044 the annuity and lump sum interest assumptions for valuing benefits in plans with valuation dates during August 1998.

For annuity benefits, the interest assumptions will be 5.40 percent for the first 25 years following the valuation date and 5.25 percent thereafter. The

annuity interest assumptions represent a decrease (from those in effect for July 1998) of 0.10 percent for the first 25 years following the valuation date and are otherwise unchanged. For benefits to be paid as lump sums, the interest assumptions to be used by the PBGC will be 4.00 percent for the period during which a benefit is in pay status and during any years preceding the benefit's placement in pay status. The lump sum interest assumptions are unchanged from those in effect for July 1998.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest assumptions promptly so that the assumptions can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans with valuation dates during August 1998, the PBGC finds that good cause exists for making the assumptions set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866.

Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 4044

Pension insurance, Pensions.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

2. In appendix B, a new entry is added to Table I, and Rate Set 58 is added to Table II, as set forth below. The introductory text of each table is republished for the convenience of the reader and remains unchanged.

Appendix B to Part 4044—Interest Rates Used to Value Annuities and Lump Sums

TABLE I.—ANNUITY VALUATIONS

[This table sets forth, for each indicated calendar month, the interest rates (denoted by i_1, i_2, * * *, and referred to generally as i_t) assumed to be in effect between specified anniversaries of a valuation date that occurs within that calendar month; those anniversaries are specified in the columns adjacent to the rates. The last listed rate is assumed to be in effect after the last listed anniversary date]

For valuation dates occurring in the month—	The values of i_t are:					
	i_t	for t=	i_t	for t=	i_t	for t=
* * *	*	*	*	*	*	
August 1998	.0540	1–25	.0525	>25	N/A	N/A

TABLE II.—LUMP SUM VALUATIONS

[In using this table: (1) For benefits for which the participant or beneficiary is entitled to be in pay status on the valuation date, the immediate annuity rate shall apply; (2) For benefits for which the deferral period is y years (where y is an integer and $0<y\leq n_1$,), interest rate i_1 shall apply from the valuation date for a period of y years, and thereafter the immediate annuity rate shall apply; (3) For benefits for which the deferral period is y years (where y is an integer and $n_1 < y \leq n_1 + n_2$), interest rate i_2 shall apply from the valuation date for a period of $y - n_1$ years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply; (4) For benefits for which the deferral period is y years (where y is an integer and $y > n_1 + n_2$), interest rate i_3 shall apply from the valuation date for a period of $y - n_1 - n_2$ years, interest rate i_2 shall apply for the following n_2 years, interest rate i_1 shall apply for the following n_1 years, and thereafter the immediate annuity rate shall apply]

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities (percent)	i_1	i_2		
	On or after	Before				i_3	n_1	n_2
*	*	*	*	*	*	*	*	*
58	08–1–98	09–1–98	4.00	4.00	4.00	4.00	7	8

Issued in Washington, DC, on this 6th day of July 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–18682 Filed 7–14–98; 8:45 am]

BILLING CODE 7708–01–P

POSTAL SERVICE

39 CFR Part 111

Changes in Preferred Postage Rates—Periodicals and Standard Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Public Law No. 103–123 authorizes annual changes in the reduced rates for preferred periodicals and non-profit standard mail formerly financed by appropriations for revenue forgone. This action implements these changes for FY 1999.

DATES: Effective Date: October 4, 1998. The changes pertaining to postage rates will be implemented effective 12:01 a.m., Sunday, October 4, 1998.

FOR FURTHER INFORMATION CONTACT: Thomas DeVaughan, (202) 268–4491.

SUPPLEMENTARY INFORMATION: Under 39 U.S.C. 3626(a) and 3642, the Postal Service is authorized to make adjustments in the Periodicals Preferred In-County pound rates and the nonadvertising per piece rates for

Preferred Nonprofit publications, the nonadvertising pound rates and the per piece rates for Preferred Classroom publications; and postal rates for Nonprofit Standard Mail, Nonprofit Enhanced Carrier Route Standard Mail, and Library Mail. These adjustments are necessary to phase up the institutional-costs contribution of this mail to the levels required by law by FY 1999.

The rates for Periodicals Science-of-Agriculture publications zones 1 and 2 will remain the same at 75 percent of the rates charged on advertising in regular-rate publications, as specified by law. These rates will not change until regular Periodicals advertising rates change through a general rate case. Also, since the maximum weight for automation heavy letters is traditionally the heaviest weight break Standard Mail (A) minimum per-piece rates, the maximum weight for these letters mailed at First-Class Mail and Periodicals is also changed with this notice.

Please note, that the full rates resulting from these adjustments will be superseded by the full rates resulting from the Docket Number R97–1 Rate Case, which will take effect 12:01 a.m., Sunday, January 10, 1999.

List of Subjects in 39 CFR Part 111

Postal Service.

For the reasons discussed above, the Postal Service hereby adopts the following amendments to the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations (see 39 CFR Part 111).

PART 111—[AMENDED]

1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

2. Revise the following sections of Domestic Mail Manual Issue 53 as set forth below:

C Characteristics and Content

* * * * *

C800 Automation-Compatible Mail

C810 Letters and Cards

* * * * *

2.0 DIMENSIONS

* * * * *

2.3 Maximum Weight

[Amend 2.3f to read as follows:]

Maximum weight limits are as follows:

* * * * *

f. 3.3388 ounces: automation First-Class Mail, automation Periodicals, and automation Nonprofit Standard Mail heavy letters, subject to 7.5.

* * * * *

E Eligibility

* * * * *

E600 Standard Mail

E610 Basic Standards

* * * * *

E612 Additional Standards for Standard Mail (A)

* * * * *

4.0 BULK RATES

* * * * *

4.2 Minimum Per Piece Rates

[Amend 4.2 by revising the first sentence to read as follows:]

The minimum per piece rates (i.e., the minimum postage that must be paid for each piece) apply to Enhanced Carrier Route rate pieces weighing no more than 0.2066 pound (3.3062 ounces) rounded; Regular nonautomation and automation rate pieces weighing no more than 0.2068 pound (3.3087 ounces) rounded; Nonprofit Enhanced Carrier Route rate pieces weighing no more than 0.2084 pound (3.3348 ounces) rounded; and Nonprofit nonautomation and automation rate pieces weighing no more than 0.2087 pound (3.3388 ounces) rounded. * * *

* * * * *

P Postage and Payment Methods

P000 Basic Information

P010 General Standards

* * * * *

P013 Rate Application and Computation

* * * * *

4.0 RATE APPLICATION—STANDARD MAIL (A)

* * * * *

4.3 Bulk Rates

[Amend 4.3 to read as follows:]

Bulk rates are based on the weight of the pieces and are applied differently to pieces weighing less than or equal to a ''breakpoint'' (rounded to four decimal places) and those weighing more, as follows:

a. The appropriate minimum per piece rate applies to pieces weighing:

(1) 0.2066 pound (3.3062 ounces) or less for Enhanced Carrier Route rates

(2) 0.2068 pound (3.3087 ounces) or less for Regular rates

(3) 0.2084 pound (3.3348 ounces) or less for Nonprofit Enhanced Carrier Route rates

(4) 0.2087 pound (3.3388 ounces) or less for Nonprofit rates

b. A rate determined by adding the appropriate fixed per piece charge and the corresponding variable per pound charge (based on the weight of the piece) applies to pieces weighing more than the above.

* * * * *

R Rates and Fees

* * * * *

R100 First-Class Mail

* * * * *

Summary of First-Class Rates

[Amend footnote 3 to read as follows:]

3. Weight not to exceed 3.3388 ounces; pieces over 3 ounces subject to additional standards.

* * * * *

R200 Periodicals

1.0 REGULAR

* * * * *

1.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

2.0 PREFERRED—IN–COUNTY

2.1 Pound Rates

Per pound or fraction:

Zone	Rate
Delivery Unit	$0.116
All Others	0.126

2.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

3.0 PREFERRED—NONPROFIT

* * * * *

3.2 Piece Rates

Per addressed piece:

Presort level	Nonautomation	Automation [1]	
		Letter-size	Flat-size
Basic	$0.219	0.189	0.195
3/5	0.174	.....	0.150
3-Digit	.....	0.151	.....
5-Digit		0.151	.....
Carrier Route	0.107	.....	.....
High Density	0.100	.....	.....
Saturation	0.086	.....	.....

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

4.0 PREFERRED—CLASSROOM

4.1 Pound Rates

Per pound or fraction:

Automation [1]	Presort level	Nonautomation	
		Letter-size	Flat-size
Basic	$0.219	$0.189	$0.195
3/5	0.174	.....	0.150
3-Digit	.....	0.151	.....
5-Digit	.....	0.151	.....
Carrier Route	0.107	.....	.....
High Density	0.100	.....	.....
Saturation	0.086	.....	.....

[1] Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

4.3 Discounts

Piece rate discounts:

* * * * *

b. Delivery unit zone piece discount for each addressed piece claimed in the pound rate portion at the delivery unit zone rate: $0.012.

c. SCF zone piece discount for each addressed piece claimed in the pound rate portion at the SCF zone rate: $0.006.

5.0 PREFERRED—SCIENCE-OF-AGRICULTURE

* * * * *

5.2 Piece Rates

[Amend footnote 1 to read as follows:]

1. Lower maximum weight limits apply: letter-size at 3 ounces (or 3.3388 ounces for heavy letters); flat-size at 16 ounces.

* * * * *

a. For the nonadvertising portion: $0.142.

* * * * *

4.2 Piece Rates

Per addressed piece:

R600 Standard Mail

* * * * *

4.0 NONPROFIT STANDARD MAIL

4.1 Letter-Size Minimum Per Piece Rates

Pieces 0.2087 pound (3.3388 ounces) or less:

Entry discount	Nonautomation		Automation [1]		
	Basic	3/5	Basic	3-Digit	5-Digit
None	$0.138	$0.120	$0.105	$0.101	$0.088
DBMC	0.125	0.107	0.092	0.088	0.075
DSCF	0.120	0.102	0.087	0.083	0.070
DDU	.....	.....	.....	.....	.....

[1] Pieces weighing over 3 ounces subject to additional standards.

4.2 Nonletter-Size Minimum Per Piece Rates

Pieces 0.2087 pound (3.3388 ounces) or less:

Entry discount	Nonautomation		Automation [1]	
	Basic	3/5	Basic	3/5
None	$0.201	$0.149	$0.177	$0.125
DBMC	0.188	0.136	0.164	0.112
DSCF	0.183	0.131	0.159	0.107

Entry discount	Nonautomation		Automation [1]	
	Basic	3/5	Basic	3/5
DDU				

[1] Available only for automation-compatible flats.

4.3 Piece/Pound Rates

Pieces more than 0.2087 pound (3.3388 ounces):

Piece/pound rate [1]	Nonautomation		Automation [2]	
	Basic	3/5	Basic	3/5
Per Piece	$0.100	$0.048	$0.076	$0.024
Per Pound (includes entry discount if applicable)	PLUS	PLUS	PLUS	PLUS
None	0.484	0.484	0.484	0.484
DBMC	0.422	0.422	0.422	0.422
DSCF	0.396	0.396	0.396	0.396
DDU				

[1] Each piece is subject to both a piece rate and a pound rate.
[2] Available only for automation-compatible flats.

5.0 NONPROFIT ENHANCED CARRIER ROUTE STANDARD MAIL

5.1 Letter-Size Minimum Per Piece Rates

Pieces 0.2084 pound (3.3348 ounces) or less:

Entry discount	Nonautomation			Automation[1]
	Basic	High density	Saturation	Basic
None	$0.099	$0.093	$0.087	$0.085
DBMC	0.086	0.080	0.074	0.072
DSCF	0.081	0.075	0.069	0.067
DDU	0.075	0.069	0.063	0.061

[1] Pieces weighing over 3 ounces subject to additional standards.

* * * * *

9.0 LIBRARY MAIL

Weight not over (pounds)	Single-piece
1	$1.12
2	1.54
3	1.96
4	2.38
5	2.80
6	3.22
7	3.64
8	3.86
9	4.08
10	4.30
11	4.52
12	4.74
13	4.96
14	5.18
15	5.40
16	5.62
17	5.84
18	6.06
19	6.28
20	6.50
21	6.72
22	6.94
23	7.16
24	7.38
25	7.60
26	7.82
27	8.04
28	8.26
29	8.48
30	8.70
31	8.92
32	9.14
33	9.36
34	9.58
35	9.80
36	10.02
37	10.24
38	10.46
39	10.68
40	10.90
41	11.12
42	11.34
43	11.56
44	11.78
45	12.00
46	12.22
47	12.44
48	12.66
49	12.88
50	13.10
51	13.32
52	13.54
53	13.76
54	13.98
55	14.20
56	14.42
57	14.64
58	14.86
59	15.08
60	15.30
61	15.52
62	15.74
63	15.96
64	16.18
65	16.40
66	16.62
67	16.84
68	17.06
69	17.28
70	17.50

* * * * *

An appropriate amendment to 39 CFR 111.3 will be published to reflect these changes.

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 98–18752 Filed 7–14–98; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0024a; FRL–6124–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving a State Implementation Plan (SIP) revision submitted by the State of Colorado on September 16, 1997. The effect of this action is to approve 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont that were submitted by the Governor, as a revision to the State Implementation Plan (SIP), as required by 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 direct final rule is effective on September 14, 1998 without further notice, unless EPA receives adverse comments by August 14, 1998. If adverse comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air Program, Mailcode 8P2–A, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado, 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: On September 16, 1997, the State of Colorado submitted a formal revision to its State Implementation Plan (SIP). The SIP revision consists of the 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont.

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 Colorado Springs, Denver, Fort Collins, and Longmont. 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 Colorado Springs, Denver, Fort Collins, and Longmont, the 1993 periodic inventories included the period November through January. The periodic inventories are to address emissions from stationary point, area, on-road mobile, and non-road mobile sources.

II. Summary of SIP Revision

A. Review of the 1993 CO Periodic Emissions Inventories (PEI) for Colorado Springs, Denver, Fort Collins, and Longmont

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. Colorado chose the latter option for all four 1993 PEIs.

EPA has reviewed the 1993 PEIs for Colorado Springs, Denver, Fort Collins, and Longmont. Summary tables, calculations for all identified sources in each source category, and adequate documentation were provided by the State for each of the four PEIs. EPA has determined that the Colorado Springs, Denver, Fort Collins, and Longmont 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 Colorado Springs, Denver, Fort Collins, and Longmont are summarized in the following table:

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Colorado Springs	2.83	29.49	250.80	34.70	317.82

CARBON MONOXIDE SEASONAL EMISSIONS IN TONS PER DAY—Continued

Non-attainment area	Point source emissions*	Area source emissions	On-road mobile emissions	Non-road mobile emissions	Total emissions
Denver	13.37	72.40	1441.97	152.96	1680.70
Fort Collins	0.18	7.54	49.99	8.96	66.67
Longmont	0.03	2.36	20.78	5.54	28.71

*Major CO point sources (i.e., CO emissions equal to or greater than 100 tons per year).

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 State held a public hearing for the Colorado Springs, Denver, Fort Collins, and Longmont 1993 PEIs on December 21, 1995, directly after which the inventories were adopted by the Air Quality Control Commission (AQCC); the inventories were formally submitted by the Governor on September 16, 1997. EPA determined the submittal was complete on February 23, 1998.

III. Final Action

EPA is approving the carbon monoxide 1993 periodic emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont as fulfilling the requirements of section 187(a)(5) of the CAA. These inventories were submitted by the Governor with a letter dated September 16, 1997.

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

EPA is publishing this rule 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 adverse comments be filed. This rule will be effective September 14, 1998 without further notice unless the Agency receives adverse comments by August 14, 1998.

If the EPA receives such comments, then EPA will publish a notice withdrawing the final rule and informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The 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 September 14, 1998 and no further action will be taken on the proposed rule.

IV. Administrative Requirements

A. Executive Orders 12866 and 13045

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review,'' review.

The final rule is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks,'' because it is not an ''economically significant'' action under Executive Order 12866.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because 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 create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

C. Unfunded Mandates

Under Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to 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

[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.

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 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 Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 14, 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).)

F. Approving SIP Revisions in Audit Law States

Nothing in this action should be construed as making any determination or expressing any position regarding Colorado's audit privilege and penalty immunity law (13–25–126.5, C.R.S.) or its impact upon any approved provision in the SIP, including the revision at issue here. The action taken herein does not express or imply any viewpoint on the question of whether there are legal deficiencies in this or any other Clean Air Act program resulting from the effect of Colorado's audit privilege and immunity law. A state audit privilege and immunity law can affect only state enforcement and cannot have any impact on federal enforcement authorities. EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by a state audit privilege or immunity law.

List of Subjects in 40 CFR Part 52

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

Dated: July 6, 1998.

Patricia D. Hull,

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 G—Colorado

2. Section 52.348 is amended by designating the existing text as paragraph (a) and by adding paragraph (b) to read as follows:

§ 52.348 Emission inventories.

* * * * *

(b) On September 16, 1997, the Governor of Colorado submitted the 1993 Carbon Monoxide Periodic Emission Inventories for Colorado Springs, Denver, Fort Collins, and Longmont as revisions to the Colorado State Implementation Plan. These inventories address carbon monoxide emissions from stationary point, area, non-road mobile, and on-road mobile sources.

[FR Doc. 98–18862 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[CS Docket No. 97–80; FCC 98–116]

Commercial Availability of Navigation Devices

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: These rules provide for the commercial availability of set top boxes and other consumer equipment used to receive video signals and other services. The intended effect of these rules is to expand opportunities for consumers to purchase this equipment from sources other than the service provider.

DATES: Effective upon approval by the Office of Management and Budget (''OMB''), but no sooner than August 14, 1998, except for § 76.1204, which shall become effective July 1, 2000. When approval is received, the Commission will publish a document announcing the effective date. Written comments by the public on the modified information collection requirements should be submitted on or before September 14, 1998.

ADDRESSES: A copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 234, 1919 M Street, NW, Washington, DC 20554, or via the Internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: Thomas Horan, Cable Services Bureau, (202) 418–7200. For additional information concerning the information collections contained herein, contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

PAPERWORK REDUCTION ACT: This *Report and Order* has been analyzed with respect to the Paperwork Reduction Act of 1995 (the ''1995 Act'') and found to impose new or modified information collection requirements on the public. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public to take this opportunity to comment on the information collection requirements contained in this *Report and Order,* as required by the 1995 Act. Public comments are due September 14, 1998. Comments should address: (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 estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

OMB Approval Number: 3060–XXXX (new collection).

Title: Commercial Availability of Navigation Devices.

Type of Review: New collection.

Respondents: Businesses or other for-profit entities.

Number of Respondents: 200.

Estimated Time Per Response: 10 minutes to 40 hours.

Frequency of Response: On occasion.

Total Annual Burden to Respondents: 3,266 hours.

Total Annual Cost to Respondents: $29,632.

Needs and Uses: The disclosure requirements set forth in this

proceeding will ensure that consumers can make informed decisions about the purchase and proper installation of navigation devices. The § 76.1207 petition process will give providers of multichannel video programming and equipment providers a forum in which to request relief from regulations adopted under this part for a limited time, provided that there is an appropriate showing that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. The § 76.1208 petition process allows interested parties to petition the Commission to provide for a sunset of navigation devices regulations. The semiannual reports will be used by the Commission to monitor the progress of key industry entities of their efforts to assure the commercial availability of navigation devices.

SUPPLEMENTARY INFORMATION:

1. The *Report and Order* addresses the issues raised in the *Notice of Proposed Rulemaking* in CS Docket No. 97–80, 62 FR 10011 (March 5, 1997) (''*NPRM*''), regarding the mandate expressed in Section 629 of the Communications Act (47 U.S.C. § 549) to ensure the commercial availability of ''navigation devices,'' the equipment used to access video programming and other services from multichannel video programming systems.

2. *Entities Covered by Section 629.* The Commission concludes that Section 629 is jurisdictionally broad in terms of the multichannel video programming systems to which it applies. The rules adopted will be applied to multichannel video programming distributors (MVPDs) as defined by 47 U.S.C. § 522(13). Section 76.1200 of the rules defines the entities to which the rules apply. 47 U.S.C. § 573(c)(1) requires exclusion of open video systems operators from the requirements of Section 629.

3. *Equipment Covered.* The language of Section 629 indicates that Congress sought to have the marketplace offer consumers a choice over a broad range of equipment. Section 629(a) enumerates ''converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services.'' Section 629 neither exempts nor limits any category of equipment used to access multichannel video programming or services offered over such systems from its coverage. Equipment used to access video programming and other services offered over multichannel video programming systems include televisions, VCRs, cable set-top boxes, personal computers, program guide equipment and cable modems. Section 76.1200(c) of the rules defines the equipment to which the rules apply.

4. *Right to Attach.* The rules provide subscribers the right to attach any compatible navigation device to an MVPD system, regardless of its source, subject to the proviso that the attached equipment not cause harmful interference, injury to the system or compromise legitimate access control mechanisms. The Commission's rules make clear to subscribers that an MVPD is not the exclusive purveyor of navigation devices for its system. In addition to being directly restrained from attaching navigation equipment, consumers must also not be precluded from the possibility of obtaining equipment from commercial outlets by virtue of contractual or other restrictions on the availability of equipment that the service provider might seek to directly impose on suppliers of equipment. Section 76.1202 enforces the right to attach by precluding contractual or other arrangements, other than those involving equipment performing conditional access or security functions, that prevent navigation devices from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such service provider.

5. *Information on Technical Interface Specifications.* The Commission will require that MVPDs provide to the requesting party the technical information concerning interface parameters necessary for a navigation device to operate with the services delivered by the MVPD's system. Section 76.1205 delineates these requirements. The Commission will not replicate the more complete interface specification rules used in the telephone context, but will monitor closely industry progress on development of standards for attaching equipment, as well as MVPD compliance with the network disclosure requirements.

6. *Protection of Network Facilities.* The rules will allow MVPDs to restrict the attachment or use of equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment. MVPDs must publish, and provide to subscribers, standards and descriptions of devices that may not be used or attached to their systems because of the potential for harm. These requirements are contained in § 76.1203. To the extent that there is a dispute whether an MVPD's equipment restrictions are unreasonable, the Commission's petition procedures are available.

7. *Security and Theft of Service.* No Commission action in this proceeding should be construed to authorize or justify any use, manufacture, or importation of equipment that would violate Section 633 of the Communications Act or any other provision of law precluding the unauthorized reception of MVPD service. Similarly, nothing in this proceeding should be construed as diminishing an operator's ability to seek civil damages against parties involved with navigation devices providing unauthorized reception of services.

8. *Signal Leakage.* When combined with the 47 CFR 76 signal leakage requirements, the 47 CFR 15 provisions provide sufficient safeguards for signal leakage and interference concerns for retail navigation devices. The part 15 provisions include limitations on signal leakage from electronic equipment and also specify equipment authorization procedures.

9. *Rules for Equipment Providing Conditional Access.* As of July 1, 2000, MVPDs covered by Section 629 who wish to distribute devices using integrated security may do so only if they also make available security modules separately. The device supplied by the service provider must be designed to connect to and function with other navigation devices through the use of a commonly used interface or through an interface that conforms to appropriate technical standards promulgated by a national standards organization. The rule requiring separation of security functions does not apply to MVPDs that support navigation devices that are portable throughout the continental United States, and are available from retail outlets and other vendors. There is an exception in the rules (§ 76.1204(d)) for situations in which where separation is not feasible. This exception is intended, however, to be a narrow exception to the general rules to account for unusual types of equipment.

10. The Commission is requiring the eight multiple system operators that are involved in the CableLabs/OpenCable project to advise the Commission semiannually—on January 7, 1999, July 7, 1999, January 7, 2000, and July 7, 2000—as to the progress of their efforts and the efforts of CableLabs to assure the commercial availability, to consumers of equipment used to access multichannel video programming and other services offered over multichannel video programming systems, from

manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor. The reports should detail the progress being made toward meeting the July 1, 2000 deadline. The information should advise the Commission of the status of any standards or certification process and any anticipated dates for approval.

11. The Commission's rules permit MVPDs to continue to provide equipment on an integrated basis until January 1, 2005, so long as modular security components are also made available. MVPDs may continue to sell or lease boxes after this date provided the boxes have a severable security component rather than integrated security. In the year 2000, once separate security modules are available, the Commission will assess the state of the market to determine whether that time frame is appropriate and will review the mechanics of the phase out of integrated boxes.

12. *Affiliation.* Affiliation is defined based on common ownership or control as defined in the notes accompanying 47 CFR 76.501.

13. *Subsidies.* Existing equipment rate rules applicable to cable television systems not facing effective competition address Section 629(a)'s requirement that charges to consumers for such devices and equipment are separately stated and not subsidized by charges for any other service. While a cable operator subject to rate regulation may offer navigation devices necessary to receive regulated services, it may do so only within the parameters of 47 CFR 76.923. Section 76.923 sets forth the rules for determining the rates for equipment and installation used to receive the basic service tier and states that cable operators subject to rate regulation are not permitted to charge subscribers for equipment beyond actual cost. The relevant rule is found in § 76.1206.

14. *Waivers.* A provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider, may petition the Commission for a waiver. The Commission may waive a regulation adopted under Section 629 if such service or equipment provider makes an appropriate showing that such waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. The Commission will apply the procedural rules set forth in 47 CFR 76.7. The relevant rule is contained in § 76.1207.

15. *Sunset of Regulations.* The regulations adopted under this section shall cease to apply when, as stated in Section 629(e), the Commission determines that (1) the market for MVPDs is fully competitive; (2) the market for converter boxes and interactive communications equipment used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. An interested party may petition the Commission to determine that Section 629(e) has been satisfied. This rule is found in § 76.1208.

16. *Digital Television Compatibility.* In the context of this and other proceedings, the issue of transmitting digital television signals to consumers has been raised. Since the record on this issue in this proceeding is extremely limited, and the matter may more appropriately be addressed in another proceeding, the Commission will defer consideration here. The Commission intends to monitor developments with respect to the compatibility of set-top boxes and digital televisions.

17. *Electronic Program Guides.* An issue was raised in this proceeding, regarding whether electronic program guide equipment and guide services are covered by the requirements of Section 629. Based on the plain language of Section 629, it appears clear that the equipment used to access such electronic program guides is ''equipment used by consumers to access . . . services offered over multichannel video programming systems'' and hence falls within the requirements of Section 629. While the Commission is committed to encouraging the development of the market for the provision of electronic program guide services as part of its broader goal of promoting consumer choice, the record in this proceeding is limited on this issue. Therefore, the Commission cannot adequately address at this time the extent of any obligation of multichannel video programming systems to make such services available pursuant to Section 629 or otherwise. The Commission will monitor developments with respect to the availability of electronic program guides to determine whether any action is appropriate in the future.

Final Regulatory Flexibility Analysis

18. As required by the Regulatory Flexibility Act (RFA), an Initial Regulatory Flexibility Analysis (''IRFA'') was incorporated into the *NPRM* in this proceeding. The Commission sought written public comment on the possible impact of the proposed policies and rules on small entities in the *NPRM,* including comments on the IRFA. This Final Regulatory Flexibility Analysis (''FRFA'') in this *Report and Order* conforms to the RFA.

19. *Need for Action and Objectives of the Rules.* The 1996 Act added a new Section 629 to the Communications Act of 1934, as amended, that requires the Commission to develop rules to assure competitive availability of navigation devices used in conjunction with multichannel video programming distributors (''MVPD''). The Commission is promulgating these rules in order to implement this provision of Section 629. The statutory objective of Section 629 is assure that navigation devices used by consumers to access a particular MVPD's programming are available to consumers from manufactures, retailers and other vendors not affiliated with that MVPD.

20. *Summary of Significant Issues Raised by the Public Comments in Response to the IRFA.* No comments were filed specifically in response to the IRFA. The Commission, however, considered the economic impact on small entities through consideration of comments that pertain to issues of concern to MVPDs. Commenters cautioned that rules enacted to implement the requirements of Section 629 must not jeopardize the system and signal security of MVPDs and should not mandate technical standards that would interfere with innovation of navigation devices or development of new technologies. In the *Report and Order,* the Commission notes concern with system security and allows MVPDs to restrict the attachment or use of navigation equipment to their systems where electronic or physical harm would be caused by the attachment or operation of such equipment. As for signal security, the rules allow MVPDs to disconnect service to subscribers using a navigation device that assists in the unauthorized reception of service. The rules promulgated also note concern for inhibiting innovation or development of new technologies. The Commission does not mandate particular standards or require specific action, but seeks to recognize accepted industry standards that have evolved or are evolving.

21. *Description and Estimate of the Number of Small Entities to Which the Rules Will Apply.* The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that might be affected by the rules here adopted. The

RFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. Under the Small Business Act, a small business concern is one which: (a) is independently owned and operated; (b) is not dominant in its field of operation; and (c) satisfies any additional criteria established by the SBA. The rules adopted in this *Report and Order* will affect cable systems, multipoint multichannel distribution systems, direct broadcast satellites, home satellite dish manufacturers, satellite master antenna television, local multipoint distribution systems, small manufacturers, electronic equipment manufacturers, computer manufacturers, and small retailers.

22. *Small Multichannel Video Programming Distributors (''MVPD''):* The SBA has developed a definition of small entities for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there are approximately 1,758 total cable and other pay television services and 1,423 had less than $11 million in revenue. Below each service is addressed to provide a more precise estimate of small entities.

23. *Cable Systems:* The Commission has developed, with SBA's approval, our own definition of a small cable system operator for the purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving no more than 400,000 subscribers nationwide. Based on recent information, the Commission estimates that there were 1439 cable operators that qualified as small cable companies at the end of 1995. Since then, some of those companies may have grown to serve over 400,000 subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are fewer than 1439 small entity cable system operators that may be affected by the decisions and rules we are adopting. The Commission concludes that only a small percentage of these entities currently provide qualifying ''telecommunications services'' as required by the Communications Act and, therefore, estimate that the number of such entities are significantly fewer than noted.

24. The Communications Act also contains a definition of a small cable system operator, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1% of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are 61,700,000 cable subscribers in the United States. Therefore, the Commission found that an operator serving fewer than 617,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all of its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission finds that the number of cable operators serving 617,000 subscribers or less totals 1450. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, the Commission is unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

25. *Multipoint Multichannel Distribution Systems (''MMDS''):* The Commission refined its definition of ''small entity'' for the auction of MMDS as an entity that together with its affiliates has average gross annual revenues that are not more than $40 million for the preceding three calendar years. This definition of a small entity in the context of MMDS auctions has been approved by the SBA.

26. The Commission completed its MMDS auction in March 1996 for authorizations in 493 basic trading areas (''BTAs''). Of 67 winning bidders, 61 qualified as small entities. Five bidders indicated that they were minority-owned and four winners indicated that they were women-owned businesses. MMDS is an especially competitive service, with approximately 1573 previously authorized and proposed MMDS facilities. Information available to us indicates that no MMDS facility generates revenue in excess of $11 million annually. The Commission concludes that, for purposes of this FRFA, there are approximately 1634 small MMDS providers as defined by the SBA and the Commission's auction rules.

27. *ITFS:* There are presently 2032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in the definition of a small business. However, the Commission does not collect annual revenue data for ITFS licensees and is not able to ascertain how many of the 100 non-educational licensees would be categorized as small under the SBA definition. No commenters address these non-educational licensees. Accordingly, the Commission concludes that at least 1932 licensees are small businesses.

28. *Direct Broadcast Satellite (''DBS''):* Because DBS provides subscription services, DBS falls within the SBA definition of cable and other pay television services (SIC 4841). As of December 1996, there were eight DBS licensees. However, the Commission does not collect annual revenue data for DBS and, therefore, is unable to ascertain the number of small DBS licensees that could be affected by these proposed rules. Although DBS service requires a great investment of capital for operation, in the *NPRM,* the Commission acknowledged that there are several new entrants in this field that may not yet have generated $11 million in annual receipts, and therefore may be categorized as a small business, if independently owned and operated. Since the publication of the *NPRM,* however, more information has become available. In light of the 1997 gross revenue figures for the various DBS operators, the Commission concludes that no DBS operator qualifies as a small entity.

29. *Home Satellite Dish (''HSD''):* The market for HSD service is difficult to quantify. Indeed, the service itself bears little resemblance to other MVPDs. HSD owners have access to more than 500 channels of programming placed on C-band satellites by programmers for receipt and distribution by MVPDs, of which 350 channels are scrambled and approximately 150 are unscrambled. HSD owners can watch unscrambled channels without paying a subscription fee. To receive scrambled channels, however, an HSD owner must purchase an integrated receiver-decoder from an equipment dealer and pay a subscription fee to an HSD programming packager. Thus, HSD users include: (1) Viewers who subscribe to a packaged programming service, which affords them access to most of the same programming provided to subscribers of other MVPDs; (2) viewers who receive only nonsubscription programming; and (3) viewers who receive satellite

programming services illegally without subscribing.

30. According to the most recently available information, there are approximately 20 to 25 program packagers nationwide offering packages of scrambled programming to retail consumers. These program packagers provide subscriptions to approximately 2,184,470 subscribers nationwide. This is an average of about 77,163 subscribers per program packager. This is substantially smaller than the 400,000 subscribers used in the Commission's definition of a small multiple system operator (''MSO'').

31. *Satellite Master Antenna Television (''SMATVs''):* Industry sources estimate that approximately 5200 SMATV operators were providing service as of December 1995. Other estimates indicate that SMATV operators serve approximately 1.162 million residential subscribers as of June 30, 1997. The ten largest SMATV operators together pass 848,450 units. Assuming that these SMATV operators serve 50% of the units passed, the ten largest SMATV operators serve approximately 40% of the total number of SMATV subscribers. Because these operators are not rate regulated, they are not required to file financial data with the Commission. Furthermore, the Commission is not aware of any privately published financial information regarding these operators. Based on the estimated number of operators and the estimated number of units served by the largest ten SMATVs, the Commission concludes that a substantial number of SMATV operators qualify as small entities.

32. *Local Multipoint Distribution System (''LMDS''):* Unlike the above pay television services, LMDS technology and spectrum allocation will allow licensees to provide wireless telephony, data, and/or video services. A LMDS provider is not limited in the number of potential applications that will be available for this service. Therefore, the definition of a small LMDS entity may be applicable to both cable and other pay television (SIC 4841) and/or radiotelephone communications companies (SIC 4812). The SBA approved definition for cable and other pay services that qualify as a small business is defined above. A small radiotelephone entity is one with 1500 employees or fewer. However, for the purposes of this *Report and Order* on navigation devices, the Commission includes only an estimate of LMDS video service providers.

33. An auction for licenses to operate LMDS systems was recently completed by the Commission. The vast majority of the LMDS license auction winners were small businesses under the SBA's definition of cable and pay television (SIC 4841). The Commission adopted a small business definition for entities bidding for LMDS licenses as an entity that, together with affiliates and controlling principles, has average gross revenues not exceeding $40 million for each of the three preceding years. The Commission has not yet received approval by the SBA for this definition.

34. There is only one company, CellularVision, that is currently providing LMDS video services. In the IRFA, the Commission assumed that CellularVision was a small business under both the SBA definition and our auction rules. No commenters addressed the tentative conclusions reached in the *NPRM.* Accordingly, the Commission affirms the tentative conclusion that a majority of the potential LMDS licensees will be small entities, as that term is defined by the SBA.

35. *Small Manufacturers:* The SBA has developed definitions of small entity for manufacturers of household audio and video equipment (SIC 3651) and for radio and television broadcasting and communications equipment (SIC 3663). In each case, the definition includes all such companies employing 750 or fewer employees.

36. *Electronic Equipment Manufacturers:* The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment, and therefore, will use the SBA definition of manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, a TV equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 858 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment or how many are independently owned and operated. The Commission concludes that there are approximately 778 small manufacturers of radio and television equipment.

37. *Electronic Household/Consumer Equipment:* The Commission has not developed a definition of small entities applicable to manufacturers of electronic equipment used by consumers, as compared to industrial use by television licensees and related businesses, and therefore will utilize the SBA definition applicable to manufacturers of Household Audio and Visual Equipment. According to the SBA's regulations, a household audio and visual equipment manufacturer must have 750 or fewer employees in order to qualify as a small business concern. Census Bureau data indicates that there are 410 U.S. firms that manufacture radio and television broadcasting and communications equipment, and that 386 of these firms have fewer than 500 employees and would be classified as small entities. The remaining 24 firms have 500 or more employees; however, the Commission is unable to determine how many of those have fewer than 750 employees and therefore, also qualify as small entities under the SBA definition. Furthermore, the Census Bureau category is very broad, and specific figures are not available as to how many of these firms are exclusive manufacturers of television equipment for consumers or how many are independently owned and operated. The Commission concludes that there are approximately 386 small manufacturers of television equipment for consumer/household use.

38. *Computer Manufacturers:* The Commission has not developed a definition of small entities applicable to computer manufacturers, and therefore will use the SBA definition of Electronic Computers. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 716 firms that manufacture computers and of those, 659 have fewer than 500 employees and qualify as small entities. The remaining 57 firms have 500 or more employees; however, the Commission is unable to determine how many of those have fewer than 1,000 employees and therefore also qualify as small entities under the SBA definition. The Commission concludes that there are approximately 659 small computer manufacturers.

39. *Small Retailers:* The Commission has not developed a definition of small entities applicable to navigation retail devices, and therefore will utilize the SBA definition. The 1992 Bureau of the Census data indicates: there were 9,663 U.S. firms classified as Radio, TV & electronic stores (SIC 5731), and that 9,385 of these firms had $4.999 million or less in annual receipts and 9,473 of these firms had $7.499 million or less in annual receipts. Consequently, the Commission concludes that there are approximately 9,663 small entities that

produce and distribute radio, television, and electronic equipment that may be affected by the decisions in the *Report and Order.*

40. *Description of Reporting, Recordkeeping and Other Compliance Requirements.* This analysis examines the costs and administrative burdens associated with our rules and requirements. The rules adopted require MVPDs to make available, upon request, technical information concerning interface parameters. The Commission believes, however, that this requirement would not necessitate any additional professional, engineering, or customer service skills beyond those already utilized in the ordinary course of business by MVPDs.

41. *Steps Taken to Minimize Significant Economic Impact On Small Entities and Significant Alternatives Considered.* The Commission believes that the rules, implemented to assure commercial availability of navigation devices, will have the positive result of opening up to small retailers the market to sell or lease navigation devices to MVPD subscribers. Section 629 includes provisions which may lessen compliance impact on small entities affected by the rules adopted in this *Report and Order.* Section 629(c) specifies that the Commission shall waive the regulations developed to implement Section 629 when necessary for an MVPD to develop new or improved services offered over its system. Second, Section 629(e) requires the Commission to sunset the rules adopted in the *Report and Order* once a determination is made that (1) the market for MVPDs is fully competitive; (2) the market for convertor boxes and interactive communications equipment used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. The rules also consider situations and offer relief where the commercial availability of navigation devices performing conditional access functions could adversely impact an MVPD. An MVPD is not subject to the rules requiring the commercial availability of navigation devices if: (1) it is not reasonably feasible to separate conditional access functions from other functions; or (2) it is not reasonably feasible to prevent the unauthorized reception of service by subscribers using navigation devices obtained from other sources.

42. In the *NPRM,* the Commission asked for comment as to other means for achieving a competitive market for navigation devices. Commenters suggest means which would lead to more governmental involvement in the equipment design process and the retail marketplace. For instance, some commenters advocate that the Commission require MVPDs to license proprietary design specifications to manufacturers of navigation devices. The Commission has determined that allowing for technical innovation and flexible design standards would be the best means of meeting Section 629's statutory mandate of maximizing consumer choice in consumer electronics equipment. The Commission noted the ongoing activities of several industry organizations to develop open equipment standards. Accordingly, the Commission has adopted a regulatory regime to implement Section 629's requirements that causes minimum intrusion into the commercial marketplace.

43. It is ordered that, pursuant to authority found in Sections 4(i), 303(r), and 629 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 549, the Commission's rules are hereby amended as set forth below.

44. It is further ordered that the rules as amended shall become effective upon approval by OMB, but no sooner than August 14, 1998, except for § 76.1204, which shall become effective July 1, 2000.

45. It is further ordered that Tele-Communications, Inc., Time Warner Cable, Jones Intercable, U S WEST Media Group, Marcus Cable, Advance/Newhouse Communications, Cox Communications, and Comcast Corporation Shall file reports on January 7, 1999, July 7, 1999, January 7, 2000, and July 7, 2000 detailing the progress of their efforts and the efforts of CableLabs to assure the commercial availability, to consumers of equipment used to access multichannel video programming and other services offered over multichannel video programming systems, from manufacturers, retailers, and other vendors not affiliated with any multichannel video programming distributor.

46. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 76 of title 47 of the Code of Federal Regulations is amended as follows:

PART 76—MULTICHANNEL VIDEO AND CABLE TELEVISION SERVICE

1. The authority citation for part 76 is revised to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 302, 303, 303a, 307, 308, 309, 312, 315, 317, 325, 503, 521, 522, 531, 532, 533, 534, 535, 536, 537, 543, 544, 544a, 545, 548, 549, 552, 554, 556, 558, 560, 561, 571, 572, 573.

2. Subpart P is added to read as follows:

Subpart P—Competitive Availability of Navigation Devices

§ 76.1200 Definitions.

As used in this subpart:

(a) *Multichannel video programming system.* A distribution system that makes available for purchase, by customers or subscribers, multiple channels of video programming other than an open video system as defined by § 76.1500(a). Such systems include, but are not limited to, cable television systems, multichannel multipoint distribution systems, direct broadcast satellite systems, other systems for providing direct-to-home multichannel video programming via satellite, and satellite master antenna systems.

(b) *Multichannel video programming distributor.* A person such as, but not limited to, a cable operator, a multichannel multipoint distribution service, a direct broadcast satellite service, or a television receive-only satellite program distributor, who owns or operates a multichannel video programming system.

(c) *Navigation devices.* Devices such as converter boxes, interactive communications equipment, and other equipment used by consumers to access multichannel video programming and other services offered over multichannel video programming systems.

(d) *Affiliate.* A person or entity that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another person, as defined in the notes accompanying § 76.501.

(e) *Conditional access.* The mechanisms that provide for selective access and denial of specific services and make use of signal security that can prevent a signal from being received except by authorized users.

§ 76.1201 Rights of subscribers to use or attach navigation devices.

No multichannel video programming distributor shall prevent the connection or use of navigation devices to or with its multichannel video programming system, except in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices may be used to assist or are intended or designed to assist in the unauthorized receipt of service.

§ 76.1202 Availability of navigation devices.

No multichannel video programming distributor shall by contract, agreement, patent right, intellectual property right or otherwise prevent navigation devices that do not perform conditional access or security functions from being made available to subscribers from retailers, manufacturers, or other vendors that are unaffiliated with such owner or operator, subject to § 76.1209.

§ 76.1203 Incidence of harm.

A multichannel video programming distributor may restrict the attachment or use of navigation devices with its system in those circumstances where electronic or physical harm would be caused by the attachment or operation of such devices or such devices that assist or are intended or designed to assist in the unauthorized receipt of service. Such restrictions may be accomplished by publishing and providing to subscribers standards and descriptions of devices that may not be used with or attached to its system. Such standards shall foreclose the attachment or use only of such devices as raise reasonable and legitimate concerns of electronic or physical harm or theft of service. In any situation where theft of service or harm occurs or is likely to occur, service may be discontinued.

§ 76.1204 Availability of equipment performing conditional access or security functions.

(a)(1) A multichannel video programming distributor that utilizes navigation devices to perform conditional access functions shall make available equipment that incorporates only the conditional access functions of such devices. Commencing on January 1, 2005, no multichannel video programming distributor subject to this section shall place in service new navigation devices for sale, lease, or use that perform both conditional access and other functions in a single integrated device.

(2) The foregoing requirement shall not apply to a multichannel video programming distributor that supports the active use by subscribers of navigation devices that: (i) operate throughout the continental United States, and (ii) are available from retail outlets and other vendors throughout the United States that are not affiliated with the owner or operator of the multichannel video programming system.

(b) Conditional access function equipment made available pursuant to paragraph (a)(1) of this section shall be designed to connect to and function with other navigation devices available through the use of a commonly used interface or an interface that conforms to appropriate technical standards promulgated by a national standards organization.

(c) No multichannel video programming distributor shall by contract, agreement, patent, intellectual property right or otherwise preclude the addition of features or functions to the equipment made available pursuant to this section that are not designed, intended or function to defeat the conditional access controls of such devices or to provide unauthorized access to service.

(d) Notwithstanding the foregoing, navigation devices need not be made available pursuant to this section where:

(1) It is not reasonably feasible to prevent such devices from being used for the unauthorized reception of service; or

(2) It is not reasonably feasible to separate conditional access from other functions without jeopardizing security.

(e) The requirements of this section shall become applicable on July 1, 2000.

§ 76.1205 Availability of interface information.

Technical information concerning interface parameters that are needed to permit navigation devices to operate with multichannel video programming systems shall be provided by the system operator upon request in a timely manner.

§ 76.1206 Equipment sale or lease charge subsidy prohibition.

Multichannel video programming distributors offering navigation devices subject to the provisions of § 76.923 for sale or lease directly to subscribers, shall adhere to the standards reflected therein relating to rates for equipment and installation and shall separately state the charges to consumers for such services and equipment.

§ 76.1207 Waivers.

The Commission may waive a regulation adopted under this subpart for a limited time, upon an appropriate showing by a provider of multichannel video programming and other services offered over multichannel video programming systems, or an equipment provider that such a waiver is necessary to assist the development or introduction of a new or improved multichannel video programming or other service offered over multichannel video programming systems, technology, or products. Such waiver requests should be made pursuant to § 76.7. Such a waiver shall be effective for all service providers and products in the category in which the waiver is granted.

§ 76.1208 Sunset of regulations.

The regulations adopted under this subpart shall cease to apply when the Commission determines that (1) the market for multichannel video distributors is fully competitive; (2) the market for converter boxes, and interactive communications equipment, used in conjunction with that service is fully competitive; and (3) elimination of the regulations would promote competition and the public interest. Any interested party may petition the Commission for such a determination.

§ 76.1209 Theft of service.

Nothing in this subpart shall be construed to authorize or justify any use, manufacture, or importation of equipment that would violate 47 U.S.C. 553 or any other provision of law intended to preclude the unauthorized reception of multichannel video programming service.

§ 76.1210 Effect on other rules.

Nothing in this subpart affects § 64.702(d) of the Commission's regulations or other Commission regulations governing interconnection and competitive provision of customer premises equipment used in connection with basic common carrier communications services.

[FR Doc. 98–18838 Filed 7–14–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 541

[Docket No. NHTSA–98–3752]

RIN 2127–AH06

Federal Motor Vehicle Theft Prevention Standard; Final Listing of Model Year 1999 High-Theft Vehicle Lines

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule announces NHTSA's determination for model year (MY) 1999 high-theft vehicle lines that are subject to the parts-marking requirements of the Federal motor vehicle theft prevention standard, and high-theft lines that are exempted from the parts-marking requirements because the vehicles are equipped with antitheft devices determined to meet certain statutory criteria for MY 1999, pursuant to the statute relating to motor vehicle theft prevention.

EFFECTIVE DATE: The amendment made by this final rule is effective July 15, 1998.

FOR FURTHER INFORMATION CONTACT: Ms. Rosalind Proctor, Motor Vehicle Theft Group, Office of Planning and Consumer Programs, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590. Ms. Proctor's telephone number is (202) 366–0846. Her fax number is (202) 493–2739.

SUPPLEMENTARY INFORMATION: The ''Anti Car Theft Act of 1992,'' P. L. 102–519, amended the law relating to the parts-marking of major component parts on designated high-theft vehicle lines and other motor vehicles. The Anti Car Theft Act amended the definition of ''passenger motor vehicle'' in 49 U.S.C. § 33101(10) to include a ''multipurpose passenger vehicle or light duty truck when that vehicle or truck is rated at not more than 6,000 pounds gross vehicle weight.'' Since ''passenger motor vehicle'' was previously defined to include passenger cars only, the effect of the Anti Car Theft Act is that certain multipurpose passenger vehicle (MPV) and light-duty truck (LDT) lines may be determined to be high-theft vehicles subject to the Federal motor vehicle theft prevention standard (49 CFR Part 541).

The purpose of the theft prevention standard is to reduce the incidence of motor vehicle theft by facilitating the tracing and recovery of parts from stolen vehicles. The standard seeks to facilitate such tracing by requiring that vehicle identification numbers (VINs), VIN derivative numbers, or other symbols be placed on major component vehicle parts. The theft prevention standard requires motor vehicle manufacturers to inscribe or affix VINs onto covered original equipment major component parts, and to inscribe or affix a symbol identifying the manufacturer and a common symbol identifying the replacement component parts for those original equipment parts, on all vehicle lines selected as high-theft.

The Anti Car Theft Act also amended 49 U.S.C. § 33103 to require NHTSA to promulgate a parts-marking standard applicable to major parts installed by manufacturers of ''passenger motor vehicles (other than light duty trucks) in not to exceed one-half of the lines not designated under 49 U.S.C. § 33104 as high-theft lines.'' NHTSA published a final rule amending 49 CFR Part 541 to include the definitions of MPV and LDT, and major component parts. See 59 FR 64164, December 13, 1995.

49 U.S.C. § 33104(a)(3) specifies that NHTSA shall select high-theft vehicle lines, with the agreement of the manufacturer, if possible. Section 33104(d) provides that once a line has been designated as likely high-theft, it remains subject to the theft prevention standard unless that line is exempted under § 33106. Section 33106 provides that a manufacturer may petition to have a high-theft line exempted from the requirements of § 33104, if the line is equipped with an antitheft device as standard equipment. The exemption is granted if NHTSA determines that the antitheft device is likely to be as effective as compliance with the theft prevention standard in reducing and deterring motor vehicle thefts.

The agency annually publishes the names of the lines which were previously listed as high-theft, and the lines which are being listed for the first time and will be subject to the theft prevention standard beginning in a given model year. It also identifies those lines that are exempted from the theft prevention standard for a given model year under § 33104.

On April 8, 1996, the final listing of high-theft lines for the MY 1997 vehicle lines was published in the **Federal Register** (61 FR 15390). The final listing identified vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 1997 model year. However, the agency was subsequently informed that beginning with MY 1997, two of those lines, the Chevrolet Beretta and the Chevrolet Caprice, are no longer being manufactured for sale in the United States. Therefore, those two vehicle lines were not properly included on the list in Appendix A, and have been deleted. In addition, two other General Motors car lines, the Chevrolet Corsica and the Oldsmobile Cutlass Ciera underwent name and platform changes for model year 1997. The new names have been substituted in Appendix A, with a footnote indicating the former name and the date of the change.

On July 31, 1997, the final listing of high-theft lines for the MY 1998 vehicle lines was published in the **Federal Register** (62 FR 40949). The final listing identified vehicle lines that were listed for the first time and became subject to the theft prevention standard beginning with the 1998 model year.

For MY 1999, the agency identified four new vehicle lines that are likely to be high-theft lines, in accordance with the procedures published in 49 CFR Part 542. The new lines are the Honda Odyssey, the Hyundai (nameplate to be announced), the Toyota Lexus RX300 (SUV) and the Toyota Solara. In addition to these four vehicle lines, the list of high-theft vehicle lines includes all lines previously selected as high-theft and listed for prior model years. Furthermore, Appendix A has been amended to reflect a name change for the Suzuki Sidekick (MPV) and the Oldsmobile Achieva. The Suzuki Sidekick has been renamed the Suzuki Grand Vitara, and the Oldsmobile Achieva has been renamed the Oldsmobile Alero beginning with MY 1999.

The list of lines that have been exempted by the agency from the parts-marking requirements of Part 541 includes high-theft lines newly exempted in full beginning with MY 1999. The three vehicle lines newly exempted in full are the BMW Car line 3, the General Motors Oldsmobile Alero and the Nissan Maxima. Additionally, the agency was subsequently informed that the Mazda Amati 1000 car line has never been manufactured for sale in the United States. Therefore, the Mazda Amati 1000 car line has been deleted from Appendix A–I of this listing.

The vehicle lines listed as being subject to the parts-marking standard have previously been selected as high-theft lines in accordance with the procedures set forth in 49 CFR Part 542. Under these procedures, manufacturers evaluate new vehicle lines to conclude whether those new lines are likely to be high theft. The manufacturer submits these evaluations and conclusions to the agency, which makes an independent evaluation; and, on a preliminary basis, determines whether the new line should

be subject to the parts-marking requirements. NHTSA informs the manufacturer in writing of its evaluations and determinations, together with the factual information considered by the agency in making them. The manufacturer may request the agency to reconsider the preliminary determinations. Within 60 days of the receipt of these requests, the agency makes its final determination. NHTSA informs the manufacturer by letter of these determinations and its response to the request for reconsideration. If there is no request for reconsideration, the agency's determination becomes final 45 days after sending the letter with the preliminary determination. Each of the new lines on the high-theft list has been the subject of a final determination under either 49 U.S.C. § 33103 or § 33104.

Similarly, the lines listed as being exempt from the standard have previously been exempted in accordance with the procedures of 49 CFR Part 543 and 49 U.S.C. § 33106.

Therefore, NHTSA finds for good cause that notice and opportunity for comment on these listings are unnecessary. Further, public comment on the listing of selections and exemptions is not contemplated by 49 U.S.C. Chapter 331.

For the same reasons, since this revised listing only informs the public of previous agency actions and does not impose additional obligations on any party, NHTSA finds for good cause that the amendment made by this notice should be effective as soon as it is published in the **Federal Register**.

Regulatory Impacts

1. Costs and Other Impacts

NHTSA has analyzed this rule and determined that it is not ''significant'' within the meaning of the Department of Transportation's regulatory policies and procedures. The agency has also considered this notice under Executive Order 12866. As already noted, the selections in this final rule have previously been made in accordance with the provisions of 49 U.S.C. § 33104, and the manufacturers of the selected lines have already been informed that those lines are subject to the requirements of 49 CFR Part 541 for MY 1999. Further, this listing does not actually exempt lines from the requirements of 49 CFR Part 541; it only informs the general public of all such previously granted exemptions. Since the only purpose of this final listing is to inform the public of prior agency actions for MY 1999, a full regulatory evaluation has not been prepared.

2. Regulatory Flexibility Act

The agency has also considered the effects of this listing under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As noted above, the effect of this final rule is simply to inform the public of those lines that are subject to the requirements of 49 CFR Part 541 for MY 1999. The agency believes that the listing of this information will not have any economic impact on small entities.

3. Environmental Impacts

In accordance with the National Environmental Policy Act of 1969, the agency has considered the environmental impacts of this rule, and determined that it will not have any significant impact on the quality of the human environment.

4. Federalism

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this final rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

5. Civil Justice Reform

This final rule does not have a retroactive effect. In accordance with § 33118 when the Theft Prevention Standard is in effect, a State or political subdivision of a State may not have a different motor vehicle theft prevention standard for a motor vehicle or major replacement part. 49 U.S.C. § 33117 provides that judicial review of this rule may be obtained pursuant to 49 U.S.C. § 32909. Section 32909 does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

List of Subjects in 49 CFR Part 541

Administrative practice and procedure, Labeling, Motor vehicles, Reporting and recordkeeping requirements.

In consideration of the foregoing, 49 CFR Part 541 is amended as follows:

PART 541—[AMENDED]

1. The authority citation for Part 541 continues to read as follows:

Authority: 49 U.S.C. 33102–33104 and 33106; delegation of authority at 49 CFR 1.50.

2. In Part 541, Appendices A, A–I and A–II are revised to read as follows:

Appendix A to Part 541—Lines Subject to the Requirements of This Standard

Manufacturer	Subject lines
ALFA ROMEO	Milano 161.
	164.
BMW	Z3.
	6 Car Line.
CHRYSLER	Chrysler Cirrus.
	Chrysler Executive, Sedan/Limousine.
	Chrysler Fifth Avenue/Newport.
	Chrysler Laser.
	Chrysler LeBaron/Town & Country.
	Chrysler LeBaron GTS.
	Chrysler's TC.
	Chrysler New Yorker Fifth Avenue.
	Chrysler Sebring.
	Chrysler Town & Country.
	Dodge 600.
	Dodge Aries.
	Dodge Avenger.
	Dodge Colt.
	Dodge Daytona.

Manufacturer	Subject lines
	Dodge Diplomat.
	Dodge Lancer.
	Dodge Neon.
	Dodge Shadow.
	Dodge Stratus.
	Dodge Stealth.
	Eagle Summit.
	Eagle Talon.
	Jeep Cherokee (MPV).
	Jeep Grand Cherokee (MPV).
	Jeep Wrangler (MPV).
	Plymouth Caravelle.
	Plymouth Colt.
	Plymouth Laser.
	Plymouth Gran Fury.
	Plymouth Neon.
	Plymouth Reliant.
	Plymouth Sundance.
	Plymouth Breeze.
CONSULIER	Consulier GTP.
FERRARI	Mondial 8.
	308.
	328.
FORD	Ford Aspire.
	Ford Crown Victoria.
	Ford Escort.
	Ford Mustang.
	Ford Probe.
	Ford Taurus.
	Ford Thunderbird.
	Lincoln Continental.
	Lincoln Mark.
	Lincoln Town Car.
	Mercury Capri.
	Mercury Cougar.
	Mercury Grand Marquis.
	Mercury Sable.
	Mercury Tracer.
	Merkur Scorpio.
	Merkur XR4Ti.
GENERAL MOTORS	Buick Electra.
	Buick Reatta.
	Buick Skylark.
	Chevrolet Astro (MPV).
	Chevrolet Lumina Minivan.
	Chevrolet Malibu.[1]
	Chevrolet Monte Carlo (MYs 1987–88).
	Chevrolet Nova.
	Chevrolet Blazer (MPV).
	Chevrolet Prizm.[2]
	Chevrolet S–10 Pickup.
	Geo Storm.
	Chevrolet Tracker (MPV).[2]
	GMC Jimmy (MPV).
	GMC Safari (MPV).
	GMC Sonoma Pickup.
	Oldsmobile Achieva (MYs 1997–1998).[3]
	Oldsmobile Bravada.
	Oldsmobile Cutlass.[4]
	Oldsmobile Cutlass Supreme (MYs 1988–1997).[5]
	Oldsmobile Intrigue.
	Pontiac Fiero.
	Pontiac Grand Am.
	Saturn Sports Coupe.
	Pontiac Grand Prix.
HONDA	Accord.
	CRV (MPV).
	Odyssey (MPV).[6]
	Passport.
	Prelude.
	Acura Integra.
HYUNDAI	Accent.
	(nameplate to be announced).[6]

Manufacturer	Subject lines
	Sonata.
	Tiburon.
ISUZU	Impulse.
	Rodeo.
	Stylus.
	Trooper/Trooper II.
JAGUAR	XJ.
	XJ–6.
	XJ–40.
KIA MOTORS	S–II.
LOTUS	Elan.
MASERATI	Biturbo.
	Quattroporte.
	228.
MAZDA	GLC.
	626.
	MX–3.
	MX–5 Miata.
	MX–6.
MERCEDES-BENZ	190 D.
	190 E.
	250D–T.
	260 E.
	300 SE.
	300 TD.
	300 SDL.
	300 SEC/500 SEC.
	300 SEL/500 SEL.
	420 SEL.
	560 SEL.
	560 SEC.
	560 SL.
MITSUBISHI	Cordia.
	Eclipse.
	Mirage.
	Montero (MPV).
	Montero Sport (MPV).
	Tredia.
	3000GT.
NISSAN	240SX.
	Pathfinder.
	Sentra/200SX.
	Stanza/Altima.
PEUGEOT	405.
PORSCHE	924S.
SUBARU	XT.
	SVX.
	Forester.
	Legacy.
SUZUKI	X90.
	Samurai (MPV).
	Sidekick (MYs 1997–1998).[7]
	Grand Vitara (MPV).
TOYOTA	Toyota 4-Runner (MPV).
	Toyota Avalon.
	Toyota Camry.
	Toyota Celica.
	Toyota Corolla/Corolla Sport.
	Toyota MR2.
	Toyota RAV4 (MPV).
	Toyota Sienna (MPV).
	Toyota Solara.[8]
	Toyota Starlet.
	Toyota Tercel.
	Lexus RX300 (SUV).[8]
VOLKSWAGEN	Audi Quattro.
	Volkswagen Rabbit.
	Volkswagen Scirocco.

[1] Replaced the Chevrolet Corsica beginning with MY 1997.
[2] The Geo make identifier was replaced by the Chevrolet make identifier beginning with MY 1998.
[3] Renamed the Oldsmobile Alero beginning with MY 1999.
[4] Replaced the Oldsmobile Cutlass Ciera in MY 1997.
[5] Renamed the Oldsmobile Intrigue beginning with MY 1998.
[6] Lines added for MY 1999.

[7] Renamed the Suzuki Grand Vitara beginning with MY 1999.
[8] Lines added for MY 1999.

Appendix A–I—High-Theft Lines With Antitheft Devices Which are Exempted From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturer	Subject lines
AUSTIN ROVER	Sterling.
BMW	3 Car Line.[1]
	5 Car Line.
	7 Car Line.
	8 Car Line.
CHRYSLER	Chrysler Conquest.
	Chrysler Imperial.
GENERAL MOTORS	Buick Park Avenue.
	Buick Regal/Century.
	Buick Riviera.
	Cadillac Allante.
	Cadillac Seville.
	Chevrolet Cavalier.
	Chevrolet Corvette.
	Chevrolet Lumina/Monte Carlo.
	Oldsmobile Alero.[1].
	Oldsmobile Aurora.
	Oldsmobile Toronado.
	Pontiac Sunfire.
HONDA	Acura CL.
	Acura Legend (MYs 1987–1996).[2]
	Acura NSX.
	Acura RL.
	Acura SLX.
	Acura TL.
	Acura Vigor (MYs 1992–1995).[3]
ISUZU	Impulse (MYs 1987–1991).
JAGUAR	XK8
MAZDA	929.
	RX–7.
	Millenia.
MERCEDES–BENZ	124 Car Line (the models within this line are):
	300D.
	300E.
	300CE.
	300TE.
	400E.
	500E.
	129 Car Line (the models within this line are):
	300SL.[4]
	500SL.[5]
	600SL.[6]
	SL320.
	SL500.
	SL600.
	202 Car Line (the models within this line are):
	C220.
	C230.
	C280.
	C36
MITSUBISHI	Galant.
	Starion.
	Diamante.
NISSAN	Nissan Maxima.[7]
	Nissan 300ZX.
	Infiniti I30.
	Infiniti J30.
	Infiniti M30.
	Infiniti QX4.
	Infiniti Q45.
PORSCHE	911.
	928.
	968.
	Boxster.
SAAB	900.
	9000.
TOYOTA	Toyota Supra.

Manufacturer	Subject lines
VOLKSWAGEN	Toyota Cressida. Lexus ES. Lexus GS. Lexus LS. Lexus SC Audi 5000S. Audi 100. Audi 200. Audi A6. Audi S4. Audi S6. Audi Cabriolet. Volkswagen Cabrio. Volkswagen Corrado. Volkswagen Golf/GTI. Volkswagen Passat. Volkswagen Jetta/Jetta III

[1] Exempted in full beginning with MY 1999.
[2] Renamed the Acura RL beginning with MY 1997.
[3] Replaced by the Acura TL beginning with MY 1996.
[4] Replaced by the SL320 beginning with MY 1997.
[5] Renamed the SL500 beginning with MY 1994.
[6] Renamed the SL600 beginning with MY 1994.
[7] Exempted in full beginning with MY 1999.

Appendix A—II to Part 541—High-Theft Lines With Antitheft Devices Which are Exempted In-Part From the Parts-Marking Requirements of This Standard Pursuant to 49 CFR Part 543

Manufacturers	Subject lines	Parts to be marked
GENERAL MOTORS	Buick LeSabre	Engine, Transmission.
	Cadillac Deville	Engine, Transmission.
	Cadillac Eldorado	Engine, Transmission.
	Cadillac Sixty Special [1]	Engine, Transmission.
	Oldsmobile Ninety-Eight	Engine, Transmission.
	Pontiac Bonneville	Engine, Transmission.
	Pontiac Firebird	Engine, Transmission.
	Chevrolet Camaro	Engine, Transmission.
	Oldsmobile Eighty-Eight	Engine, Transmission.

[1] Renamed the Cadillac Concours beginning with MY 1994.

Issued on: June 30, 1998.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 98–18538 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 980406085-8164-01; I.D. 031998C]

RIN 0648–AJ27

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Management Measures for Nontrawl Sablefish

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

ACTION: Final rule.

SUMMARY: NMFS issues this final rule to implement management measures recommended by the Pacific Fishery Management Council (Council) for the limited entry, fixed gear sablefish fishery north of 36° N. lat. These measures provide a three-tiered management regime with three different cumulative landings limits for permit holders participating in the regular, limited entry, fixed gear sablefish fishery. The cumulative landings limit available to a permit holder depends on the tier to which the permit is assigned, with tier assignment based on historical and more recent participation in the fixed gear sablefish fishery. Both the limited entry and open access fixed gear sablefish fisheries will be closed for 48 hours immediately before and for 30 hours immediately after the regular fishery, with different restrictions applying during the two closed periods. Provisional 1997 regulatory language is updated by this final rule. These actions are intended to recognize the historical and more recent participation and investment in the fixed gear sablefish fishery while eliminating the traditional ''derby'' style management system.

DATES: Effective July 10, 1998.

ADDRESSES: Copies of the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analysis (EA/RIR/IRFA) and the Final Regulatory Flexibility Analysis (FRFA) for this action are available from the Pacific Fishery Management Council, 2130 SW. Fifth Avenue, Suite 224, Portland, OR 97201. Comments regarding the collection-of-information requirements contained in this rule should be sent to William Stelle, Administrator, Northwest Region, NMFS, 7600 Sand Point Way NE, BIN C15700, Seattle, WA 98115–0070 or to

William Hogarth, Administrator, Southwest Region, NMFS, 501 W. Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213, and to the Office of Information and Regulatory Affairs, Office of Management and Budget, (OMB) Washington, DC 20503 (ATTN: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Yvonne deReynier at 206–526–6140, or Wes Silverthorne at 562–980–4000.

SUPPLEMENTARY INFORMATION:

Background

NMFS issues this final rule to implement recommendations from the Council, under the authority of the Pacific Coast Groundfish Fishery Management Plan (FMP) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), to implement changes to the management measures for the limited entry, fixed gear sablefish fishery. The notice of proposed rulemaking for this action (63 FR 19878, April 22, 1998) fully described the background and rationale for the Council's recommendations. NMFS requested public comments on this action through May 22, 1998. NMFS received 26 letters during the comment period, which are addressed later in the preamble to this final rule.

In summary, limited entry permits with sablefish endorsements are divided into three tiers, with placement based on the cumulative sablefish catch associated with that permit from 1984 through 1994. Each tier is allowed a different cumulative limit during the regular, limited entry, fixed gear fishery. These measures apply only north of 36° N. lat.

Three-Tier Program

NMFS has accepted the Council's recommendation for qualifying criteria for the three different tiers. To qualify for the highest tier, Tier 1, a permit must be associated with at least 898,000 lb (407.33 mt) of cumulative sablefish landings made from 1984 through 1994. To qualify for the middle tier, Tier 2, a permit must be associated with between 380,000 lb (172.36 mt) and 897,999 lb (407.33 mt) of cumulative sablefish landings made from 1984 through 1994. Permits with sablefish endorsements that are associated with less than 380,000 lb (172.36 mt) of cumulative sablefish landings from 1984 through 1994 qualify for the lowest tier, Tier 3.

Analysts examined the distribution of sablefish cumulative catch histories over the 1984 through 1994 period to determine whether there were any large gaps between groupings of the cumulative catch histories of limited entry permits with sablefish endorsements that might serve as logical breakpoints between tiers. The Council wanted broad divisions of permit catch history between permits assigned to different tiers. Based on the analysis available at its meetings, the Council determined that the above qualifying criteria for Tier 1 reflected the largest break among a series of high catch history breakpoints, and that the qualifying criteria for Tier 2 reflected the largest break among a series of mid-range catch history breakpoints.

Permit catch history will be used to determine tier assignments for limited entry permit holders with sablefish endorsements. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, as well as subsequent catch history that was accrued when the limited entry permit or permit rights were associated with other vessels. Permit catch history also includes the catch associated with any interim permit held during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if (1) the appeal for which an interim permit was issued was lost by the appellant, and (2) the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full ''A'' permit was ultimately granted will also be considered part of the catch history of the ''A'' permit. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by the FMP that was legally taken with longline or fishpot gear will be considered for tier placement. Harvest taken in tribal sablefish set-asides will not be included in calculating permit catch histories.

Under the regulations that implemented Amendment 9 to the FMP, which established the sablefish endorsement requirement, if two limited entry, fixed gear permits are combined to generate a single permit with a larger length endorsement, the resulting permit also will have a sablefish endorsement only if all permits being combined have sablefish endorsements. After tier assignments are issued by NMFS, if permits are combined, the resulting permit will be assigned to the highest tier held by either of the original permits before combination.

The three-tier program maintains a ratio between the cumulative landings limits for the three tiers that approximates the 1991–1995 catch relationships between permits assigned to each tier on a group average basis. Setting cumulative limits by ratios ensures that the long-term relationships between the cumulative limits for each tier will remain stable. With cumulative limits set by ratio, impacts from changes in the numbers of permits distributed to each tier will be shared by all vessels in the fleet. The cumulative landings limit ratio for the tiers is 3.85 (Tier 1); 1.75 (Tier 2); and 1 (Tier 3). For example, if Tier 3 had a cumulative limit of 10,000 lb (4,536 kg), Tier 2 would have a corresponding cumulative limit of 17,500 lb (7,938 kg), and Tier 1 would have a corresponding cumulative limit of 38,500 lb (17,463 kg).

Overhead guidelines will be used to set the cumulative limits for each tier and for the overall expected catch for the fishery. ''Overhead'' is defined as the difference between the expected harvest level and the total harvest that would occur if each permitted vessel took its cumulative limit (maximum potential harvest). The concept of overhead is based on the premise that not all participants in this fishery will harvest the cumulative limit. NMFS considers a fishery where all participants have the opportunity to catch a cumulative limit and are all able to catch that limit to be an Individual Fishing Quota (IFQ) program. The Magnuson-Stevens Act imposes a moratorium on implementation of new IFQ programs until October 1, 2000.

Cumulative limits and season lengths for the limited entry, fixed gear regular sablefish fishery will be set to achieve a projected overhead, based on the most reasonable assumptions, of at least 25 percent and an overhead based on worst-case assumptions of at least 15 percent for the fleet as a whole. The overhead goal for any single tier will be at least 15 percent, based on the most reasonable assumptions.

Tier assignments for limited entry permits with sablefish endorsements will 'be issued by NMFS, before the start of the regular 1998 limited entry, fixed gear sablefish season. NMFS has used landings records from the Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN) database to preliminarily determine which limited entry permits meet the Council-recommended qualifications for each tier.

The Sustainable Fisheries Division (SFD), NMFS Northwest Region, has

notified each limited entry permit owner with a sablefish endorsement by letter whether PacFIN records indicate that his or her permit qualifies for Tier 1, Tier 2, or Tier 3.

A permit owner who believes that his or her permit qualifies for a different tier than the tier indicated by PacFIN records has 30 days to send supporting documentation, such as fish tickets, to the SFD to demonstrate how the qualifying criteria for a different tier have been met. A new tier will be assigned if the permit owner demonstrates that his or her permit meets the qualifying criteria. If the SFD, after review of the information submitted by the permit owner, decides that the permit does not qualify for the tier requested by the owner, the owner will have 30 days to appeal the decision to the Regional Administrator, NMFS Northwest Region. Unlike the initial limited entry permitting process but similar to the sablefish endorsement issuance process, there will be no industry appeals board to review appeals of tier placement.

For the 1998 season only, permit owners with sablefish endorsements will be issued certificates of tier assignment that will need to be kept with, and considered part of, their limited entry permits. When limited entry permit owners renew their permits for 1999, tier assignments for those limited entry permit owners with sablefish endorsements will be indicated directly on the limited entry permit.

Applications for sablefish endorsements, implemented in 1997 under Amendment 9 to the FMP, will not be accepted after November 30, 1998, which is the limited entry permit renewal deadline for the 1999 fishing year.

Changes From the Proposed Rule

NMFS received Council recommendations on the two changes to the proposed rule described in this section.

At the March 1998 Council meeting, the Council learned from its analysts that the initial analysis presented before the 1997 Council decision on the three-tier program had two mistakes directly related to the Council's decision. The Council reconsidered the affected portions of its recommendations. The first mistake was that the database used for the initial analysis for the three-tier program had inadvertently included some sablefish taken in waters off Alaska and later landed at a Pacific Coast port. Tier qualification catch history includes only sablefish landed from the Pacific Coast groundfish fishery. The catch histories of some permits were inflated because of this inclusion of Alaska-caught sablefish. Once the Alaska-caught sablefish was removed from the permit catch history database, the tier qualification levels had to be re-analyzed to determine whether the breaks between permit catch histories (described above) were still large enough to draw clear distinctions between permits above and below the breaks. The Council particularly did not wish to set a qualification level that was within a few thousand pounds of the next lowest permit catch history level. Removal of Alaska sablefish data did not significantly change the breaks in cumulative catch histories identified by the Council at its November 1997 meeting. The break for Tier 1, 898,000 lb (407.33 mt), actually became larger, and so is a more effective fleet-division indicator than it was when the Alaska data were included in the cumulative catch histories. The qualifying amount that the Council had originally recommended for Tier 2, 411,000 lb (186.43 mt), also occurs at a large break in cumulative catch histories, but it is no longer the lowest large breakpoint in its class. Analysis presented at the March 1998 meeting showed that 398,000 lb (180.53 mt) was the most significant break in cumulative catch histories, and the lowest large break among mid-range breakpoints. The Council commented on this issue, stating that it preferred to use the lowest large breakpoint in the mid-range area. In order to cushion any further possible data mistakes, the Council recommended setting the Tier 2 qualifying poundage at 380,000 lb (172.37 mt). NMFS received no public comment on this issue, and implements this change with this final rule.

The second mistake in the November 1997 analysis was made when the Council considered whether permits that were the result of the combination of two earlier permits would be assigned to a tier based on the cumulative catch history of one of the earlier permits, or based on the combined cumulative catch histories of both permits together. The analysis presented to the Council in November indicated that no permit holder would be denied qualification to a higher tier if the cumulative catch history of the highest of two combined permits were used as the qualifying catch history for that permit, rather than the summed cumulative catch history of both permits that were used to create the currently held permit. However, analysts later discovered a permit that is a result of two previously combined permits with catch histories that would each qualify for Tier 2, but that combined would qualify the resultant permit for Tier 1. This mistake was presented to the Council at its March 1998 meeting, after which the Council recommended changing its initial decision so that permits that are the result of a combination of multiple permits made before March 12, 1998, may combine the cumulative catch histories of all of the permits that went into the combination in order to determine the tier qualification status for the resultant permit. The Council only allowed this change for pre-existing combinations, but not for future combinations, so that permit holders would not have an incentive to buy up latent effort in the fleet to expand the capacity of their own operations. During the comment period, NMFS received two letters expressing support for the new Council recommendation. NMFS implements this change with this final rule.

Management Measures for 1998 and Beyond

To facilitate enforcement, there will be a 48–hour closure before the start of the limited entry, fixed gear regular season, during which time all fixed gear north of 36° N. lat. must be out of the water, and no sablefish may be landed by a fixed gear vessel. The 1998 pre-season closure will begin at noon local time (l.t.) on Thursday, July 30, and end at noon l.t. on Saturday, August 1, at the start of the fishery. There will be no opportunities for any fishers to set their gear before the 1998 regular season start time.

The 1998 limited entry, fixed gear regular season will begin at noon l.t. on Saturday, August 1, 1998. Only holders of limited entry permits with sablefish endorsements and tier assignments may participate in this fishery. The fishery will be 6 days long, ending at noon l.t. on Friday, August 7, 1998. The cumulative landings limits for participants in the limited entry, fixed gear sablefish fishery will be 52,000 lb (23,587 kg) for Tier 1; 23,500 lb (10,660 kg) for Tier 2, and 13,500 lb (6,124 kg) for Tier 3. During the regular and mop-up seasons, there is a trip limit in effect for sablefish smaller than 22 inches (56 cm) total length, which may comprise no more than 1,500 lb (680 kg) or 3 percent of all legal sablefish 22 inches (56 cm) or larger, whichever is greater.

To facilitate enforcement at the end of the regular season, there will be a 30–hour post-season closure north of 36° N. lat., during which time no sablefish taken with fixed gear (limited entry or open access) may be taken and retained

for the 30 hours immediately after the end of the regular season. However, sablefish taken and retained during the regular season may be possessed and landed during that 30–hour period. The post-season closure has been changed from 48 hours in duration to 30 hours in duration. This shorter post-season closure is a compromise between vessel owners with pot gear who would prefer a short post-season closure so that they may retrieve gear as soon after offloading as possible, and vessels delivering sablefish to ports in Puget Sound that are farther from the main fishing grounds than from direct ocean ports. In 1998, this 30–hour post-season closure will begin at noon l.t. on August 7 and end at 1800 hours l.t. on August 8. Gear may remain in the water during the 30–hour post-season closure; however, gear used to take and retain groundfish may not be set or retrieved during this period.

Commencing at 1800 hours l.t., August 8, 1998, the daily trip limits for fixed gear sablefish will resume at 300 lb (136 kg) per day north of 36° N. lat. (Daily trip limits apply to calendar days. Therefore, on August 8, 1998, a daily trip limit may be landed between 1800 hours and 12 midnight l.t. Beginning at 0001 hours l.t. on August 9, 1998, daily trip limits will apply to the full 24 hours.) A vessel participating in the regular fishery must begin landing its catch before 1800 hours l.t., August 8, 1998, and complete the offloading before returning to sea or continuing a trip at sea, or the daily trip limit will apply to the fish remaining on board after 1800 hours l.t. on August 8, 1998.

Estimates of the likely total harvest in the regular fishery have been made conservatively in order to ensure that the fishery does not exceed its total allocation. Because of this conservative management and the need to provide harvest overhead in setting cumulative landings limits for the three tiers, the regular fishery may not harvest all of the limited entry, fixed gear allocation for north of 36° N. lat. in excess of that required for the daily trip limit fishery. Following an estimation of the catch from the regular fishery, there will be a mop-up fishery to harvest this excess. The recommendation on the size of the mop-up cumulative limit will be made by the Council's Groundfish Management Team, after calculation of the actual landed catch from the regular fishery and the daily trip limit fishery. NMFS will announce the start date, duration, and cumulative limit amount for the mop-up portion of the fishery in the **Federal Register** before the start of the mop-up season.

Comments and Responses

The comments in 26 letters received during the public comment period ending on May 22, 1998, are summarized below. Comments 1 through 17 were received from 12 individuals in opposition to the three-tier program. Comments 18 through 30 are comments were received from 13 individuals and from an attorney representing west Coast fixed gear fishers. One letter in support of the rule included a suggestion that permit owners be allowed to stack multiple permits to pursue multiple cumulative limits during the regular fishery and a suggestion that the regular fishery be managed with an option of two different start dates, one in April and one in August. Neither of these suggestions was within the scope of the proposed rule or the Council's considerations for the three-tier program, so those comments have not been responded to below.

Comments Opposing the Rule

Comment 1: No justifiable need has been demonstrated for tiered sablefish allocation. Tiered allocation does nothing to further the stated purpose of the overall management program—to end derby fishing. In fact, derby fishing would be perpetuated by this program. The three-tier program does not address the safety-at-sea issue.

Response: For the past several years, the Council has expressed a strong desire to end the status quo management regime of an open competition derby while still maintaining historic trends in catch distribution among participants. Each year, since 1987, the open competition derby season has shortened in duration, yet the Council has been unable to choose whether to support the management recommendations of long-term fleet members who wanted to maintain their historic share of sablefish landings, or the management recommendations of new entrants to the fleet who wanted to increase their future shares of sablefish landings. The history of the fixed gear sablefish management regime is discussed in the preamble to the proposed rule. Finally, for 1998 and beyond, the Council recommended the three-tier program, a compromise that recognizes historic and recent fishery participation levels. The unrestricted competition derby will end with the implementation of the three-tier program.

The amount of sablefish available to a three-tier regular fishery provides a 6-day fishery in 1998. Without this rule, the regular fishery would be an unrestricted derby of 2 to 3 days. With this rule, approximately one-third of the expected participating vessels will be able to slow their rate of fishing over the rate that they would have fished under an unrestricted derby fishery, without reducing their catch. The Council has several times deliberated on whether this fishery would still be unsafe for vessels unable to catch the cumulative limit within the time allotted for the fishery. Fishers who knew that they would not be able to catch the cumulative limit within the time available have testified before the Council that any increase in the number of days in the fishery would allow them to slow the pace of their fishing and improve their ability to operate in a safer manner. The Council concluded that the three-tier program was an appropriate compromise because it would substantially slow the fishery without the adverse impacts of the alternatives that would have more drastically redistributed the catch.

The regular fishery under the three-tier program will still be a short, intense season. However, the only management option that has been suggested to end such seasons entirely was to set equal, monthly cumulative landings limits, an option with other offsetting drawbacks. Equal monthly landings limits would drastically redistribute catch from longer term participants to more recent and smaller capacity entrants. Cumulative limits also give fishers incentive to aim for a limit, and in aiming for that limit, they often exceed the limit and must discard any fish exceeding the limit. Discard mortality is largely unmeasured, and thus is a danger to the long-term health of the fish stocks. A system of monthly limits risks the possibility that fishers will aim for and exceed 12 small landings limits. The three-tier program has just the large, regular fishery limit to aim for, plus an expected second, smaller limit in the mop-up portion of the fishery.

Comment 2: The three-tier program is based solely on historic catch. Historic catch is not mentioned in the Magnuson-Stevens Act. The Magnuson-Stevens Act states that if the available resource must be allocated to American fishers, historic participation shall be required. All fishers with sablefish endorsements have shown historic participation in the fishery.

Response: Under section 303 of the Magnuson-Stevens Act, a Council may establish a limited access program if it takes into account, among other things, ''historical fishing practices in, and dependence on, the fishery.'' The three-tier program uses cumulative sablefish landings from the 1984 through 1994

period to quantify the historical fishing practices and dependence of participating fishers on the fixed gear sablefish fishery.

National standard 4 of the Magnuson-Stevens Act states that, ''Conservation and management measures shall not discriminate between residents of different States. If it becomes necessary to allocate or assign fishing privileges among various United States fishermen, such allocation shall be (A) fair and equitable to all such fishermen; (B) reasonably calculated to promote conservation; and (C) carried out in such a manner that no particular individual, corporation, or other entity acquires an excessive share of such privileges.'' The three-tier program is fair and equitable to participants in the program because it recognizes historic and recent participation and dependence on the fishery, and because it divides fishing privileges in a manner designed to minimize economic impact on those participants, within the constraints of the Magnuson-Stevens Act prohibition on implementing new IFQ programs.

Derbies, three-tier programs, and series of monthly cumulative limits, were three of the major alternatives considered in this action. Each provides a different means of controlling harvest in this fishery, each with different social, economic, and conservation implications that would change over time and with conditions in the fishery. The implementation of any of these alternatives would promote resource conservation. Deteriorating social and economic conditions resulting from derby fishery management led to the consideration of alternative conservation measures.

Finally, if the fishery could be managed in a way that would allow each of the permits to harvest the entire cumulative limit associated with the tiers, each of the permits in the top tier would be receiving just 1.4 percent of the total catch available to that fishery. A small number of fleet participants own more than one permit, so it is extremely unlikely that any one individual, corporation, or any other entity will acquire an excessive share of the privileges associated with this fishery through the three-tier program.

Comment 3: The Magnuson-Stevens Act states that economic gain shall not be used to allocate fish resources.

Response: National standard 5 of the Magnuson-Stevens Act states that, ''Conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.'' The purpose of the three-tier program is to move away from the unrestricted derby fishery with a management program that allows sablefish catch distribution to reflect historic and recent participation levels in the fishery. A management measure that would improve the efficiency of the use of a fishery resource would, among other things, remove or discourage redundant capacity in the fleet targeting that resource. Derby management encourages each fishery participant to increase the capacity of his or her vessel, to maximize the amount of fish that a vessel can catch during the time of the fishery. If the catching capacity of each vessel in a fleet is increased to improve its competitive advantage over other vessels, the total catching capacity in the fleet becomes so great that the duration of the derby must be shortened to prevent these vessels from exceeding the harvest guideline for the target species. The Pacific Coast fixed gear sablefish fishery has had a classic case history of a derby fishery that rushed into the vicious spiral of ever-increasing redundant capacity and ever-decreasing fishery duration. The three-tier program is intended to decrease the intensity of this spiral by matching permits to the tiers that most closely reflect their historic landings shares of the fishery. Fishers within each tier will be allowed to pursue cumulative limits that match more closely their current vessel capacities, and will thus as a group have less incentive to continue to increase those vessel capacities. There will still be incentive for vessels that are unable to catch their cumulative limit in the allotted time to increase their capacity (about two-thirds of the fleet), but the degree of incentive will be reduced. The three-tier program is a compromise program resulting from constraints created by the Magnuson-Stevens Act moratorium on the creation of new IFQ programs and the major reallocative effects of other alternative management strategies (e.g., a year-round series of monthly cumulative limits). Economic allocation is not the sole purpose of this regulation. As discussed in response to comments 1 and 2, the rule also has social and conservation purposes.

Comment 4: The tier system rewards overcapitalization by large producers by giving them an unreasonably larger allocation of sablefish in comparison to the rest, and majority, of the fleet.

Response: Fleet overcapitalization is primarily the result of two factors: individual fishers improving and supplementing their gear and vessel catching capabilities, and increasing numbers of new entrants to the fleet. Both of these factors contributed to overcapitalization in the fixed gear sablefish fishery. It is incorrect to say that, during any given period, a vessel that added gear contributed more to the overcapacity problem than a fisher bringing in a similar amount of capacity as a new entrant, or to say that this program rewards overcapitalization by recognizing historic and recent fishery participation. The three-tier program is designed to reflect, in part, dependence on the fishery.

The ratio that describes this distribution of cumulative catch limits between tiers approximates the 1991 through 1995 catch relationships between permits assigned to each tier on a group average basis. Setting cumulative limits by ratios ensures that the long-term relationships between the cumulative limits for each tier will remain stable. With cumulative limits set by ratio, impacts from changes in the numbers of permits distributed to each tier will be shared by all vessels in the fleet. The cumulative limits ratio for the tiers will be 3.85 (Tier 1); 1.75 (Tier 2); and 1 (Tier 3). The ratio between the average permit catch histories for permits in the three different tiers over the 1984 through 1994 period is 10.9 (permits in Tier 1) to 3.9 (permits in Tier 2) to 1 (permits in Tier 3). Tier 1 fishers will not have an unreasonably larger allocation of sablefish as compared with the rest of the fleet, particularly given the difference between the historic cumulative catch ratio and the cumulative limits ratio implemented by the three-tier program.

Comment 5: The tier program criteria are arbitrary and inappropriately inflexible. The criteria do not adequately allow for the changing circumstances and contingencies common in the industry, such as boat and gear loss, weather, price fluctuations, etc.

Response: NMFS disagrees. The three-tier program qualifying criteria include the initial 1984 through 1988 window period used to qualify vessels for limited entry permits, plus the 1989 through 1994 period that was added to the limited entry window period for sablefish endorsement qualification. In considering this question, it is important to remember that NMFS considers the relevant history to be the history of the groundfish fishing firm as represented by the groundfish permit. Within the 11-year window period, NMFS expects that most fishers had some period of relatively low fishing activity due to any number of possible problems they might have had with their boats, gear and weather, with personal health and family needs or with basic changes in market

conditions. The long (11 years) qualifying period reduces the impact of any particular problem that might have affected a fisher's participation in this fishery. For vessels that may have entered the fishery in the latter part of the qualifying period, such as those qualifying for a limited entry permit based on construction provisions, notice was given as early as the November 1991 Council meeting (announced at 57 FR 4394, February 5, 1992), that additional actions might be taken to further restrict access to the fishery, and that the Council was reserving the option to not consider subsequent investment and dependence on the fishery in determining future allocation questions with regard to this fishery. The qualifying requirement represents a balance that considers both the duration of involvement in the fishery and the size of the harvest operation. A fisher who entered the fishery as a large producer in the later part of the qualification window would have an opportunity to qualify for one of the higher tiers, as would a fisher who participated at a lower, but consistent, level over a longer period.

Comment 6: The catch requirements for tier placement would unfairly favor large vessels and handicap smaller vessels. Recent derby management has artificially widened the catch gap between larger and smaller vessels, because small boats are more vulnerable to adverse weather and must spend a greater percent of time in transit, loading, and offloading. Thus, the catch rate of these smaller vessels has been constrained during the extremely short seasons.

Response: NMFS agrees that there is some correlation between vessel size and vessel catch history. However, there are also several examples of small-sized vessels in the Tier 1 that have had high and consistent sablefish landings over the entire 11-year qualifying period. Conversely, there are very large vessels in Tier 3 with relatively low cumulative catch histories. Many factors contribute to whether a vessel has a relatively large or small sablefish catch history. In addition to basic vessel length, cumulative catch history might be related to sablefish abundance near the home port of the vessel, the fishing skills of the captain and crew, the type and condition of the gear used, the condition of the vessel, choices of the vessel owner to participate in the West Coast sablefish fishery or in other simultaneous fisheries, the number of years in this fishery, and many other possible factors. During the 1984 through 1994 window period, only the last three seasons could be classified as short in duration, being 15 days in 1992, 21 days in 1993, and 20 days in 1994. These short periods necessarily constrained the catch rates of all participating vessels to ensure that the fishery did not exceed the available harvest guideline. NMFS does not agree that smaller sized vessels necessarily spend more time in transit, or in loading and offloading than larger vessels.

Comment 7: High-producing pot fishers had an advantage of high harvest levels during the window period because they, unlike longliners, were allowed to set their gear before the start of the season. This was supposedly justified by safety concerns that boats carrying too many pots would be unstable.

Response: In 1993 and 1994, fixed gear vessels were prohibited from taking and retaining, possessing, or landing sablefish for the 72 hours before the start of the regular sablefish fishery (58 FR 16629, March 30, 1993). For those 2 years, all fixed gear fishers could deploy their gear during the 72–hour pre-season closure, but no sablefish could be taken from the water until the season start. In 1995, longliners were prohibited from deploying their gear until the start of the season, while pot fishers were allowed to deploy and bait their gear in advance of the start of the regular season (60 FR 34473, July 3, 1995). Because tier qualification status is based on landings made from 1984 through 1994, the pot pre-set allowance in 1995 and 1996 did not affect harvest during the three-tier qualification period.

Comment 8: The three-tier program does not consider the impact on the small fishing ports along the coast, as directed by the Magnuson-Stevens Act.

Response: National standard 8 of the Magnuson-Stevens Act requires that, ''Conservation and management measures shall, consistent with the conservation requirements of this Act (including the prevention of overfishing and rebuilding of overfished stocks), take into account the importance of fishery resources to fishing communities in order to (A) provide for the sustained participation of such communities, and (B) to the extent practicable, minimize adverse economic impact on such communities.'' NMFS notes that, according to the Council's decisional analysis, the three-tier program is expected to cause little change in the inter-port distribution of harvest over past years' harvest distributions. Moreover, other alternatives to unrestricted derby management, such as providing a single period equal cumulative limit fishery for all vessels or a series of equal monthly cumulative limits, would have imposed greater changes to inter-port harvest distribution than the three-tier program implemented by this rule. The program implemented by this rule meets the requirements of national standard 8.

Comment 9: The three-tier plan is only a disguised IFQ program, which is not allowed under the Magnuson-Stevens Act. The ''overhead'' allowance does not remedy this being an IFQ program. Additionally, the season has been artificially shortened in order to maintain this ''overhead'' fiction, increasing the fishery's hazardousness for all participants.

Response: The October 11, 1996, Sustainable Fisheries Act significantly revised and renamed the Magnuson-Stevens Act. The new changes to the Magnuson-Stevens Act included a moratorium on the implementation of new IFQ programs until October 1, 2000. An IFQ is defined in the Magnuson-Stevens Act as, ''a Federal permit under a limited access system to harvest a quantity of fish, expressed by a unit or units representing a percentage of the total allowable catch of a fishery that may be received or held for exclusive use by a person.''

Management measures for the limited entry, fixed gear sablefish fishery have been carefully designed not to violate this IFQ prohibition. As with the 1997 equal cumulative limit fishery, the Council recommended using overhead guidelines in setting the cumulative limits for each tier and for the overall expected catch for the total fishery. ''Overhead'' is defined as the difference between the expected harvest level and the total harvest that would occur if each permitted vessel took its full cumulative limit (maximum potential harvest). The concept of overhead is based on the premise that not all participants in this fishery will be able to harvest the cumulative limit. Because not all participants will be able to harvest the cumulative limits, and the remaining fish will be made available to others in the fleet, the cumulative limits are not held for ''exclusive use by a person.'' These limits are merely caps on what the most productive members of each tier may harvest during the regular season. NMFS considers a fishery where all participants have the opportunity to catch a cumulative limit and they are all able to catch that limit to be an IFQ program. The Council recommended setting cumulative limits and season lengths in 1998 and beyond to achieve a projected overhead, based on the most reasonable assumptions, of at least 25 percent and an overhead, based on worst-case assumptions, of at least 15 percent for the fleet as a whole. The goal overhead for any single tier

would be at least 15 percent, based on the most reasonable assumptions. Overhead provisions ensure that fishery participants do not have exclusive use of the cumulative limits. Any fish that is not harvested in the cumulative limit fishery will be redistributed in another catch opportunity during the mop-up fishery. NMFS is satisfied that a management program based on these conservative overhead guidelines will not result in all participating fishers being able to catch their full cumulative limits and that such a program will, therefore, not be an IFQ program. NMFS agrees that a longer season would be more desirable for its safety benefits. However, a longer season is not possible under the current IFQ moratorium, and would not achieve the Council's goal of ending the unrestricted derby with a management program that recognizes historic and recent participation.

Comment 10: Adequate consideration has not been given to alternative means of achieving the program's objectives. Alternatives to the three-tier program include management by equal allocation of sablefish for all limited entry permit holders, as in 1997.

Response: NMFS disagrees that adequate consideration has not been given to alternative means of achieving the program's objectives. The history of Council deliberation regarding this management system was described in the preamble to the proposed rule. The Council specifically considered, analyzed, and rejected options that provide equal allocation of sablefish for all permit holders as having too great a redistributive effect on the fishery. Because an option was not adopted does not mean that it was not considered.

The 1997 management scheme for the limited entry, fixed gear sablefish fishery set equal cumulative limits for all limited entry permit holders with sablefish endorsements. This scheme was specifically adopted for 1 year only because a long-term equal limits policy would have had significant adverse social and economic effects. This option, in addition to an option to set monthly equal cumulative limits, was included in the Council's decisional analysis for the management of this fishery in 1998 and beyond. In addition to these options, the Council considered a status quo derby option, three different three-tier options, and one four-tier option. The Council thoroughly analyzed and considered all seven management options before choosing the three-tier program implemented by this rule.

Comment 11: One commenter opposed to the rule supported the single period equal cumulative limit with mop-up option. The commenter noted that the Council's analysis for this issue showed that only 18 percent of fishery participants would experience a greater than 5–percent decrease in their incomes, making this less than NMFS's standard ''significant impact'' criteria of 20 percent.

Response: This comment appears to refer to NMFS criteria for determining whether an action will have a significant economic impact on a substantial number of small entities, a determination NMFS makes pursuant to the Regulatory Flexibility Act (RFA). NMFS considers an impact to be ''significant'' if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a ''substantial number'' of small entities to be more than 20 percent of those small entities affected by the regulation that are engaged in the fishery. This determination is discussed in the Classification section of this rule, and analyzed in the EA/RIR/IRFA/FRFA for this action.

The Council set an equal cumulative limit regime in 1997 forall sablefish endorsement holders with the understanding that such a division of fishing opportunities within a fleet with vastly differing historical fishery participation rates and dependence levels would be an unfair allocation as a long-term policy. In the final rule implementing the 1997 regime, NMFS stated that, while the equal cumulative limit regime was preferable to a derby, the agency would support a 1998 management system that better reflected historic and more recent levels of fishery participation. NMFS does not agree that an equal allocation for all sablefish endorsement holders is an appropriate management option for this fishery. Although the single period equal cumulative limit option would have resulted in fewer businesses with economic loss, the degree of impact on those businesses would have been much greater. Those businesses that would have lost economically under this option would have lost revenue to a greater degree than those businesses losing revenue under any of the tier options. Comparisons of revenue losses and gains under the different management options considered by the Council are analyzed in the EA/RIR/IRFA and FRFA for this action. There is a higher likelihood that applying the NMFS RFA criteria to a management measure to implement a long-term policy of equal cumulative limits would have resulted in a finding of significant economic impacts to fleet participants on the basis of the standard that more than 2 of participating small businesses could have been forced to cease operations. Thus, while the three-tier program results in a greater number of businesses experiencing losses, those losses are smaller, and the impacts of the new management regime are spread more evenly through the fleet.

Comment 12: Equal opportunity to access the fisheries is the fair and long-established approach to fishery management. There is no justification for managing this one fishery differently from other West Coast fisheries. Monthly trip limits have worked for trawlers, why can't they be used for the longline and pot sablefish fishery?

Response: Management of the trawl and longline fishery for sablefish diverged in 1987, when the Council established constraining trip limits for the trawl fishery, but did not set trip limits for the non-trawl fishery. Since then, the fisheries have developed in different manners. A sudden shift to monthly trip limits for the non-trawl fishery would have drastic reallocative impacts on the fishery, which the Council specifically wanted to avoid. While equal trip limits could be imposed on the fixed gear fleet, the effect would be, and was in 1997, very different than for trawl vessels because of the different management paths these two gear groups have taken. The trawl fishery reached its current trip limit levels over a period of many years, with some downward adjustments made each year. The sudden imposition of today's limits on a trawl fleet previously constrained only by season length would be extremely reallocative and disruptive. When the size of harvests is changed dramatically and suddenly, rather than over time, greater dislocations result, both in terms of labor and business, as well as personal capital. The monthly trip limit for trawlers is not without problems. An overcapitalized fleet fishing on relatively low trip limits in a multi-species fishery may have high discard rates, with reduced economic viability for many of the fishery participants. Any management scheme has drawbacks, and the Council must balance all competing factors in choosing a management regime for any fishery.

Comment 13: If a permit received an endorsement, the Council should allow permit holders who did not qualify for limited entry permits to use their vessel

catch history, rather than just the permit catch history, to qualify that permit for tier placement.

Response: Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. This comment suggests that a permit holder who purchased a permit after the limited entry program went into effect should be able to add his or her personal vessel's pre–1994 catch history to the pre–1994 catch history of the vessel that initially qualified for the purchased permit.

It has been the Council's policy to allow permit catch history to include a vessel's catch only from a time when that vessel was associated with the permit. Permit catch history includes the catch history of the vessel that initially qualified for the permit (before 1994), plus any catch history accumulated by vessels using that permit after issuance (1994 - present). It would be inconsistent with historic Council and NMFS policy to change these parameters for vessel and permit catch history for the three-tier program. To the degree possible, it is important to maintain consistent policy so that people can move in and out of the fishery and plan their fishery investments. Changing a policy that has been consistently followed since 1989 would create uncertainty about future policies for current participants and new entrants, and would require substantial justification.

A different set of qualifying histories would require redesign of the entire program, with the result being a different set of permit owners benefitting and losing under the new qualifying histories. If the proposal in this comment were adopted, either the qualifying requirements for the tiers would have to be raised to maintain a similar number of permits in each tier, or the cumulative limits for all vessels would have to be reduced in order to accommodate a greater number of permits in higher tiers. The net effect in the former case is that some permits would be moved down so that others could move up, or that everyone would experience a decrease in his or her harvest so that more permits could move up.

Comment 14: In 1992, the Council established a window period for future sablefish access limitation programs with a 1991 cutoff date. A commenter noted that fishing business decisions were based on this cutoff date and that, for this reason, his West Coast landings after 1991 are not as high as they would have been if he had known that there would be a later cutoff date.

Response: On February 5, 1992, NMFS published a Notice of Control Date (57 FR 4394), indicating that the Council was considering further access restrictions to the limited entry groundfish fisheries. At that time, the Council intended to consider individual quota (IQ) programs for West Coast halibut and sablefish fisheries. In the Notice of Control Date, NMFS stated, ''If IQ programs are adopted, the Council has expressed its intent to exclude from consideration fishing activity occurring after November 13, 1991, in establishing priorities for issuance and shares of individual quotas for these fisheries.'' The notice also explained that IQ programs were only a potential future management program, and that setting a control date was intended to ''discourage speculative entry into these fisheries (sablefish and halibut) while discussions on access control continues.'' Just as the Council prepared to take final action on whether to implement an IQ program, it received a letter from the West Coast congressional delegation requesting that it defer action until national policy guidance could be developed. The Council delayed action in response to this letter and the industry controversy surrounding the issue. Subsequently, Congress enacted a moratorium on new IFQ programs.

On August 1, 1995, NMFS published another Notice of Control Date (60 FR 39144), this time stating that the Council was considering establishing a sablefish endorsement program for limited entry, fixed gear permit holders to control participation or effort in the regular sablefish season. The notice read ''If a limited entry program is established, the Council is considering June 29, 1995, as a possible control date. Consideration of a control date is intended to discourage new entry by nontrawl 'A'permit holders into the sablefish fishery based on economic speculation during the Council's deliberation on the issues.'' This notice also explained that the Council might choose a different control date or might choose a management regime thatdid not make use of a control date. The purpose of a published notice of control date was to prevent fishers from rushing into the fishery in the hopes of accumulating catch history for possible future management schemes.

The sablefish endorsement program and the Council's recommendation for a three-tier management program have the same 11-year qualification period of 1984 through 1994. This qualification period incorporates catch over a long period and includes both historic and recent participation. It also accounts for the fact that some fishers may depend on different fisheries in different years or may have some years of relatively low catch for reasons outside their control.

The use of control dates is a difficult issue. Control dates are necessary for the protection of the resources and the fishers that are dependent on the fishery. However, when a policy is not developed fairly soon after the issuance of the control date, so many changes occur in the fishery that adherence to old control dates lead to perceived inequities. The need to maintain the control date is difficult to balance with the need to account for changes in the fishery. One way to resolve this balance is to recognize that one of the purposes of the qualification criteria is to establish degree of dependence on the fishery. If the Council had not set the 1991 control date, the commenter may have made investments and fished at a level that established a degree of dependence entitling his or her permit to qualify for a higher tier. However, during the intervening years, such investment was not made, and a greater degree of dependence on future income from sablefish was not established. There is a greater probability that the commenter's fishing enterprise will be able to withstand a harvest reduction associated with assignment to a lower tier, or the need to purchase a permit for a higher tier, than an enterprise that has harvested at a higher rate. It is also possible, depending on his or her catch history, that, even in the lowest tier, the commenter will experience an increase relative to recent harvests.

Comment 15: A commenter suggested that the qualifying amount for Tier 1 should be lower than it is, because some long-time participants in the fishery may be placed in Tier 2.

Response: As discussed in this document and in the preamble to the proposed rule for the three-tier program, the tier qualification amounts are based on the largest breaks between a ranking of the cumulative catch histories of all of the limited entry permits with sablefish endorsements. A permit's tier placement reflects the catch history associated with that permit, as compared with the catch histories associated with all of the other permits with sablefish endorsements. These 163 permits are associated with a wide range of cumulative catch histories, from under 40,000 lb (18.14 mt) cumulative catch history from 1984 through 1994 to over 3,000,000 lb (1,360.78 mt) cumulative catch history during that same period. The breakpoints in this three-tier program fall at levels where

there were large and obvious divisions between groupings of permit catch histories.

Qualification requirements have to do not only with being a fisher and a boat owner, but also with the level of participation in the fixed gear sablefish fishery. A long-term owner in the fishery and steady participant should end up in a tier somewhat reflective of his or her general harvest levels. Because the program cannot provide individual allocations due to the Magnuson-Stevens Act's moratorium on IQ programs, there will inevitably be some reallocation from historic catch shares; some fishers will receive more than their demonstrated production levels and others will receive less. To those who sold a vessel or permit with catch history or who recently invested in a vessel with little catch history, many notices have been given since the close of the 1988 limited entry window period that access rules for the fishery might change overtime.

Comment 16: If there is to be a tiered system, the regulations should have an appeal procedure under which hardship circumstances adversely affecting an individual boat owner's tier placement can be heard and placement upgraded if adequately justified.

Response: A permit holder eligible for participation in the three-tier program has the opportunity to appeal his or her permit's tier placement if that permit holder believes that the permit has been placed in the wrong tier based on incorrect information about the catch history associated with that permit. Like the sablefish endorsement program, the three-tier program does not include a hardship provision for tier placement. The three-tier program has a long qualifying period (1984 through 1994) that encompasses the limited entry window period plus more recent years.

Tier assignments are based on catch history of the permit, which includes the catch history of the vessel that initially qualified for the permit during the time before the permit was issued, plus any subsequent catch made by vessels operating under the permit. The qualifying window period for limited entry permits was July 11, 1984, through August 1, 1988. Most vessels that qualified for an initial limited entry permit based on personal hardship had to have been fishing before the end of the limited entry qualifying period. Every permit should have a long permit history, except for those that qualified under vessel construction or conversion criteria.

The vessel construction/conversion criteria required that construction on the vessel must have been started before 1988 and completed by September 1990. Vessels qualifying under this provision had at least 4 years of fishing opportunity during the three-tier window period, except where unexpected circumstances may have prevented construction completion before September 1990. A construction history running from before August 1, 1988 through September 1990 or later demonstrates some degree of ability to survive financially without substantial fishing income.

Vessels entering the fishery for the first time in 1991, or later, arrived in the fishery when there were only short derby fishing opportunities and after the Council had provided notice of impending changes to fishery access rules. A vessel that was a high producer during the last four derbies in the three-tier qualification period (1991 through 1994) may have established a high enough permit history to qualify that permit for Tier 2. Conversely, low-producing vessels that participated only in the 1991 through 1994 derbies have shown a relatively low level of dependence on the fishery. Vessels that entered the fishery at a later date had less of an opportunity to qualify for a higher tier assignment than vessels with a long history of fishery participation.

Comment 17: A commenter suggested that, if the tier system is approved, upon death of a permit holder or sale of any permit, the permit's associated cumulative limit should be forfeited into the total amount available to all sablefish endorsement holders, to be divided between active permits.

Response: NMFS is uncertain exactly how this proposal would work. It appears that the proposal is to make sablefish harvesting a non-transferable privilege, as opposed to the other fishing privileges conferred by permit ownership. Similar provisions have been considered in the past, but rejected because of complications having to do with methods by which ''sales'' can be circumvented, and defining deaths where partnerships or corporations are involved in the ownership. The three-tier program is a program to allocate the fixed gear portion of the limited entry sablefish allocation between participants in the regular fishery; it is not a capacity reduction program. However, the Council has expressed an interest in capacity reduction programs, and this idea might be considered during future Council efforts to develop capacity reduction programs.

Comments Supporting the Rule

Comment 18: The three-tier plan is equitable because it recognizes historic dependence on and investment in the fishery as a rational method of fishery management. The 11-year window period of 1984 through 1994 for the three-tier program is inclusive of both historical participation and (at the time of program development) current dependence upon the fishery. Using catch history to allocate fish is the best method of distributing reductions in fishing opportunity through an overcapitalized fleet. The time has come to implement a management regime that will maintain a semblance of economic stability and continued participation in a long-established fishery.

This three-tier program is also a compromise that gives low level participants a higher harvest catch level than they have historically enjoyed, while greatly reducing the poundage of the high level producers. Vessels in Tier 1 will lose about 3.2 percent of their total catch, while vessels in Tiers 2 and 3 are expected to gain 1.0 percent and 0.7 percent respectively. Reallocation of proportional catch share within and between permit holders in each tier is relatively modest.

The length of the qualifying period and the lack of an exception for personal hardship represents a balance in the consideration of the dependence of long-term producers and more recent entrants. For owners of permits with a long catch history, the lack of a hardship provision is another way of weighing the degree of dependence established in the fishery. For the three-tier program, the question is not whether a vessel will qualify for a tier assignment, but which tier assignment the associated permit will receive. Owners of permits not qualifying for a higher tier may move to a higher tier by purchasing a higher tier permit, just as people who have not yet entered the fishery will have to do to enter even the lowest tier.

Response: This comment refers in part to analysis in the EA/RIR/IRFA for this issue that shows how the distribution of catch shares between vessels in the fishery would change upon implementation of the three-tier program. NMFS agrees that the three-tier program takes both historic and recent participation into account in setting qualification levels for the three tiers. NMFS also agrees that the three-tier program has been carefully designed to spread the burden of more rational management among fleet members. NMFS notes that many of the comments in favor of the three-tier program were received from persons who would have been negatively affected (as compared with status quo derby management) by either the equal cumulative limits program or the three-tier program, but

who prefer the three-tier program for its recognition of differing fishery participation levels. However, NMFS also notes that, despite this effort to reduce the reallocative effects of this program, the degree of reallocation of proportional catch shares within the tiers is still substantial, with some vessels experiencing increases and others decreases.

Comment 19: The proposed rule would provide an effective mechanism for the prevention of overfishing and the achievement of optimum yield by providing close control over harvesting conducted by an over-capitalized fleet. The proposed rule would enhance conservation of the fishery by making the fishery easier to manage, increasing the likelihood that harvests will remain within the harvest guideline, thus improving the sustainability of the fishery. For these reasons, the three-tier program complies with national standard 1.

Response: NMFS disagrees that the fishery is necessarily easier to manage under the three-tier system than it would be under the derby. The sum of the cumulative limits for all vessels in the fishery substantially exceeds the total amount of available fish. Cumulative limit management with overhead allows a longer fishery than unrestricted derby management, at a similar degree of risk and conservativeness. Additionally, there are enforcement and monitoring problems with cumulative limits that must be recognized. Under derby management, no incentive exists for vessels to under-report landings. Under cumulative limit management, vessels able to take their cumulative limits in the available time might under-report their landing in order to land more sablefish than the limits allow. All of these factors were taken into account when the Council and NMFS balanced conservation, safety, allocation, and other management objectives in selecting what they determined to be the best management option.

Comment 20: The three-tier program complies with national standard 2, which states that ''Conservation and management measures shall be based on the best scientific information available.'' Not only did the Council use the most current data and analyses in shaping the three-tier program, but also, when analysts discovered errors in the database of permit catch histories, those mistakes were properly and timely disclosed, and the Council reviewed and reconsidered its decisions based on the new data.

Response: NMFS agrees. Changes from the proposed rule to the final rule result from decisions made at the Council's March 1998 meeting, and are described above.

Comment 21: According to one commenter, opponents of the three-tier program argue that catch history should not be used to allocate the sablefish resource and that equal allocation is the most fair allocation. That same commenter noted that ''fairness of allocation (national standard 4) is in the eye of the receiver.'' This commenter pointed out that the 1997 equal limits management allowed permits that had caught only 16,000 pounds in a single year to fish toward a limit of 34,000 pounds, also allocating 34,000 pounds to permits with historical annual catches of 300,000 pounds. Additionally, several commenters noted that, in the three-tier program, fishers in Tiers 1 and 2 will lose catch opportunity, and fishers in Tier 3 will gain catch opportunity, commenting that this program is a well compromised allocation.

Response: As indicated in the response to Comment 11, NMFS agrees that the three-tier program, which spreads the burden of catch reductions more evenly through the fleet, is a fairer allocation than a long-term equal cumulative limit allocation.

Comment 22: The three-tier program is an initial step toward capacity reduction. Before capacity can be reduced, it must be prevented from increasing. By assigning each permit an allocation, fleet harvest capacity cannot increase because the incentive to catch more fish disappears. In this way, the program complies with national standard 5, which states that ''conservation and management measures shall, where practicable, consider efficiency in the utilization of fishery resources; except that no such measure shall have economic allocation as its sole purpose.''

Response: NMFS partially agrees. As stated in the responses to Comment 3, derby-style fishery management encourages each individual in a given fleet to expand his or her vessel's catching capacity to better compete with all of the other vessels in the fleet. Even if a limited entry program restricts the number of vessels in the derby, individual fishers have incentives to improve the competitive abilities of their vessels. Derby management inevitably leads to the cumulative catching ability of the fleet exceeding the actual capacity needed to harvest the available resource. The three-tier program reduces but does not end this derby-style management, and attempts to match permits to tiers based on the cumulative catch associated with those permits. During the fishery, a portion of vessels in each of the tiers will closely match the catching ability associated with the available cumulative limit and the time available, while some vessels will have more than enough catching ability, and some vessels will have less catching ability than needed for taking that cumulative limit within the available time.

Comment 23: One commenter stated that he appreciated the stability this program will bring to a fishery that has a history of management difficulties. The commenter noted that the stability of this program will allow him to assure his crew members that otherwise lean years can be filled out by catch in the sablefish season, and anticipated that this stability would ensure loyalty from his experienced crew members throughout the year.

The commenter further noted that the three-tier program will also allow flexibility to participate in multiple fisheries. The three-tier program, with a fixed fishery period and a mop-up following shortly afterwards, allows fishers to get their gear on and off their boats and to pursue the multiple fisheries necessary to make a year round living. The commenter also was pleased that the three-tier program accounts for the different fishing strategies of the many fleet participants, the three-tier program follows national standard 6, which states that ''Conservation and management measures shall take into account and allow for variations among, and contingencies in, fisheries, fishery resources, and catches.''

Response: In developing the three-tier program, one of the Council's goals was to begin to bring stability and rational management to a frenetic and unstable fishery. The Council and NMFS recognize that fixed gear fishers participate in a variety of fisheries throughout the year, and season start dates for this fishery are set to accommodate as many alternative fishery schedules as possible.

Comment 24: The fixed gear sablefish fleet is diverse and divided into opposing categories: long term participants and new entrants, large catch histories and small catch histories, large boat and small boats. This program causes some losses and gains for some coastal communities because we all deliver to and support coastal communities, not because of a disregard for coastal communities. The three-tier program complies with national standard 8, which states that the interests of fishing communities be taken into account when implementing conservation and management measures.

Response: NMFS agrees. As stated in the response to Comment 8, the three-tier program is expected to cause little change in the inter-port distribution of fixed gear sablefish landings, and less variation in inter-port distribution than would have occurred under a long-term system of equal cumulative limits. All of the vessels involved in this fishery are considered small businesses, and all of the boats in the fishery deliver their fish to coastal communities. National standard 8, which addresses the dependence of fishing communities on fishery resources, does not constitute a basis for allocating resources to specific fishing communities.

Comment 25: One commenter stated that a longer fishery, even if it is longer only by several days, allows him to keep and handle his bycatch. Open derbies lead to people setting out more gear than they can haul in a given time, resulting in a waste of gear and hooked fish. At the other end of the scale, a monthly trip limit fishery would unquestionably lead to high-grading and increased bycatch on a regular basis. The commenter noted that this longer fishery will also allow him to handle his gear more carefully, making him less likely to lose gear. By minimizing bycatch, the three-tier program complies with national standard 9.

Response: Bycatch can occur for many reasons. In a derby fishery, where all vessels are participating at their highest possible rates of fishing, fishers may not have the time to fish in a selective manner. Fish would be hauled on board as quickly as possible without regard to species or size, and then a portion would be discarded according to market or regulatory constraints on what catch should and may be retained. Conversely, in a fishery where all participants have ample time to sort through their catch and fish until their vessels are filled with the highest value fish, many lower value fish may be discarded in the process. The three-tier program will allow some fishers to slow their rates of fishing and to improve the selectivity of their fishing methods. To some extent, however, selectivity in fishing is a matter of personal ethics and fishing skill. NMFS does agree that a slower paced fishery should have the much-desired result of reducing gear abandonment and ghostfishing by lost gear.

Comment 26: The three-tier program provides increased safety with respect to the status quo derby because fishers will know how much fish they are allowed to catch and the season can be tailored to more favorable weather patterns. The three-tier program allows 6 days fishing while an unrestricted derby would probably allow 2. Several commenters noted that any increase in the number of days in the fishery, even if it is from 2 days to 6 days, is a safety improvement. These commenters concluded that, for these reasons, the three-tier program complies with national standard 10, which states that ''Conservation and management measures shall, to the extent practicable, promote the safety of human life at sea.'' Finally, one commenter noted with irony that if the Council had been able to implement an IFQ program, the fishery could be several months long, rather than several days long.

Response: NMFS agrees that a 6-day fishery provides greater safety than a 2-day fishery. It is unfortunate that overcapitalization and the reduced 1998 sablefish harvest guideline level have severely shortened the fishery duration. NMFS expects that the primary safety benefit of a 6-day fishery over a 2-day fishery will occur for the approximately one-third of the fleet easily able to take the allotted cumulative limit during the time allowed. For the other two-thirds of the fleet still operating in the derby mode, the effect of this action on safety is uncertain. Income will increase as the length of the fishery increases, and it is possible that risk-taking behavior will decline as the amount of potential income increases. However, the Council decision documents show that these are not conclusive findings.

NMFS also agrees that IFQ management for this fishery nwould allow fishers adequate time to catch sablefish poundage associated with their tiers. If this fishery were managed with an IFQ program (an option currently prohibited under the Magnuson-Stevens Act), regardless of how the available catch were allocated between permits, each permit owner would likely be able to catch his or her entire allocation at any time during the year, and likely without landings limits.

Comment 27: The three-tier program complies with section 303(b)(6) of the Magnuson-Stevens Act, which states that, ''Any fishery management plan which is prepared by any Council, or by the Secretary, with respect to any fishery, may — (6) establish a limited access system for the fishery in order to achieve optimum yield if, in developing such system, the Council and the Secretary take into account—(A) present participation in the fishery, (B) historical fishing practices in, and dependence on, the fishery, (C) the economics of the fishery, (D) the capability of fishing vessels used in the fishery to engage in other fisheries, (E) the cultural and social framework relevant to the fishery and any affected fishing communities, and (F) any other relevant considerations.'' In making its recommendations for this program, the Council considered all of the factors required under this section and, has therefore, met the requirements of this section.

Response: NMFS agrees, see also response to Comment 2.

Comment 28: As stated in the proposed rule for the three-tier program, the Council initially decided not to allow permit owners with permits that were the result of a combination of multiple permits to determine their tier placement based on the combined catch histories of those original permits. This decision was based on a study that showed that no individuals currently operating in the fishery would be affected by that restriction. After further study, however, analysts showed that this first assumption was incorrect and that this decision would negatively affect a few individuals who had combined their permits long before discussions of the three-tier program. We the commenters who would have been harmed by this action, supported the Council's March 1998 recommendation to allow permits that were a result of a combination made before March 12, 1998, to combine their cumulative catch histories for tier qualification status.

Response: NMFS agrees. The Council's initial recommendation on this issue was based on an incorrect analysis. After receiving more complete information, the Council revised that recommendation to allow permits that were the result of a combination of multiple permits to receive tier placement based on the combined cumulative catch histories of the permits that went into the combination. Regulatory language detailed in the proposed rule has been changed to reflect public and Council comments on this issue.

Comment 29: One commenter supports the three-tier program, but would like to be allowed to set his pots for 24 hours before the opening of the regular fishery, since it takes at least 48 hours for him to set all of his pots.

Response: As stated in the response to Comment 7, in 1995 and 1996, pot fishers were allowed to set their gear before the start of the regular fishery. Longliners were opposed to this practice because it gave pot fishers the chance to choose and then monopolize premium fishing ground positions before the start of the derby. Because of these concerns and because the 1997 10-day fishery period was expected to provide all pot gear participants with sufficient time to set and tend their gear, this pot pre-set

option was not allowed in the 1997 regular fishery. The Council reconsidered a pot pre-set allowance for the three-tier system, but concluded that the tiered cumulative limits would constrain pot fisher catch levels enough so that they would not need to fish at a speed that would require a pre-set allowance.

Comment 30: Several commenters who have participated in and/or have studied the Alaska halibut and sablefish IFQ program support future consideration of an IFQ program in the fixed gear sablefish fishery once the Magnuson-Stevens Act moratorium is lifted.

Response: A Council may not submit and the Secretary may not approve or implement an IFQ program before October 1, 2000. However, a Council may begin development of an IFQ program before that date.

Comment 31: The proposed rule would not implement an IFQ system. Under the Magnuson-Stevens Act and NMFS interpretation, for a program to be an IFQ program, it must grant permits that give recipients a privilege to harvest a specified percentage of the total annual catch (TAC). Unless sold or otherwise disposed of, that permit holder has an annual, guaranteed privilege to harvest that same percentage of the TAC. With the three-tier program, no person is guaranteed a percent of the harvest, fishers are merely separated into three different tiers with three different cumulative limits that they can then try to achieve in the given season. The ''overhead'' system embedded in the rule ensures that this program is not an IFQ system. The proposed rule would ensure that there is no guaranteed right to a specific amount of fish—the antithesis of an IFQ system.

Response: NMFS agrees that the three-tier program is not an IFQ program. See response to Comment 9.

Classification

Under 5 U.S.C. 553(d)(3), the Assistant Administrator finds good cause to waive the 30-day delay in effectiveness for this rule. August 1 was chosen as a season opening date to promote safety and to allow fishers to participate in other fisheries aside from this directed sablefish fishery. In order to avoid a 2 to 3 day derby fishery this year and to allow the limited entry fixed gear sablefish fishery to fully benefit from the increased vessel safety of holding the regular and consequent mop-up seasons before the most difficult autumn weather, this rule must be made effective to allow implementation of the three-tier program before the August 1, 1998, start date of the regular season. To this extent, to delay the effectiveness of this rule would be contrary to the public interest.

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

The Final Regulatory Flexibility Analysis (FRFA) consists of the FRFA supplemental analysis prepared by NMFS, the IRFA (as submitted by the Council and supplemented by the preamble to the proposed rule (63 FR 19878, April 22, 1998)), and the preamble to this final rule. NMFS considers an impact to be ''significant'' if it results in a reduction in annual gross revenues by more than 5 percent, an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities would be forced out of business. NMFS considers a ''substantial number'' of small entities to be more than 20 percent of those small entities affected by the regulation that are engaged in the fishery.

There are 163 limited entry, fixed gear permit owners with sablefish endorsements. All of the permit owners and vessels in the Pacific Coast, limited entry, fixed gear fleet are considered small entities. As indicated in the FRFA for this action, 42 permit holders with sablefish endorsements (26 percent) would suffer a greater than 5 percent loss in total gross fishing revenue over what they would have been expected to earn if the open competition derby management had been continued for 1998.

The Council initially reviewed six different management options aside from status quo, open competition derby management. Of those six options, two options would have resulted in fewer than 26 percent of endorsement holders suffering a greater than 5 percent loss in gross annual revenue. The Council considered continuing the status quo derby undesirable, expecting that a future policy of unrestricted derby fishing would cause significant negative social and economic impacts to fishery participants, with potentially grave safety consequences. An option to continue the 1997 style fishery management of a single period equal cumulative limit regime would have resulted in 18 percent of endorsement holders suffering a greater than 5 percent loss in total gross annual revenue. Although this option would have resulted in fewer businesses with significant economic loss, those businesses that would have lost economically under this option would have lost revenue to a greater degree than those businesses losing revenue under any of the tier options. This option would have also resulted in a greater proportion of the harvest being reallocated amongst fleet members than the proportion of harvest reallocation under the three-tier management program implemented by this rule. There is a higher likelihood that a management measure to implement a long-term policy of equal cumulative limits would have been found to have significant economic impacts to fleet participants on the basis of the standard that questions whether more than 2 percent of participating small businesses would have been forced to cease operations. Thus, while the option chosen by the Council results in a greater number of businesses with significant economic losses, the impacts of that option are spread more evenly through the fleet. The Council also specifically decided when it recommended a single period equal cumulative limit for 1997 that it would not recommend continuing such an option for 1998 because of the severe reallocative impacts.

The other option that would have resulted in fewer than 26 percent of permit owners suffering a greater than 5 percent loss in gross annual revenue was a four-tiered access system. This option was projected as leading to greater than a 5 percent loss in gross annual revenue for 22 percent of permit holders with sablefish endorsements. One major impediment to Council recommendation of a four-tiered option was that maintaining an overhead to prevent designation as an IFQ system would have been more difficult under a four-tiered option. The greater the number of tiers in a tiered access system, the more likely it is that fishers will be able to achieve their tier limits, and the greater the likelihood that the agency would find the program to function as an IFQ. In an IFQ fishery, all fishers would be allowed to use as much time as necessary to catch whatever cumulative limits are available for the year. The Council chose the option that would have the least impact on fishers' revenues while still maintaining enough overhead to avoid the NMFS IFQ classification criteria and eliminating derby management.

In addition to the single-period equal cumulative limit fishery, the three-tier options, the four-tier option and the status quo derby, the Council considered setting a year-round series of equal, monthly cumulative limits as an

option that could offer greater safety benefits than the three-tier program. However, a year-round fishery would have resulted in the greatest reallocation of catch among participants, and would have had significant, negative economic consequences for the greatest number of fleet participants. The Council was also concerned that this option would increase discard of sablefish. Finally, the Council expected that the effects of year-round cumulative trip limits in this fishery would be contrary to Magnuson-Stevens Act national standards on fairness and equity, and on providing for sustained participation and minimizing adverse effects on fishing communities.

This action is not expected to result in an increase in annual compliance costs of greater than 5 percent, compliance costs at least 10 percent higher for small entities than for large entities, compliance costs that require significant capital expenditures, or the likelihood that 2 percent of the small entities will be forced out of business.

In summary, all of the affected entities are small entities. Therefore, there are no special provisions that can be inserted to affect small entities differently than large entities. The losses from one small entity turn to gains for another small entity. In order to eliminate the traditional, unrestricted derby fishery, some small entities will suffer negative economic impacts. The Council selected the legally-available option that would eliminate the traditional unrestricted derby, while minimizing the reallocation of catch.

This rule contains a collection-of-information requirement subject to the Paperwork Reduction Act (PRA) that has been approved by the OMB under OMB Control Number 0648–0203. Notwithstanding any other provision of the law, 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 PRA, unless that collection of information displays a currently valid OMB Control Number. This rule's collection of information burden applies only to those permit owners who disagree with the initial NMFS tier assignment, and who wish to provide documentation to prove that they have in fact met the tier qualifications for the tier that they wish to have assigned to their permits. It is expected that the public reporting burden will be 2 hours to make an initial application and possible appeal. This is a one-time only collection-of-information, and this rule imposes no annual reporting and recordkeeping burden. Send comments regarding the collection-of-information burden or any other aspect of the information collection to NMFS and OMB (see **ADDRESSES**).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: July 9, 1998.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is amended as follows:

PART 660—FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

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

2. Section 660.323 is amended by revising paragraph (a)(2) to read as follows:

§ 660.323 Catch restrictions.

(a) * * *

(2) *Nontrawl sablefish*. This paragraph (a)(2) applies to the regular and mop-up seasons for the nontrawl limited entry sablefish fishery north of 36° N. lat., except for paragraphs (a)(2)(ii), (iv), and (vii) of this section, which also apply to the open access fishery north of 36° N. lat. Limited entry and open access fixed gear sablefish fishing south of 36° N. lat. is governed by routine management measures imposed under paragraph (b) of this section.

(i) *Sablefish endorsement*. A vessel may not participate in the regular or mop-up season for the nontrawl limited entry fishery, unless the vessel's owner holds (by ownership or otherwise) a limited entry permit for that vessel, affixed with both a gear endorsement for longline or trap (or pot) gear, and a sablefish endorsement.

(ii) *Pre-season closure—open access and limited entry fisheries*. (A) Sablefish taken with fixed gear in the limited entry or open access fishery in the EEZ may not be retained or landed during the 48 hours immediately before the start of the regular season for the nontrawl limited entry sablefish fishery.

(B) All fixed gear used to take and retain groundfish must be out of EEZ waters during the 48 hours immediately before the opening of the regular season for the nontrawl limited entry sablefish fishery.

(iii) *Regular season—nontrawl limited entry sablefish fishery*. (A) The Regional Administrator will announce a season for waters north of 36° N. lat. to start on any day from August 1 through September 30, based on consultations with the Council, taking into account tidal conditions, Council meeting dates, alternative fishing opportunities, and industry comments.

(B) During the regular season, each vessel with a limited entry permit with a sablefish endorsement that is registered for use with that vessel may land up to the cumulative trip limit announced for the tier to which the permit is assigned. Each permit will be assigned to one of three tiers. A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips.

(C) The Regional Administrator will annually calculate the length of the regular season and the size of the cumulative trip limit for each tier in accordance with the process specified in chapter 1 of the EA/RIR/IRFA for ''Fixed Gear Sablefish Tiered Cumulative Limits,'' dated February 1998, which is available from the Council. The season length and the size of the cumulative trip limits will vary depending on the amount of sablefish available for the regular and mop-up fisheries and the projected harvest for the fishery. The season will be set to be as long as possible, under the constraints described in chapter 1 of the EA/RIR/IRFA, up to a maximum season length of 10 days.

(D) During the regular and mop-up season, limited entry nontrawl sablefish fishers may also be subject to trip limits to protect juvenile sablefish.

(E) There will be no limited entry, daily trip limit fishery during the regular season.

(iv) *Post-season closure—limited entry and open access*. No sablefish taken with fixed gear north of 36° N. lat. during the 30 hours immediately after the end of the regular season for the nontrawl limited entry sablefish fishery, may be retained. Sablefish taken and retained during the regular season may be possessed and landed during the 30–hour period. Gear may remain in water during the 30–hour post-season closure. Fishers may not set or pull from the water fixed gear used to take and retain groundfish during the 30–hour post-season closure.

(v) *Mop-up season—limited entry fishery*. A mop-up season to take the remainder of the limited entry nontrawl allocation will begin in waters north of

36° N. lat. about 3 weeks, or as soon as practicable, after the end of the regular season. During the mop-up fishery, a cumulative trip limit will be imposed. A cumulative trip limit is the maximum amount of sablefish that may be taken and retained, possessed, or landed per vessel in a specified period of time, with no limit on the number of landings or trips. The length of the mop-up season and the amount of the cumulative trip limit, will be determined by the Regional Administrator in consultation with the Council or its designees, and will be based primarily on the amount of fish remaining in the limited entry nontrawl allocation, the amount of sablefish needed for the remainder of the daily trip limit fishery, and the number of mop-up participants anticipated. The Regional Administrator may determine that too little of the nontrawl allocation remains to conduct an orderly or manageable fishery, in which case there will not be a mop-up season. There will be no limited entry daily trip limit fishery during the mop-up season.

(vi) *Other announcements*. The dates and times that the regular season starts and ends (and trip limits on sablefish of all sizes are resumed), the size of the cumulative trip limits for the three tiers in the regular fishery, the dates and times for the 30–hour post-season closure, the dates and times that the mop-up season begins and ends, and the size of the cumulative trip limit for the mop-up fishery will be announced in the **Federal Register**, and may be modified. Unless otherwise announced, these seasons will begin and end at 12 noon on the specified date.

(vii) *Trip limits*. Trip and/or frequency limits may be imposed in the limited entry fishery before and after the regular season, and after the mop-up season, under paragraph (b) of this section. Trip and/or size limits to protect juvenile sablefish in the limited entry or open-access fisheries also may be imposed at any time under paragraph (b) of this section. Trip limits may be imposed in the open-access fishery at any time under paragraph (b) of this section.

* * * * *

3. In § 660.333, the first sentence of paragraph (c)(1), paragraphs (d) introductory text, (f)(2), and (h)(2)(iii) are revised to read as follows:

§ 660.333 Limited entry fishery—general.

* * * * *

(c) *Transfer and registration of limited entry permits and gear endorsements*. (1) When the SFD transfers a limited entry permit, the SFD will reissue the permit in the name of the new permit holder with such gear and, if applicable, species endorsements and tier assignments as are eligible for transfer with the permit. * * *

* * * * *

(d) *Evidence and burden of proof*. A vessel owner (or person holding limited entry rights under the express terms of a written contract) applying for issuance, renewal, transfer, or registration of a limited entry permit has the burden to provide evidence that qualification requirements are met. The owner of a permit endorsed for longline or trap (or pot) gear applying for a sablefish endorsement or a tier assignment under § 660.336(c) or (d) has the burden to submit evidence to prove that qualification requirements are met. The following evidentiary standards apply:

* * * * *

(f) * * *

(2) Gear endorsements, sablefish endorsements, and sablefish tier assignments may not be transferred separately from the limited entry permit.

* * * * *

(h) * * *

(2) * * *

(iii) Two or more limited entry permits with ''A'' gear endorsements for the same type of limited entry gear may be combined and reissued as a single permit with a larger size endorsement. With respect to permits endorsed for nontrawl limited entry gear, a sablefish endorsement will be issued for the new permit only if all of the permits being combined have sablefish endorsements. If two or more permits with sablefish endorsements are combined, the new permit will receive the same tier assignment as the tier with the largest cumulative landing limit of the permits being combined. The vessel harvest capacity rating for each of the permits being combined is that indicated in Table 2 of this part for the LOA (in feet) endorsed on the respective limited entry permit. Harvest capacity ratings for fractions of a foot in vessel length will be determined by multiplying the fraction of a foot in vessel length by the difference in the two ratings assigned to the nearest integers of vessel length. The length rating for the combined permit is that indicated for the sum of the vessel harvest capacity ratings for each permit being combined. If that sum falls between the sums for two adjacent lengths on Table 2 of this part, the length rating shall be the higher length.

* * * * *

4. In § 660.336, the section heading paragraphs (a)(1), (a)(2), (b) introductory text, (b)(1), (c) heading, and paragraph (c)(1), are revised; and paragraphs (b)(3), (d), and (e) are added to read as follows:

§ 660.336 Limited entry permits—sablefish endorsement and tier assignment.

(a) * * *

(1) A sablefish endorsement with a tier assignment will be affixed to the permit and will remain valid when the permit is transferred.

(2) A sablefish endorsement and its associated tier assignment are not separable from the limited entry permit, and therefore may not be transferred separately from the limited entry permit.

(b) *Endorsement and tier assignment qualifying criteria*. A sablefish endorsement will be affixed to any limited entry permit that meets the sablefish endorsement qualifying criteria and for which the owner submits a timely application. Limited entry permits with sablefish endorsements will be assigned to one of three different cumulative trip limit tiers, based on the qualifying catch history of the permit.

(1) Permit catch history will be used to determine whether a permit meets the qualifying criteria for a fixed gear sablefish endorsement and to determine the appropriate tier assignment for endorsed permits. Permit catch history includes the catch history of the vessel(s) that initially qualified for the permit, and subsequent catch histories accrued when the limited entry permit or permit rights were associated with other vessels. The catch history of a permit also includes the catch of any interim permit held by the current owner of the permit during the appeal of an initial NMFS decision to deny the initial issuance of a limited entry permit, but only if the appeal for which an interim permit was issued was lost by the appellant, and the owner's current permit was used by the owner in the 1995 limited entry sablefish fishery. The catch history of an interim permit where the full ''A'' permit was ultimately granted will also be considered part of the catch history of the ''A'' permit. If the current permit is the result of the combination of multiple permits, then for the combined permit to qualify for an endorsement, at least one of the permits that were combined must have had sufficient sablefish history to qualify for an endorsement; or the permit must qualify based on catch occurring after it was combined, but taken within the qualifying period. If the current permit is the result of the combination of multiple permits, the combined catch histories of all of the permits that were combined to create a new permit before March 12, 1998, will

be used in calculating the tier assignment for the resultant permit, together with any catch history (during the qualifying period) of the resultant permit. Only sablefish catch regulated by this part that was taken with longline or fish trap (or pot) gear will be considered for this endorsement. Sablefish harvested illegally or landed illegally will not be considered for this endorsement.

* * * * *

(3) Only limited entry, fixed gear permits with sablefish endorsements will receive cumulative trip limit tier assignments. The qualifying criteria for Tier 1 are: At least 898,000 lb (406,794 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994. The qualifying criteria for Tier 2 are: At least 380,000 lb (172,365 kg), but no more than 897,999 lb (406,793 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994. Fixed gear permits with less than 380,000 lb (172,365 kg) cumulative round weight of sablefish caught with longline or trap (or pot) gear over the years 1984 through 1994 qualify for Tier 3. All catch must be sablefish managed under this part. Sablefish taken in tribal set aside fisheries does not qualify.

(c) *Issuance process for sablefish endorsements*. (1) The SFD has notified each limited entry, fixed gear permit holder, by letter of qualification status, whether Pacific States Marine Fisheries Commission's Pacific Fisheries Information Network (PacFIN) records indicate that his or her permit qualifies for a sablefish endorsement. A person who has been notified by the SFD, by letter of qualification status, that his or her permit qualifies for a sablefish endorsement will be issued a revised limited entry permit with a sablefish endorsement if, by November 30, 1998, that person returns to the SFD the endorsement application and pays the one-time processing fee. No new applications for sablefish endorsements will be accepted after November 30, 1998.

* * * * *

(d) *Issuance process for tier assignments*. (1) The SFD will notify each owner of a limited entry permit with a sablefish endorsement, by letter of qualification status, of the tier assignment for which his or her permit qualifies, as indicated by PacFIN records. The SFD will also send to the permit owner a tier assignment certificate.

(2) If a permit owner believes there is sufficient evidence to show that his or her permit qualifies for a different tier than that listed in the letter of qualification status, that permit owner must, within 30 days of the issuance of the SFD's letter of qualification status, submit information to the SFD to demonstrate that the permit qualifies for a different tier. Section 660.333(d) sets out the relevant evidentiary standards and burden of proof.

(3) After review of the evidence submitted under paragraph (d)(2) of this section, and any additional information the SFD finds to be relevant, the SFD will issue a letter of determination notifying a permit owner of whether the evidence submitted is sufficient to alter the initial tier assignment. If the SFD determines the permit qualifies for a different tier, the permit owner will be issued a revised tier assignment certificate once the initial certificate is returned to the SFD for processing.

(4) If a permit owner chooses to file an appeal of the determination under paragraph (d)(3) of this section, the appeal must be filed with the Regional Administrator within 30 days of the issuance of the letter of determination (at paragraph (d)(3) of this section). The appeal must be in writing and must allege facts or circumstances, and include credible evidence demonstrating why the permit qualifies for a different tier assignment. The appeal of a denial of an application for a different tier assignment will not be referred to the Council for a recommendation under § 660.340(e).

(5) Absent good cause for further delay, the Regional Administrator will issue a written decision on the appeal within 30 days of receipt of the appeal. The Regional Administrator's decision is the final administrative decision of the Department of Commerce as of the date of the decision.

(e) *Tier assignment certificates*. For the 1998 season only, permit holders with sablefish endorsements will be issued certificates of tier assignment that are to be kept with and are considered part of their limited entry permits. When limited entry permit holders renew their permits for 1999, tier assignments for those limited entry permit holders with sablefish endorsements will be indicated directly on the limited entry permit.

[FR Doc. 98–18751 Filed 7–10–98; 9:51 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 63, No. 135
Wednesday, July 15, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–148–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737 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 Boeing Model 737 series airplanes. This proposal would require repetitive ultrasonic inspections to detect broken bolts that attach the terminal support fittings to the upper part of the Body Station 1088 bulkhead, and corrective actions, if necessary. This proposal also would require eventual replacement of the existing bolts with new, improved bolts, which, when accomplished, would terminate the requirements of the AD. This proposal is prompted by reports that bolts that attach the terminal support fittings to the upper part of the bulkhead were found broken. The actions specified by the proposed AD are intended to prevent such broken bolts, which could result in reduced structural integrity of the vertical fin installation and possible loss of the vertical fin.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–148–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: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; 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 98–NM–148–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–148–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that broken bolts were found in the terminal support fittings that attach the aft spar of the vertical fin to the upper part of the bulkhead at Body Station 1088 on Boeing Model 737 series airplanes. The broken bolts were made of H–11 steel alloy. Bolts made of such material are susceptible to stress corrosion cracking. Such broken bolts, if not corrected, could result in reduced structural integrity of the vertical fin installation, and multiple broken bolts could result in loss of the vertical fin.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notices of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and 737–53–1107 NSC 4, dated September 22, 1994; and Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996. These service bulletins describe procedures for repetitive ultrasonic inspections to detect broken bolts that attach the terminal support fittings to the upper part of the Body Station 1088 bulkhead, and replacement of the existing bolts with new, improved bolts. The replacement includes removing the bolts, performing an eddy current inspection to detect cracking or corrosion of the bolt holes, oversizing the bolt holes, and installing new Inconel bolts. Installation of the new Inconel bolts would eliminate the need for the repetitive inspections described previously. Accomplishment of the actions specified in the service bulletins is intended to adequately address the identified unsafe condition.

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 require accomplishment of the actions specified in the service bulletins and notices of status change described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

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.

Cost Impact

There are approximately 1,485 airplanes of the affected design in the worldwide fleet. The FAA estimates that 630 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, 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 $113,400, or $180 per airplane, per inspection cycle.

It would take approximately 9 work hours per airplane to accomplish the proposed replacement, at an average labor rate of $60 per work hour. Required parts would cost approximately $471 per airplane. Based on these figures, the cost impact of the replacement proposed by this AD on U.S. operators is estimated to be $636,930, or $1,011 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:

Boeing: Docket 98–NM–148–AD.

Applicability: Model 737 series airplanes, line numbers 1 through 1485 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 (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 broken bolts that attach the terminal support fittings to the upper part of the Body Station (BS) 1088 bulkhead, which could result in reduced structural integrity of the vertical fin installation and possible loss of the vertical fin, accomplish the following:

(a) Within 18 months after the effective date of this AD, perform an ultrasonic inspection to detect broken bolts that attach the terminal support fittings to the upper part of the BS 1088 bulkhead, in accordance with Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notice of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and Notice of Status Change 737–53–1107 NSC 4, dated September 22, 1994; or Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996.

(1) If no broken bolt is found, repeat the ultrasonic inspection thereafter at intervals not to exceed 18 months.

(2) If any broken bolt is found, prior to further flight, perform the actions specified in paragraph (b) of this AD.

(b) Prior to the accumulation of 20 years since date of manufacture of the airplane, or within 18 months after the effective date of this AD, whichever occurs later, remove all 16 H–11 steel alloy bolts that attach the terminal support fittings to the upper part of the bulkhead, and perform an eddy current inspection to detect cracking or corrosion of the bolt holes, in accordance with Figure 2 of Boeing Service Bulletin 737–53–1107, Revision 3, dated August 26, 1993; as revised by Notice of Status Change 737–53–1107 NSC 3, dated June 9, 1994, and Notice of Status Change 737–53–1107 NSC 4, dated September 22, 1994; or Boeing Service Bulletin 737–53–1107, Revision 4, dated February 8, 1996.

(1) If no cracking or corrosion is found, prior to further flight, oversize all 16 bolt holes and install new Inconel bolts, in accordance with Figure 2 of the service bulletin. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of this AD.

(2) If any corrosion is found, prior to further flight, oversize the bolt hole within the limits specified in Figure 2, Step 4, of the service bulletin, and install a new Inconel bolt, in accordance with Figure 2 of the service bulletin. Accomplishment of the installation for all 16 bolt holes constitutes terminating action for the repetitive inspection requirements of this AD. If corrosion does not clean up within the limits specified in Figure 2, Step 4, of the service bulletin, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(3) If any cracking is found, prior to further flight, oversize the bolt hole within the limits specified in Figure 2, Step 5, of the service bulletin, and perform another eddy current inspection to ensure cracks have been removed, in accordance with Figure 2 of the service bulletin.

(i) If, after oversizing, no cracking is found, prior to further flight, oversize the bolt hole again, and install a new Inconel bolt, in accordance with Figure 2 of the service bulletin. Accomplishment of the installation for all 16 bolt holes constitutes terminating action for the repetitive inspection requirements of this AD.

(ii) If, after oversizing, any cracking is found, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO.

Note 2: Replacement of all H–11 steel alloy bolts accomplished prior to the effective date of this AD, in accordance with Boeing Service Bulletin 737–53–1107, dated October 15, 1987; Revision 1, dated June 22, 1989; or Revision 2, dated September 10, 1992; is considered acceptable for compliance with the applicable actions specified in paragraph (b) 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, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

(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.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18779 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–296–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes. This proposal would require repetitive inspections to detect cracks in the edge frame web and doubler of the number 1 main entry door cutout; and repair, if necessary. This proposed AD also provides for optional terminating action for the repetitive inspections. This proposal is prompted by reports indicating that fatigue cracks were found in the edge frame web and doubler at the door stop number 1 of the number 1 main entry door cutout. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the airplane.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No.97–NM–296–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: Bob Breneman, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2776; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–296–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–296–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that, while replacing the inner chord of the frame on Boeing Model 747 series airplanes, cracks were found in the edge frame web and doubler of the number 1 main entry door cutout at station 488, between stringers 25 and 26 (door stop number 1). The edge frame web in each incident was almost completely severed. These airplanes had accumulated as few as 18,502 total flight cycles. In addition, the FAA has received a report indicating that, during fatigue testing on a Boeing Model 747SR test article, cracking occurred in the edge frame web at 27,500 total pressure cycles and in the inner chord at 30,750 total pressure cycles. The cause of such cracking in all incidents has been attributed to fatigue. This condition, if not detected and corrected, could result in rapid decompression of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997. This alert service bulletin describes procedures for repetitive high frequency eddy current (HFEC) inspections to detect cracks in both the aft side of the edge frame web along the lower edge of the backup structure attachment at the stop fitting number 1, and the forward side of the doubler at the lower edge of door stop number 1 of the number 1 main entry door cutout; and repair, if necessary.

The alert service bulletin specifies that operators of Group 1 airplanes are to perform those inspections of the subject areas on both the left and right sides of the airplane; whereas, operators of Group 2 airplanes are to perform those inspections of the subject areas on the left side only of the airplane. Group 1 airplanes are those Model 747 series airplanes that have a number 1 main entry door on both the left and right sides of the airplane. Group 2 airplanes are those Model 747 series airplanes that only have a number 1 main entry door on the left side of the airplane.

This alert service bulletin also describes procedures for a preventative modification of the edge frame web and doubler, which involves trimming the lower portion of the subject web; removing the trimmed web and the doubler; and installing a new web, doubler, and splice plate. For airplanes on which the inner chord of the edge frame is not being replaced concurrently with the repair specified in the alert service bulletin, the procedures also include an open hole HFEC inspection of the inner chord of the edge frame. Accomplishment of the preventative modification would eliminate the need for the repetitive inspections. Accomplishment of the actions specified in the alert service bulletin is

intended to adequately address the identified unsafe condition.

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 require accomplishment of the inspections and repair, if necessary, specified in the alert service bulletin described previously. The proposed AD also provides for optional terminating action, which, if accomplished, would terminate the repetitive inspections.

The FAA considers three criteria for those situations where repetitive inspections of a crack-prone area, such as in this proposed AD, may be permitted to continue indefinitely, even though a positive fix to the problem exists: (1) the area is easily accessible, (2) the cracking is easily detectable, and (3) the consequences of the cracking are not likely to be catastrophic. In consideration of the cracking that may occur at the edge frame web and doubler at station 488, the FAA has determined that the circumstances warranting continual repetitive inspections meet these three criteria.

Cost Impact

There are approximately 685 airplanes of the affected design in the worldwide fleet. The FAA estimates that 211 airplanes of U.S. registry would be affected by this proposed AD, and that the average labor rate is $60 per work hour.

The FAA estimates that 191 airplanes are equipped with a number 1 main entry door on both the left and right sides (Group 1 airplanes), that it would take approximately 2 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 of these airplanes is estimated to be $22,920, or $120 per airplane, per inspection cycle.

The FAA estimates that 20 airplanes are equipped with a number 1 main entry door on the left side only (Group 2 airplanes), that it would take approximately 1 work hour 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 of these airplanes is estimated to be $1,200, or $60 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 of Group 1 airplanes elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 40 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $2,400 per airplane.

Should an operator of Group 2 airplanes elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 20 work hours to accomplish it, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the optional terminating action would be $1,200 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:

Boeing: Docket 97–NM–296–AD.

Applicability: Model 747 series airplanes, line numbers 1 through 685 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracks in the edge frame web and doubler of the number 1 main entry door cutout, which could result in rapid decompression of the airplane, accomplish the following:

(a) Perform a high frequency eddy current (HFEC) (pencil probe eddy current) inspection to detect cracks in both the aft side of the lower edge frame web and the forward side of the edge frame web doubler at station 488, between stringers 25 and 26 (door stop number 1), of the number 1 main entry door cutout; in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997; at the time specified in paragraph (a)(1), (a)(2), (a)(3), or (a)(4) of this AD, as applicable. For Group 1 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished on both the left and right sides of the airplane. For Group 2 airplanes (as identified in the alert service bulletin), the inspection shall be accomplished only on the left side of the airplane.

(1) For airplanes that have accumulated less than 16,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 16,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes that have accumulated 16,000 or more total flight cycles but less than 20,000 total flight cycles as of the effective date of this AD: Inspect prior to the accumulation of 21,000 total flight cycles, or within 1,500 flight cycles after the effective date of this AD, whichever occurs first.

(3) For airplanes that have accumulated 20,000 or more total flight cycles but less than 25,000 total flight cycles as of the

effective date of this AD: Inspect prior to the accumulation of 25,500 total flight cycles, or within 1,000 flight cycles after the effective date of this AD, whichever occurs first.

(4) For airplanes that have accumulated 25,000 or more total flight cycles as of the effective date of this AD: Inspect within 500 flight cycles after the effective date of this AD.

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, repeat the HFEC inspection thereafter at intervals not to exceed 3,000 flight cycles.

(c) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997.

Note 2: The alert service bulletin emphasizes the importance of performing an open hole HFEC inspection of the inner chord of the frame within 6.0 inches of the web or doubler crack (as applicable), if the inner chord of the frame is not replaced concurrently with the web and doubler repair.

(d) Accomplishment of the repair or preventative modification specified in Boeing Alert Service Bulletin 747–53A2414, dated August 7, 1997, constitutes terminating action for the repetitive inspection requirements of this AD for that repaired/modified edge frame web and doubler.

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

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

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

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18778 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–51–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 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 Boeing Model 767 series airplanes. This proposal would require detailed visual inspections to detect corrosion or chrome plating cracks on the fuse pins, load distribution plates, and bushings of the outboard support of the main landing gear (MLG) beam. This proposal also would require either installation of the existing fuse pins and repetitive inspections; or installation of newer-type fuse pins, which would constitute terminating action for the repetitive inspections. This proposal is prompted by a report indicating that corrosion was found on a fuse pin in the outboard support of the MLG beam. The actions specified by the proposed AD are intended to detect and correct such corrosion and cracking, which could result in the failure of a fuse pin and, consequently, lead to collapse of the MLG.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–51–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: James G. Rehrl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington; telephone (425) 227–2783; 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–51–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–51–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received a report of corrosion on a fuse pin in the outboard support of the main landing gear (MLG) beam on a Boeing Model 767 series airplane. At the time the corrosion was detected, the airplane had accumulated 23,637 total flight hours and 5,652 total flight cycles. Investigation revealed that the chrome plating on the fuse pin did not have a sufficient bond to the base metal, which allowed the chrome plate to crack and peel from the base metal. This cracking in the chrome plate allowed moisture to accumulate in the subject area and, consequently, caused corrosion on the base metal of the fuse pin. Such cracking and corrosion, if not detected and corrected, could result in

failure of a fuse pin and, consequently, lead to collapse of the MLG.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996, which describes procedures for detailed visual inspections to detect corrosion or chrome plating cracks on the fuse pins of the outboard support of the MLG beam. The alert service bulletin also describes procedures for either installation of existing 4330M steel fuse pins and repetitive detailed visual inspections; or installation of newer-type 15–5PH CRES fuse pins, which would eliminate the need for the repetitive inspections. The alert service bulletin also describes procedures for inspections of the load distribution plates and fuse pin bushings to detect corrosion. These latter parts make up a portion of the MLG outboard support fitting assembly into which the fuse pins are installed. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

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 require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between the Proposed Rule and the Relevant Service Information

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

Also, whereas the alert service bulletin uses the term ''close visual inspection,'' this proposal uses the more common term ''detailed visual inspection.'' For the purpose of this proposal, the two terms are considered to be synonymous.

Cost Impact

There are approximately 609 Boeing Model 767 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 151 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 4 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of this proposed AD on U.S. operators is estimated to be $36,240, or $240 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:

Boeing: Docket 97–NM–51–AD.

Applicability: Model 767 series airplanes, line numbers 1 through 609 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking and corrosion of the fuse pins, load distribution plates, and bushings in the outboard support of the main landing gear (MLG) beam, which could result in the failure of a fuse pin and, consequently, lead to collapse of the MLG, accomplish the following:

(a) Within 4 years of service since the MLG was new, or within 18 months after the effective date of this AD, whichever occurs later, perform detailed visual inspections of the fuse pins of the MLG outboard support beam to detect corrosion or chrome plating cracks on the fuse pin, and of the load distribution plates and bushings of the MLG outboard support beam to detect corrosion; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996.

(b) If any corrosion or plating crack of a fuse pin is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish either paragraph (b)(1) or (b)(2) of this AD.

(1) Install a new or serviceable 4330M steel fuse pin in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996. Repeat the detailed visual inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 48 months. Or

(2) Install a newer-type 15–5PH CRES fuse pin in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–57A0054, Revision 2, dated April 18, 1996. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of paragraphs (a), (b)(1), and (d)(1) of this AD.

(c) If any corrosion of a load distribution plate or bushing is found during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

(d) If no corrosion or plating crack is found on the fuse pins, load distribution plates, or bushings, prior to further flight, accomplish the requirements of either paragraph (d)(1) or (d)(2) of this AD in accordance with the Accomplishment Instructions of Boeing Alert

Service Bulletin 767–57A0054, Revision 2, dated April 18, 1998.

(1) Install the existing 4330M steel fuse pins in accordance with the Accomplishment Instructions of the alert service bulletin. Repeat the detailed visual inspections required by paragraph (a) of this AD thereafter at intervals not to exceed 48 months. Or

(2) Install newer-type 15–5PH CRES fuse pins in accordance with the Accomplishment Instructions of the alert service bulletin. Accomplishment of this installation constitutes terminating action for the repetitive inspection requirements of paragraphs (a), (b)(1), and (d)(1) of this AD.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. 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.

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

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18777 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–159–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 series airplanes. This proposal would require modification of certain fastener holes on the outer frames of the fuselage, and installation of new, improved fasteners. 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 of certain fastener holes on the outer frames of the fuselage, which could result in reduced structural integrity of the airplane.

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

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 97–NM–159–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–159–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–159–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 it has received a report indicating that cracking was detected during fatigue testing of a test article after 78,000 simulated flights. This cracking was found at the fastener holes located at fuselage frame 35 between left-and right-hand stringers 30 and 31. Such fatigue cracking, if not corrected, could result in reduced structural integrity of the airplane.

Explanation of Relevant Service Information

Airbus has issued Service Bulletin A320–53–1137, dated June 24, 1997, which describes procedures for a modification that entails removing existing fasteners located at fuselage frame 35 between the left- and right-hand stringers 30 and 31, performing a rotating probe inspection of the fastener holes to detect any cracking, modifying the fastener holes, and installing new, improved fasteners. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–154–113(B), dated April 8, 1998, 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 bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Service Bulletin

Operators should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by either the FAA or the Direction Générale de l'Aviation Civile (or its delegated agent).

Cost Impact

The FAA estimates that 9 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 6 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $390 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $6,750, or $750 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus Industrie: Docket 97–NM–159–AD.

Applicability: Model A320–111, –211, and –231 series airplanes, on which Airbus Modification 20903 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 (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 fatigue cracking of certain fastener holes on the outer frames of the fuselage, 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 4,000 flight cycles after the effective date of this AD, whichever occurs later, remove the existing fasteners located at fuselage frame 35 between the left- and right-hand stringers 30 and 31, and perform a rotating probe inspection to detect fatigue cracking of the fastener holes, in accordance with Airbus Service Bulletin A320–53–1137, dated June 24, 1997.

(1) If no cracking is detected, prior to further flight, modify the fastener holes and install new, improved fasteners, in accordance with the service bulletin.

(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; or the Direction Générale de l'Aviation Civile (or its delegated agent).

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

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

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

Note 3: The subject of this AD is addressed in French airworthiness directive 98–154–113(B), dated April 8, 1998.

Issued in Renton, Washington, on July 8, 1998.

S.R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18776 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–227–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 727–200 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 Boeing Model 727–200 series airplanes. This proposal would require repetitive inspections to detect cracks in certain areas between the upper and lower sills of the number 1 cargo door, and repair,

if necessary. This proposal is prompted by reports indicating that fatigue cracks were found in certain structures adjacent to the number 1 cargo door cutout at the forward and aft doorway frames. The actions specified by the proposed AD are intended to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

DATES: Comments must be received by August 31, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No.97–NM–227–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: Walter Sippel, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2774; 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–227–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–227–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that cracks were found in the structure adjacent to the number 1 cargo door cutout at the doorway frames at body station (BS) 560 and BS 620 on Boeing Model 727–200 series airplanes. In one of these incidents, the aft frame web and frame inner chord of the number 1 cargo door cutout, which was previously repaired because of cracking, was found completely severed. In another incident, a crack was found in the aft doorway structure of the number 1 cargo door during pressure cycling of the fuselage of a Model 727–200 series airplane. The frame web and the frame inner and outer chords were severed and cracks were found in the bear strap and skin, which prevented pressurization of the airplane. The cracking has been attributed to fatigue, caused by pressurization cycles of the fuselage structure. Such fatigue cracking, if not corrected, could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997, which describes the following procedures:

- Performing repetitive close visual inspections to detect cracks in the forward and aft frames, bear strap, and fuselage skin between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620;
- Performing repetitive high frequency eddy current inspections to detect cracks in the forward and aft frames, and bear strap between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620; and
- Repairing any cracked forward or aft frame, bear strap, or fuselage skin.

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 require accomplishment of the actions specified in the alert service bulletin described previously, except as discussed below.

Differences Between Proposed Rule and Relevant Alert Service Bulletin

Operators should note that, although the referenced alert service bulletin specifies that the manufacturer may be contacted for disposition of certain conditions, this proposal would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA. Likewise, operators also should note that, although the alert service bulletin defines the inspection intervals and methods for inspecting repairs that have been accomplished after contacting the manufacturer for repair information, this proposal would require the inspection methods and intervals to be accomplished in accordance with methods and intervals approved by the FAA.

Interim Action

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

Other Relevant Rulemaking

The FAA has previously issued AD 98–11–03, amendment 39–10530 (63 FR 27455, May 19, 1998), which addresses, in part, cracking of the number 1 cargo door cutout structure on certain Model 727 series airplanes. That AD requires that the FAA-approved maintenance or inspection program be revised to include inspections of Structural Significant Items, and repair of cracked structure. These actions are conducted as part of the Supplemental Structural Inspection Program. (Components of the number 1 cargo door cutout structure are identified as structural significant items.) This proposed AD would not affect the current requirements of AD 98–11–03.

Cost Impact

There are approximately 1,100 airplanes of the affected design in the worldwide fleet. The FAA estimates that 770 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 60 work

hours per airplane to accomplish the proposed inspections, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the inspections proposed by this AD on U.S. operators is estimated to be $2,772,000, or $3,600 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.

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:

Boeing: Docket 97–NM–227–AD.

Applicability: All Model 727–200 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 (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 detect and correct fatigue cracking between the upper and lower sills of the number 1 cargo door, which could result in rapid decompression of the fuselage and consequent reduced structural integrity of the airplane, accomplish the following:

(a) Perform a close visual inspection or a high frequency eddy current (HFEC) inspection (as applicable) to detect cracks in the forward and aft frames (web, inner chord, and outer chord), bear strap, and fuselage skin between the upper and lower sills of the number 1 cargo door at BS 560 and BS 620; in accordance with Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997; at the time specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD, as applicable.

(1) For airplanes on which the repair to the forward or aft frame (web, inner chord, or outer chord), bear strap, or fuselage skin specified in the alert service bulletin has not been accomplished: Inspect prior to the accumulation of 30,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later.

(2) For airplanes on which the repair to the forward or aft frame (web, inner chord, or outer chord) specified in the alert service bulletin has been accomplished: Inspect within 3,000 flight cycles after the effective date of this AD.

(3) For airplanes on which the repair to the bear strap, fuselage skin, or a combination of the frame web and chord (inner or outer) on either the forward or aft frame specified in the alert service bulletin has been accomplished: Inspect within 3,000 flight cycles after the effective date of this AD, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Where there are differences between this AD and the referenced alert service bulletin, the AD prevails.

Note 3: The inspections specified in paragraph (a)(3) of this AD are not defined in the alert service bulletin.

(b) If no crack is detected during any inspection required by paragraph (a) of this AD, accomplish paragraph (b)(1) or (b)(2) of this AD, as applicable.

(1) For airplanes identified in paragraphs (a)(1) and (a)(2) of this AD: Repeat the close visual and HFEC inspection required by paragraph (a) of this AD thereafter at the times specified in paragraphs (b)(1)(i) and (b)(1)(ii) of this AD.

(i) Repeat the close visual inspection of the frame web at intervals not to exceed 3,000 flight cycles.

(ii) Repeat the close visual and HFEC inspections (as applicable) of the frame web, frame inner and outer chords, bear strap, and fuselage skin thereafter at intervals not to exceed 15,000 flight cycles.

(2) For airplanes identified in paragraph (a)(3) of this AD: Repeat the inspections of the repaired bear strap, fuselage skin, or combination of a repaired frame web and chord (inner or outer) thereafter at intervals not to exceed those approved by the Manager, Seattle ACO.

(c) If any crack is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish paragraph (c)(1) or (c)(2) of this AD, as applicable.

(1) For any crack detected in the frame web, inner chord, or outer chord: Repair in accordance with Boeing Alert Service Bulletin 727–53A0219, Revision 1, dated May 8, 1997. Prior to the accumulation of 3,000 flight cycles after accomplishment of the repair, accomplish the close visual and HFEC inspections specified in paragraph (a) of this AD. Repeat the close visual inspection of the frame web thereafter at intervals not to exceed 3,000 flight cycles. Repeat the close visual and HFEC inspections (as applicable) of the frame web, inner chord, and outer chord thereafter at intervals not to exceed 15,000 flight cycles.

(2) For any crack detected in the fuselage skin, bear strap, or a combination of the frame web and chord (inner or outer): Repair and perform repetitive inspections in accordance with both a method and repetitive inspection interval approved by the Manager, Seattle ACO.

Note 4: The repairs and inspections specified in paragraph (c)(2) of this AD are not defined in the alert service bulletin.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. 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 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

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

Issued in Renton, Washington, on July 8, 1998.

S. R. Miller,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18775 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–67–AD]

RIN 2120–AA64

Airworthiness Directives; Slingsby Sailplanes Ltd., Models Dart T.51, Dart T.51/17, and Dart T.51/17R Sailplanes

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 all Slingsby Sailplanes Ltd. (Slingsby) Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms. The proposed AD would require repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. The proposed AD is the result of mandatory continuing airworthiness information (MCAI) issued by the airworthiness authority for the United Kingdom. The actions specified by the proposed AD are intended to prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane.

DATES: Comments must be received on or before August 14, 1998.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–67–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 Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This information also may be examined at the Rules Docket at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Kiesov, Aerospace Engineer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone: (816) 426–6934; facsimile: (816) 426–2169.

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. 98–CE–67–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. 98–CE–67–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on Slingsby Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes that are equipped with aluminum alloy spar booms. The CAA reports an incident of glue joint failure on a starboard wing caused by water entering the area of the airbrake box. Investigation of this incident revealed delamination and corrosion in the area of the aluminum alloy spar booms and the wing attach fittings.

These conditions, if not detected and corrected, could result in failure of the spar assembly and adjoining structure with possible reduced controllability or loss of control of the sailplane.

Relevant Service Information

Slingsby has issued Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997, which specifies procedures for inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage.

The CAA classified this service bulletin as mandatory and issued British AD 005–09–97, dated October 3, 1997, in order to assure the continued airworthiness of these sailplanes in the United Kingdom.

The FAA's Determination

These sailplane models are manufactured in the United Kingdom 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 CAA has kept the FAA informed of the situation described above.

The FAA has examined the findings of the CAA; 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 Slingsby Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes equipped with aluminum alloy spar booms of the same type design registered in the United States, the FAA is proposing AD action. The proposed AD would require repetitively inspecting the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage, and repairing any delamination or corrosion damage found. Accomplishment of the proposed inspection would be in accordance with Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997.

Compliance Time of the Proposed AD

The unsafe condition specified by the proposed AD is caused by corrosion. Corrosion can occur regardless of whether the aircraft is in operation or is in storage. Therefore, to assure that the unsafe condition specified in the proposed AD does not go undetected for a long period of time, the compliance is presented in calendar time instead of hours time-in-service (TIS).

Differences Between the British AD, the Technical Instruction, and This Proposed AD

Both Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, and British AD 005–09–97, dated October 3, 1997, specify the initial inspection prior to further flight.

The FAA does not have justification through its regulatory process to require the initial inspection prior to further flight. To assure that no affected sailplanes are inadvertently grounded, the FAA is proposing a compliance time of 6 calendar months for the initial inspection.

Cost Impact

The FAA estimates that 3 sailplanes in the U.S. registry would be affected by the proposed AD, that it would take approximately 40 workhours per sailplane to accomplish the proposed initial inspection, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the initial inspection specified in this proposed AD on U.S. operators is estimated to be $7,200, or $2,400 per sailplane.

These figures only take into account the costs of the proposed initial inspection and do not take into account the costs of repetitive inspections and the costs associated with any repair that would be necessary if corrosion or delamination damage is found. The FAA has no way of determining the number of repetitive inspections an owner/operator will incur over the life of the sailplane, or the number of sailplanes that will need repairs.

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:

Slingsby Sailplanes Ltd.: Docket No. 98–CE–67–AD.

Applicability: Models Dart T.51, Dart T.51/17, and Dart T.51/17R sailplanes, all serial numbers, certificated in any category, that are equipped with aluminum alloy spar booms.

Note 1: This AD applies to each sailplane 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 sailplanes 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 in the body of this AD, unless already accomplished.

To prevent failure of the spar assembly and adjoining structure caused by delamination or corrosion damage to the aluminum alloy spar booms or the wing attach fittings, which could result in reduced controllability or loss of control of the sailplane, accomplish the following:

(a) Within the next 6 calendar months after the effective date of this AD and thereafter at intervals not to exceed 5 years, inspect the aluminum alloy spar booms and the wing attach fittings for delamination or corrosion damage. Accomplish this inspection in accordance with Slingsby Technical Instruction (TI) No. 109/T51, Issue No. 2, dated October 7, 1997.

Note 2: Slingsby TI No. 109/T51, Issue No. 2, dated October 7, 1997, includes guidance to determine whether an affected sailplane is equipped with aluminum alloy spar booms.

(b) If any corrosion or delamination damage is found during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the following:

(1) Obtain a repair scheme from the manufacturer through the FAA, Small Airplane Directorate, at the address specified in paragraph (d) of this AD; and

(2) Incorporate this scheme and continue to repetitively inspect as required by paragraph (a) of this AD, unless specified differently in the instructions to the repair scheme.

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

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

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

(e) Questions or technical information related to Slingsby Technical Instruction No. 109/T51, Issue No. 2, dated October 7, 1997 should be directed to Slingsby Aviation Ltd., Kirbymoorside, York Y06 6EZ England; telephone: +44(0)1751 432474; facsimile: +44(0)1751 431173. This service information may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Note 4: The subject of this AD is addressed in British AD 005–09–97, dated October 3, 1997.

Issued in Kansas City, Missouri, on July 8, 1998.

Michael Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 98–18869 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

14 CFR Parts 234, 241, 250, 298, and 374a

[Docket No. OST–98–4043; Notice No. 98–18]

RIN 2105–AC71

Aviation Data Requirements Review and Modernization Program

AGENCY: Office of the Secretary, DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Department on its own initiative is requesting public comments from reporting carriers and aviation data users on the nature, scope, source, and means for collecting, processing, and distributing airline traffic, fare, and financial data. Specifically, the Department is inviting comments on whether existing airline traffic, fare, and financial data should be amended, supplemented, or replaced; whether selected forms and reports should be retained, modified, or eliminated; whether the Department should require all aviation data to be filed electronically; and how the aviation data system should be reengineered to enhance efficiency and to reduce costs for both the Department and the airline industry.

It is the Department's preliminary position that its current aviation data systems may not provide sufficiently reliable data in some areas to ensure that the Department can fully meet its regulatory and statutory responsibilities, and that its aviation data requirements should be reviewed and modernized.

The Department may engage one or more contractors to assist it in its aviation data requirements assessment and in the reengineering of the Department's aviation data systems.

DATES: Comments must be submitted on or before September 14, 1998. Reply comments must be submitted on or before October 13, 1998.

ADDRESSES: Comments are to be filed in Room PL–401, Docket OST–98–4043, U.S. Department of Transportation, 400 7th Street, S.W., Washington, D.C. 20590. Late filed comments will be considered to the extent practical. To facilitate consideration of comments, each respondent should file six copies of its comments.

FOR FURTHER INFORMATION CONTACT: Regis P. Milan, Office of Aviation Analysis, (202) 366–2344, or David B. Richards, Office of International Aviation, (202) 366–2432; 400 7th Street, S.W., Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION:

Background

Public Law 98–443 requires the Department of Transportation, under the authority of the Secretary of Transportation (49 U.S.C. 329(b)(1)), to collect and disseminate information on civil aeronautics, other than that collected and disseminated by the National Transportation Safety Board. In meeting this responsibility, the Department collects traffic and financial data submitted under 14 CFR Part 241 (Uniform System of Accounts for Large Certificated Air Carriers) and traffic data submitted under 14 CFR Part 298 (Exemptions for Air Taxi and Commuter Air Carriers). The Department also collects certain traffic data from foreign air carriers for flights to or from the U.S. under 14 CFR Part 217 and Section 25 of 14 CFR Part 241. The Department collects service quality data from U.S. carriers submitted under 14 CFR Part 234 (Airline Service Quality Performance Reports), and under 14 CFR 250 it collects information on passengers denied boarding. In addition, under Part 374a, airlines are required to report information on any extensions of credit for air transportation services provided to federal political candidates.

The Department uses these data in a variety of ways, including monitoring the fitness of individual carriers and the economic health of the airline industry, assessing the competitiveness of aviation markets, providing consumers with data to make decisions on air travel, providing data for forecasting traffic and for airport funding and traffic control purposes, and providing the basis for policy decisions on aviation matters, including international aviation negotiations.

The Department maintains two large traffic data bases, one for domestic and international passenger origin-destination movements, including ticket price and itinerary, which are submitted by U.S. carriers only (Section 19–7 of Part 241, the Passenger Origin-Destination Survey), and another for aircraft flight data submitted by U.S. and foreign air carriers (Section 25 of Part 241 and Part 217, the T–100 and T–100(f) segment and on-flight market reports).

The Department collects Form 41 data, which consist of comprehensive financial and traffic data reported by large and small air carriers. Form 41 also includes fuel cost and consumption and aircraft fleet inventory data.

The Department requires air taxi and commuter carriers to report limited traffic and market data on Form 298C.

The Department also collects data on oversales/denied boardings, air service quality performance, and extensions of credit by airlines to federal political candidates.

The Department's aviation databases are used by a number of federal departments and agencies, Congress, state and local authorities, airlines, airports, manufacturers, industry associations, consultants, academics, researchers, financial analysts, investors, and the general public.

For the most part, the data collected by the Department are based upon regulatory requirements designed for an economic environment that has evolved significantly since enactment of the Airline Deregulation Act in 1978. Many changes in the airline industry have taken place since these data reporting systems were established. Nearly all domestic air carriers now operate hub-and-spoke systems, have extensive code-sharing and other marketing agreements with other carriers, offer frequent flyer programs, provide ticketless travel, and use integrated computer reservation systems. This environment represents a marked change from the linear, point-to-point systems in place 20 years ago, when the domestic airline industry was deregulated. Internationally, the last few years have seen the development of global, multi-national carrier alliances and an increasing number of open-skies and liberalized-entry agreements with other nations.

Along with these changes, the needs of the Department and other aviation data users have evolved and expanded, while the collected data and associated processing systems have changed slowly. However, the Department has significantly reduced the reporting burden on the industry by eliminating some Form 41 schedules and line items over the last 20 years. Nonetheless, the Department intends to reexamine whether all data items that we now collect remain relevant to today's economic and regulatory environment.

Request for Comments

We are issuing this advance notice of proposed rulemaking to invite comments on whether traffic, fare, and

financial data reporting systems should be retained, amended, supplemented, or replaced; whether other selected forms and reports which are less utilized by the Department and other government users should be retained, compressed, or deleted; and finally, whether the Department should require all data to be filed by electronic communication means (e.g., Internet, direct-wire) or on magnetic media (e.g., tape, disk, cassette).

The Department now collects data from over 400 U.S. and foreign airlines for certain data collections. These data must be processed, validated, and edited. We are seeking comments on alternative data and collection methods to address deficiencies in the structure of these data systems.

We request comments on whether there are alternate, more reliable sources of these data, and whether changes to data items may make these data more useful.

Note: We welcome comments on all aspects of our data systems. However, for identification, reference, and administrative convenience, we have specifically numbered particular requests for comments by section, with an identification number placed after each request. Please use these identifiers in your response.

A. The T–100 System—Report of Traffic, Capacity, and Statistics

This database provides airport pair traffic and capacity data by non-stop segment by aircraft type and on-flight market. Schedule T–100 reports are filed by all large certificated air carriers, where large certificated air carriers are defined as those that conduct operations using ''large'' aircraft (aircraft with more than 60 seats or 18,000 pounds of payload capacity, 14 CFR Parts 217.3 and 241.25). However, carriers conducting only domestic charter or all-cargo operations are not required to file Schedule T–100, with the exception of intra-Alaska cargo operations (Part 241, Section 19–1(a)). The T–100 system does not require U.S. and foreign carriers who exclusively operate aircraft with 60 or fewer seats to report T–100 data. Foreign air carriers serving the U.S. generally have the same reporting requirements as U.S. carriers, except that they instead file Schedule T–100(f).

The Department last year reviewed its Schedule T–100 and T–100(f) traffic data systems and determined that the data-confidentiality restrictions for international service should be shortened to no earlier than six months after the submission date for the data; reporting of available seats and payload weight should be added to the reporting requirements for foreign carriers, similar to that required for U.S. carriers; and the requirement to report passenger data by cabin configuration should be eliminated (62 FR 6715–6719, February 13, 1997).

We request that respondents provide specific comments on the following matters:

[A–1] Is there a continuing need to collect T–100/T–100(f) data? Explain the usefulness of these data in satisfying your requirements.

[A–2] Is there a way to modify or restructure T–100/T–100(f) data to make them more functional?

[A3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[A–4] Should the Department require T–100/T–100(f) data from carriers who exclusively operate aircraft with fewer than 60 seats?

[A–5] Should the Department require T–100 data from domestic all-cargo carriers?

[A–6] If yes to A–4 and/or A–5, what criteria should be used in setting the data reporting threshold (e.g., aircraft size, air carrier operations, annual operating revenues, revenue passenger enplanements, number of flights, some combination of these specified criteria, or other unspecified criteria)?

[A–7] Are there alternate sources of comparable data available for smaller carriers or domestic all-cargo carriers?

[A–8] Should the Department amend T–100 and T–100(f) to require that international data include summary citizenship data (e.g., U.S. or non-U.S.)?

B. The Origin and Destination Survey of Airline Passenger Traffic

The O&D Survey (Survey) provides U.S. air carrier traffic using a ten percent sample of ticketed passengers. These data are reported for the scheduled operations only of large U.S. carriers, except where certain foreign carriers provide data similar to those required of U.S. carriers as a condition for approval of, and antitrust immunity for, carrier alliances (*See* e.g., Order 96–11–1, November 1, 1996). U.S. carriers who exclusively operate aircraft with 60 or fewer seats do not report Survey data for their operations and such data are included in the Survey only if incidentally reported as part of an itinerary reported by a large carrier.

The Survey was originally designed in the early 1960s, with fare data (from the ticket) added in 1979. As with other regulatory reporting requirements, time and technology have rendered this data collection methodology virtually obsolete. Nearly all carriers now rely on computer reservation systems for reservation/ticketing procedures, and a significant and growing percentage of passengers are traveling using ''ticketless or electronic'' procedures. Carrier use of the physical ticket for revenue accounting and control purposes is rapidly declining.

The processing of the current Survey data is costly both for the reporting carriers and the Department. Moreover, the Department's quarterly release of the domestic Survey data has been unacceptably delayed because of significant carrier submission errors and omissions. While imposing economic sanctions for filing such poor quality data may improve their accuracy and timeliness, the fundamental problem is that this O&D Survey data system is hampered by outmoded and inefficient transmission, collection, and processing procedures that rely extensively on paper tickets.

[B–1] Is there a continuing need to collect O&D data? Explain the usefulness of these data in satisfying your requirements.

[B–2] Is there a way to modify or restructure O&D data to make them more functional?

[B–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[B–4] Should the Department require O&D data from carriers who exclusively operate aircraft with fewer than 60 seats?

[B–5] If yes to B–4, what criteria should be used in setting the data reporting threshold (e.g., aircraft size, air carrier operations, annual operating revenues, revenue passenger enplanements, number of flights, some combination of these specified criteria, or other unspecified criteria)?

[B–6] Should O&D data be collected for U.S. domestic services and international services of U.S. air carriers only, as is the procedure under the current Survey, or should foreign air carrier international O&D data, involving a U.S. point in the flight itinerary, be required and processed in the Survey?

[B–7] If it is determined that foreign air carrier international O&D data should be required and processed in the Survey, should those carriers be required to submit information on the full flight itineraries or only on those flight segments to/from the U.S., or some combination thereof?

[B–8] Should there be confidentiality restrictions imposed for access to international data included in the Survey, and if so, what should be the degree and duration of such access restrictions?

[B–9] What should be the time-frame for submission to the Department—weekly, monthly, or quarterly?

Other Automated Sources of O&D Data

The Department wishes to consider whether there are alternatives to the current ticket-based O&D System, especially ones that could be based on existing internal automated data systems maintained by airlines and/or computer reservation systems (CRSs). As an example, there is a CRS-based data file called the Transaction Control Number (TCN) files. In the process of ticketing airline passengers, airlines and related computer reservation systems electronically record the majority of transactions in the standard TCN formats for various accounting, reconciliation, and seat inventory control purposes. Under a current industry data interchange program, many airlines and CRSs routinely exchange the TCN data through the Airline Tariff Publishing Company (ATPCO) electronically on a daily basis. The Department believes that these TCN data could provide an alternative, less expensive source of traffic and fare data.

We request that respondents provide specific comments on the following matters:

[B–10] List and describe alternative data sources, such as TCN, that could provide the types of comprehensive passenger O&D itinerary and fare data we are seeking, and the potential advantages and disadvantages of each source.

[B–11] If the Department decides to use TCN or alternative data as the basis of a new O&D Survey, should carriers continue to submit data independently to the Department, or should such data be submitted via a common exchange (such as a CRS or common exchange point like ATPCO)?

[B–12] Under a new system, should the replacement O&D data be submitted for ticketed or booked passengers only, or should such data be held until reconciliation, e.g. until the reservation is actually used (as evidenced by a coupon lifted at the time of flight) or is canceled?

[B–13] What are carriers' best cost estimates for the submission of domestic and international TCN data to the Department via CRS or ATPCO?

[B–14] What are carriers' best cost estimates for the submission of data from other potential sources?

[B–15] What are the best cost estimates of carriers who do not use CRS services or ATPCO for reconciliation or control purposes to file independent submissions of this type of data to the Department directly or via an intermediary?

C. Form 41, Uniform System of Accounts and Reports of Financial and Operating Statistics for Large Certificated Air Carriers

This database provides U.S. air carrier financial data, predicated on a uniform system of accounts, and selected traffic statistics, generally termed the Form 41 schedules. A list of such schedules is shown in 14 CFR Part 241, Section 22. These schedules include the balance sheet, profit and loss statement, various operating expense schedules, and summary traffic and capacity schedules.

We request that respondents provide specific comments on the following matters:

[C–1] Is there a continuing need to collect Form 41 data? Explain the usefulness of these data in satisfying your requirements.

[C–2] Is there a way to modify restructure Form 41 data to make them more functional?

[C–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

D. Commuter, Part 298, Exemptions for Air Taxi and Commuter Air Carrier Operations

This rule provides air taxi and commuter air carriers certain exemptions from traffic and financial data reporting required of large certificated air carriers. However, less detailed reporting schedules (Form 298–C) are required, including, for example, the full reporting of on-line origin-destination passengers instead of the Department's standard O&D Survey, expense reporting by general category, rather than by detailed sub-account, and simplified quarterly reporting of traffic rather than the monthly T–100 schedule.

We request that respondents provide specific comments on the following matters:

[D–1] Is there a continuing need to collect Form 298–C data? Explain the usefulness of these data in satisfying your requirements.

[D–2] Is there a way to modify or restructure Form 298–C data to make them more functional?

[D–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

[D–4] Should the Department retain, modify, or eliminate the 60-seat exemption under Part 298?

[D–5] Air taxi and commuter carriers are asked to indicate their use of computer reservation systems, with specific attention to the possible use of TCN data derived from CRS records to replace the Survey.

E. Part 234, Airline Service Quality Performance Reports

These data are collected from air carriers accounting for at least one percent of domestic scheduled passenger revenues. This monthly report includes flight delays, on-time flight performance, enplaned passengers, and the number of mishandled-baggage reports filed with air carriers.

We request that respondents provide specific comments on the following matters:

[E–1] Is there a continuing need to collect Part 234 data? Explain the usefulness of these data in satisfying your requirements.

[E–2] Is there a way to modify Part 234 data to make them more functional?

[E–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

F. Part 250, *Oversales*, requires that U.S. and foreign air carriers report various data on the number of passengers that are denied boarding, and the total number of boardings, each quarter. Our reporting requirements were last reviewed in 1995.

We request that respondents provide specific comments on the following matters:

[F–1] Is there a continuing need to collect Part 250 data? Explain the usefulness of these data in satisfying your requirements.

[F–2] Is there a way to modify Part 250 data to make them more functional?

[F–3] Are there alternate sources of and/or more efficient modes for delivery of these data to the Department?

G. Part 374a, *Extension of Credit by Airlines to Federal Political Candidates*, requires air carriers to make monthly reports with respect to credit for transportation furnished to political candidates, or persons acting on behalf of candidates, during the period from six months before nomination or election, until the date of election. Continuing reports are to be made until a filing indicates that no debt is owed the carrier.

We request that respondents provide specific comments on the following matters:

[G–1] Is there a continuing need to collect Part 374a reports? Explain the usefulness of these data in satisfying your requirements.

[G–2] Is there a way to modify or restructure Part 374a reports to make them more functional?

[G–3] Are there alternate sources of and/or superior submission techniques for these reports?

H. Electronic Filing of Data

The Department currently accepts data submissions either in paper form or on magnetic disk or tape. Most large carriers submit the bulk of their data on magnetic media, with large data submissions, such as the Passenger Origin-Destination Survey and T–100 market reports nearly universally submitted on tape or cassette. Electronic submission of data can be processed more quickly, and at lower cost, than similar data submitted in paper form.

The Department now accepts the official filing of international fare and fare rules tariffs electronically (See 14 CFR Part 221 and 61 FR 18070–18075, April 24, 1996). Given the Department's limited resources, it would be impossible to process the volume of tariff data received if these data were filed in a wholly paper environment. Similarly, the Department is increasingly burdened by the filing of required financial and traffic data in paper form.

We request that respondents provide specific comments on the following matters:

[H–1] All air carriers who supply aviation data to the Department are requested to comment on their ability to file data electronically or on magnetic media, i.e., via tape or disk, or over the Internet.

[H–2] If certain large database material now accepted by the Department in electronic form (e.g., the T–100/T–100(f), Origin-Destination Survey, and 298–C reports) are submitted on paper, relevant carrier respondents are requested to indicate why magnetic media are not employed for their submissions.

Contact Persons

We recognize that formal comments submitted to the Department on rulemaking matters are usually submitted by corporate counsel. However, we are seeking comments regarding complex technical issues in anticipation of a formal rulemaking, in areas which are generally outside the area of expertise of legal counsel. It would aid in our evaluation of any technical comments to be able to contact persons with direct knowledge of technical issues being commented upon. Respondents are urged to supply the names, telephone numbers, and addresses of knowledgeable individuals who can be contacted for a more detailed discussion of any technical matters that the respondent counsel cannot answer directly. There may be multiple contact persons for any particular item, or in total. These contact persons should be listed on the last page of any submitted filing, along with their area(s) of expertise.

Regulatory Process Matters

Executive Orders 12612 and 12866

The Department has determined that the proposed notice of proposed rulemaking is not a significant regulatory action under Executive Order 12866. However, the proposed rule may be significant under the Department's Regulatory Policies and Procedures (44 CFR 11304), because of substantial industry interest and because it may result in a reduction in paperwork and filing burden for U.S. carriers. The Department has also analyzed the proposal in accordance with the principles and criteria contained in Executive Order 12612 (''Federalism''), and has determined that the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule would not impose unfunded mandates as defined by the Unfunded Mandates Reform Act of 1995.

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601 et seq., was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The Act requires agencies to review proposed regulations that may have a significant economic impact on a substantial number of small entities. For purposes of this notice, small entities include air taxis, commuter air carriers, and smaller U.S. and foreign airlines.

Although we do not believe the existing rule imposes a significant economic impact on a substantial number of small entities, it does affect many small entities. For that reason, we specifically seek public comment on what steps we can take to lessen or eliminate any burdens it imposes on small entities.

Paperwork Reduction Act

Our current rules contain significant collection-of-information requirements. Changes we may propose will be subject to the Paperwork Reduction Act, Public Law No. 96–411, 44 U.S.C. Chapter 35. The revised rules are expected to result in a net paperwork reduction for the industry.

Regulation Identifier Number

A regulation identifier number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

Patrick V. Murphy,

Deputy Assistant Secretary for Aviation International Affairs.

Robert A. Knisely,

Acting Director, Bureau of Transportation Statistics.

[FR Doc. 98–18855 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 812

[Docket No. 98N–0394]

RIN 0910–ZA14

Medical Devices; Investigational Device Exemptions

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to amend the Investigational Device Exemptions (IDE) regulation. The proposed regulatory changes are intended to reflect amendments to the Federal Food, Drug, and Cosmetic Act (the act) by the FDA Modernization Act of 1997 (FDAMA). These amendments provide that the sponsor of an IDE may modify the device and/or clinical protocol, without approval of a new application or supplemental application, if the modifications meet certain criteria and if notice is provided to FDA within 5 days of making the change. The proposed rule also defines the credible information to be used by sponsors to determine if the criteria are met.

DATES: Submit written comments on or before September 28, 1998. Written comments on the information collection provisions should be submitted by August 14, 1998.

ADDRESSES: Submit written comments on the proposed rule to the Documents Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written comments on the information collection requirements 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: Joanne R. Less, Center for Devices and Radiological Health (HFZ–403), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background

Experience has shown that during the course of a clinical investigation, the sponsor of the study will often want or need to make modifications to the investigational plan, including changes to the device and/or the clinical protocol. These changes may be simple modifications, such as clarifying the instructions for use, or they may be significant changes, such as modifications to the study design or device design.

Currently, § 812.35(a) (21 CFR 812.35(a)) states, in part:

> A sponsor shall: (1) Submit to FDA a supplemental application if the sponsor or an investigator proposes a change in the investigational plan that may affect its scientific soundness or the rights, safety, or welfare of subjects, and (2) obtain FDA approval under § 812.30(a) of any such change, and IRB approval when the change involves the rights, safety, or welfare of subjects (see §§ 56.110 and 56.111), before implementation.

Under § 812.25 *Investigational plan* (21 CFR 812.25), the investigational plan includes: (1) The purpose of the study, (2) the clinical protocol, (3) a risk analysis, (4) a description of the investigational device, (5) monitoring procedures, (6) labeling, (7) informed consent materials, and (8) institutional review board (IRB) information. Although written guidance on the types of modifications that can be made without prior FDA approval has not previously been developed, the agency has permitted changes to all parts of the investigational plan, without new or supplemental IDE application approvals, if the changes did not affect the scientific soundness of the plan or the rights, safety, or welfare of the subjects, and if such changes were reported to FDA in the upcoming annual report under § 812.150(b)(5) (21 CFR 812.150(b)(5)).

On November 21, 1997, the President signed into law FDAMA. Section 201 of FDAMA (Pub. L. 105–115) amended the act by adding new section 520(g)(6) to the act (21 U.S.C. 360j(g)(6)). Section 520(g)(6) of the act permits, upon issuance of a regulation, certain changes to be made to either the investigational device or the clinical protocol without prior FDA approval of an IDE supplement. Specifically, this section of the statute permits:

> (i) developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or in the basic principles of operation and that are made in response to information gathered during the course of an investigation; and
>
> (ii) changes or modifications to clinical protocols that do not affect—
>
> (I) the validity of the data or information resulting from the completion of an approved protocol, or the relationship of likely patient risk to benefit relied upon to approve a protocol;
>
> (II) the scientific soundness of an investigational plan submitted [to obtain an IDE]; or
>
> (III) the rights, safety, or welfare of the human subjects involved in the investigation.

The current IDE regulation and the new statute permit certain changes to be made to the investigational plan without prior agency approval. FDA views the changes and modifications allowed under section 520(g)(6) of the act as consistent with the way the agency has previously interpreted § 812.35(a).

Section 520(g)(6) of the act, which is a result of the new law, also specifies that the implementing rule provide that such changes or modifications may be made without prior FDA approval if the IDE sponsor determines, on the basis of credible information (as defined by the Secretary of Health and Human Services), that the previous conditions are met and if the sponsor submits, not later than 5 days after making the change or modification, a notice of the change or modification. Lastly, section 520(g)(6) of the act requires that FDA issue a final regulation implementing this section no later than 1 year after the date of enactment of FDAMA.

To implement new section 520(g)(6), FDA is proposing to amend § 812.35(a) to permit changes to the investigational device, including manufacturing changes, or to the clinical protocol, in accordance with the statutory criteria. This proposed rule also implements the 5 day notice requirement and defines the credible information to be used by sponsors to determine if the statutory criteria are met. The agency is soliciting comments on the proposal and, in particular, on the definition of credible information. Finally, the amended regulation codifies existing agency practice regarding the types of changes that could be made to other parts of the investigational plan (i.e., other than changes to the device or clinical protocol) and be reported in the annual progress report without prior agency approval.

II. Discussion of Proposed Amendments

The proposed rule amends part 812 by revising § 812.35(a) to track the new statutory language and to define the credible information to be used by IDE sponsors to determine if the statutory criteria are met. This proposal consists of the following provisions:

A. Changes Requiring Prior Approval

Proposed § 812.35(a)(1) requires that changes to the investigational plan, except as provided for in proposed § 812.35(a)(2) through (a)(4), be approved by FDA and the IRB, as applicable under §§ 56.110 and 56.111 (21 CFR 56.110 and 56.111), before being implemented. In addition, this section continues to require an IDE sponsor who intends to conduct an investigation that involves an exception to informed consent under § 50.24 (21 CFR 50.24) to submit a new IDE application rather than an IDE supplement.

B. Changes Effected for Emergency Use

Proposed § 812.35(a)(2), which parallels the existing regulation, addresses deviations from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such deviations would not require prior FDA approval but must be reported to the agency by the sponsor within 5 working days of when the sponsor learns of the deviation. A detailed discussion of this provision was provided in the guidance document entitled, ''Guidance for the Emergency Use of Unapproved Medical Devices'' (50 FR 42866, October 22, 1985).

C. Changes Effected With Notice to FDA Within 5 Days

Proposed § 812.35(a)(3) describes the statutory criteria under which developmental changes to the investigational device, including manufacturing changes, and changes to the clinical protocol may be made without prior approval by FDA. As stated in section 520(g)(6) of the act, developmental changes to the device or manufacturing process may be made if the changes do not constitute a significant change in design or basic principles of operation and are made in response to information gathered during the course of the investigation.

Changes to the clinical protocol may be made if the modifications do not affect the validity of the data or information resulting from the study, the likely risk to benefit relationship that was used to approve the protocol, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects in the trial. As noted previously, the current IDE regulation allows sponsors to modify the investigational plan without prior agency approval if the

modification does not affect the scientific soundness of the plan or the rights, safety, or welfare of the subjects. The new statute specifies that, in addition to these criteria, IDE sponsors who change the clinical protocol must also consider the impact that the change may have on the validity of the data resulting from the study and the risk to benefit relationship that was used to approve the protocol. FDA believes that these additional criteria are consistent with the agency's general criteria under the current regulation that provide that changes may be made to the investigational plan as long as such changes ensure the protection of patient safety and rights and the integrity of the clinical trial.

D. Definition of Credible Information

To help sponsors decide if the criteria set forth in section 520(g)(6) of the act have been met, and in accordance with FDAMA, the agency is defining what it would consider to be credible information to support a decision by the sponsor that prior agency approval for a proposed change to a device, manufacturing process, or protocol is not required and that a notice within 5 days of effecting a change will be sufficient. As described in the following paragraph, FDA believes that the definition of credible information will be different depending upon whether the sponsor is modifying the device (or manufacturing process) or the clinical protocol.

1. Device and Manufacturing Changes

For changes to the device, including manufacturing changes, FDA believes that the data generated by design control procedures during the device development process will help manufacturers distinguish those changes that could be implemented without prior approval from those that would require approval. Under § 812.1(a) (21 CFR 812.1(a)), manufacturers of investigational devices are exempt from the good manufacturing practice (GMP) requirements of section 520(f) of the act, except for the design control procedure requirements (§ 820.30 (21 CFR 820.30)), if applicable. Design control procedures consist of a system of inter-related checks and balances that make the systematic assessment of design an integral part of the device development process. Under the design-control section of the quality system regulation, manufacturers are required to have in place a systematic set of requirements and activities for the management of design and development, including documentation of design inputs, appropriate risk analysis, design output, test procedures, verification and validation procedures, and documentation of formal design reviews. Use of design controls in the development process for medical devices contributes to the protection of the public in general, as well as of patients involved in clinical trials, from potentially unsafe devices. By using the information generated by design controls, IDE sponsors are able to assess the potential impact of changes in the device design or manufacturing process prior to implementing them in their clinical investigations.

Under the new law and this proposed implementing regulation, certain developmental changes to the investigational device (including manufacturing changes), which are made in response to information gathered during the course of the investigation, are eligible for implementation without prior agency approval. Modifications that constitute a significant change in design or basic principles of operation, however, may not be made without prior approval of an IDE supplement. Through the data generated by the appropriate risk analysis and the subsequent verification and validation testing done as a part of the design control process, sponsors should be able to judge whether a change to the device would constitute a significant change in design or one that changes the basic principles of operation. The agency believes that any change that could significantly affect the safety and/or effectiveness of the device is a significant change. FDA also believes that any change to the basic principles of operation of a device would be highly likely to constitute a significant change; however, the agency is soliciting comments on this premise.

In determining whether a change to the design of the device would be considered significant and require agency approval prior to implementation, FDA is proposing that IDE sponsors rely upon information generated by design controls to supply the credible information that would be the basis of that decision. Specifically, the manufacturer should conduct an appropriate risk analysis, followed by verification and validation testing, as required by design control procedures. If it is determined that no new types of risks are introduced by the change and that the subsequent testing demonstrates that the design outputs meet the design input requirements, then the change could be made without prior agency approval, if the sponsor notifies FDA within 5 days of implementation. If, however, the risk analysis identifies new types of risks, the verification/validation testing indicates that the design input requirements are no longer satisfied, or the design input requirements need to be modified, then the change would require prior approval.

As an example, consider a change in material from polyvinylchloride (PVC) to silicone in a catheter. In accordance with design control procedures, the manufacturer would conduct the appropriate risk analysis. Assuming that the risk analysis did not identify any new types of risks for this device compared to the unmodified device, then the manufacturer would proceed to conduct the verification and validation testing. As a part of these activities, the manufacturer should also conduct any other performance testing that addresses a safety or performance concern that may have been identified to the IDE sponsor in a recognized standard or other agency correspondence for this device. If the results of the testing demonstrate that all of the risks (those identified in the risk analysis and those identified by the agency in its previous correspondence to the firm) have been adequately addressed and that the design output meets the design input requirements, then the change could be implemented without prior FDA approval. Alternatively, if the manufacturer had proposed a change from PVC to latex, the risk analysis should have indicated a new type of risk, e.g., possible latex sensitivity. In this case, the change should not be made without prior FDA review and approval.

Using the same device in a second example, consider a change in the diameter of the lumen of the catheter. If no new types of risks are identified in the risk analysis, the manufacturer could proceed to conduct the verification and validation testing. If the testing demonstrates that the design input requirements are met, the change could be implemented without prior FDA approval. If, however, during the testing, it is determined that the intended flow rate was compromised by the change in diameter, then the manufacturer would have two options. The manufacturer could adjust the modification so that the original intended flow rate is still achieved or the manufacturer could submit an IDE supplement, including a justification for the change, and pursue FDA approval.

By using the data generated by design control procedures, the manufacturer should be able to identify significant changes to the investigational device or manufacturing process, i.e., those that introduce new types of risks or cause

the design outputs to no longer meet the design input requirements. In the guidance document entitled, ''Deciding When to Submit a 510(k) for a Change to an Existing Device,'' the agency has identified generic types of device and manufacturing modifications. The previous guidance may be found on the World Wide Web at ''http://www.fda.gov/cdrh''. Although this guidance applies to modifications of marketed devices, the types of changes identified in the document are also applicable to investigational devices. These include changes to the control mechanism, principle of operation, energy type, environmental specifications, performance specifications, ergonomics of patient-user interface, dimensional specifications, software or firmware, packaging or expiration dating, sterilization, and the manufacturing process (including the manufacturing site). Such changes can range from minor to significant, depending upon the particular device, the type of modification, and the extent of the modification. As discussed previously, significant changes of any of the previous types would not be eligible for the 5 day notice provision, but rather would require prior FDA approval.

2. Protocol Changes

The new statute also permits changes to the clinical protocol to be made and reported within 5 days of implementation if the changes do not affect the validity of the data or information that will result from the clinical trial, the likely patient risk to benefit relationship used to approve the study, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. FDA is proposing that the credible information relied upon to support this change should consist of a statistical analysis performed by the sponsor and independent confirmation by the IRB chairperson, the data safety monitoring board (DSMB), or published literature. For a modification to be eligible for implementation under this provision, FDA believes the IDE sponsor should conduct an assessment of the impact of the proposed change on the study design and planned statistical analysis and determine that they would not be adversely affected. In addition to this assessment, FDA is proposing that the credible information that is the basis of the sponsor's determination include approval by the IRB chairperson (or designee) or concurrence of the DSMB. For certain types of changes, peer reviewed published literature also could be the additional credible evidence to support a protocol modification. Generally, FDA would rely upon the IRB chairperson to review changes that are related to the rights, safety, or welfare of the subjects in the trial, while the approval/recommendation of the DSMB or the peer reviewed published literature would be relied upon for changes that are related to the scientific soundness of the investigational plan or validity of the data. Several examples of these types of changes are provided as follows.

1. Increasing the frequency at which data or information is gathered or lengthening the subject follow-up period. Assuming that the sponsor's assessment of the impact of the proposed change on the study design and planned statistical analysis demonstrates that they would not be adversely affected, FDA believes this type of modification could be implemented without agency approval if the IRB chairperson agrees that the rights, safety, and welfare of the subjects would not be affected.

2. Modifying the protocol to include additional patient observations/measurements or modifying the inclusion/exclusion criteria to better define the target patient population. After confirming that the proposed change would not have a significant impact on the study design or planned statistical analysis, this type of change could be implemented if the DSMB either recommends the change or approves it. Approval by the IRB chairperson or peer reviewed published literature that supports the change may be substituted for the DSMB's concurrence, depending upon the extent of these types of changes.

3. Increasing the number of investigational sites or number of subjects to be enrolled in the study. Again, after determining that the proposed change would not have a significant impact on the study design or planned statistical analysis, the sponsor could increase the number of investigational sites or subjects in the trial if the DSMB overseeing the clinical investigation either recommends or concurs with the study expansion. If such a change to the protocol is implemented, however, IDE sponsors are reminded that the study, as expanded, would need to be completed before the marketing application could be submitted. Furthermore, under 21 CFR 812.7(c), sponsors are prohibited from unduly prolonging a clinical investigation, i.e., commercializing an investigational device. Therefore, sponsors should ensure that the study expansion is well justified.

4. Modifying the secondary endpoint(s). Following the assessment of the impact of the proposed change on the study design and planned statistical analysis, the secondary endpoint(s) could be modified if the DSMB or peer reviewed published literature supports the change. For example, eliminating the assessment of post-void residuals in a benign prostatic hyperplasia (BPH) study could be implemented if peer review published literature supported the change, i.e., if the literature indicated that this is not a significant outcome measure for the intervention being studied.

Alternatively, FDA believes that the following types of protocol modifications would not generally be eligible for implementation without prior agency approval because they are likely to have a significant effect on the validity of the data resulting from the trial and/or on the scientific soundness of the trial design:

- Change in indication
- Change in type or nature of study control
- Change in the primary endpoint variable
- Change in the method of statistical evaluation
- Early termination of the study (except for reasons related to patient safety)

E. Notice of IDE Change

Proposed § 812.35(a)(3)(iv) would require IDE sponsors who have determined, based on the credible evidence as defined by FDA, that changes to their device and/or clinical protocol do not require prior agency approval to notify the agency within 5 days of making the change. To be in compliance with this requirement, sponsors would be required to submit the notice within 5-calendar days of the date the device, incorporating the change, is first distributed to the investigator(s). For protocol changes, the notice would need to be submitted within 5-calendar days of the sponsor's notification to the clinical investigators that the protocol has been modified or, for sponsor-investigator studies, within 5-calendar days of when the sponsor-investigator incorporates the protocol change. In addition, proposed § 812.35(a)(3)(iv) states that the notification shall be identified as a ''Notice of IDE Change.'' FDA is proposing to require that the notices be identified in this manner so that they can be easily distinguished from IDE supplements being submitted for agency approval.

This proposed section of the regulation also describes the

information to be included in the notice. For a device or manufacturing change, FDA is proposing that the notice include: (1) A summary of the relevant information gathered during the course of the investigation upon which the change was based; (2) a description of the change that has been made to the device or manufacturing process, including a cross-reference to appropriate sections of the original device description or manufacturing process; and (3) a statement that no new risks were identified by the appropriate design control risk analysis and that the verification/validation testing demonstrated that the design outputs met the design input requirements. For a protocol change, FDA is proposing that the notice include: (1) A description of the change that has been made to the clinical protocol, including a cross-reference to appropriate sections of the original protocol, and (2) an assessment supporting the conclusion that the change does not have a significant impact on the study design or planned statistical analysis of safety and effectiveness. As discussed in the previous section, protocol changes that relate to the rights, safety, or welfare of the subjects would be required to be supported by a letter from the IRB chairperson (or designee) stating that the change is acceptable. Protocol changes that relate to the scientific soundness of the investigational plan or validity of the data would require the support of a data safety monitoring board overseeing the investigation or peer reviewed published literature, as appropriate.

F. Review of the Notices

Under proposed § 812.35(a)(3), it is the sponsor's responsibility to determine if a change made to the device or the manufacturing process would affect the safety and effectiveness of the device and thus would be considered a significant change requiring prior agency approval. Similarly, the sponsor must decide if a change to the clinical protocol would affect the validity of the data resulting from the clinical trial, the likely risk to benefit relationship relied upon to approve the study, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. Under proposed § 812.35(a)(3)(iii), the agency has defined the type of credible information IDE sponsors should use in determining if the change meets the statutory criteria.

Under proposed § 812.35(a)(3)(v), however, FDA reserves the right to question the sponsor's determination that the change met the statutory criteria. Thus, if the agency has reason to believe, based on the information submitted in the Notice of IDE Change or on other available information, such as reports of adverse events, that the modification did not meet the criteria, FDA will notify the sponsor that the change should have been reviewed and approved before being implemented. Upon receipt of such a communication from FDA, the sponsor would have the option of suspending the investigation until approval is obtained for the change or of reverting to the unmodified device, manufacturing process, or protocol. FDA recognizes the potential impact that this action could have on the IDE sponsor and the clinical trial and, therefore, intends to take such action only if the agency determines that the modification to the device, manufacturing process, or clinical protocol could jeopardize patient safety, the scientific soundness of the investigation, or the validity of the data resulting from the trial. Such determinations would be made by the individuals authorized to approve IDE's.

G. Changes Submitted in the Annual Report

Under proposed § 812.35(a)(4), changes to certain portions of the investigational plan other than to the device, manufacturing process, or clinical protocol may continue to be submitted in an IDE annual report under § 812.150(b)(5). Changes to the purpose of the study, the risk analysis, monitoring procedures, labeling for the investigational device, informed consent materials, and IRB information may continue to be submitted in an IDE annual report if the changes do not affect the validity of the data/information resulting from the trial, the risk to benefit relationship relied upon to approve the protocol, the scientific soundness of the investigational plan, or the rights, safety, or welfare of the subjects. The types of changes that would normally satisfy these criteria would be those that would serve to increase patient safety, e.g., clarifying the instructions for use, providing additional information in the informed consent document, or enhancing the monitoring procedures.

Each of the following parts of the investigational plan is discussed as follows and specific examples are provided to illustrate the types of changes that would usually be considered appropriate for submission in an annual report.

1. *Purpose*. Under § 812.25(a), the purpose of the study includes the name and intended use of the device as well as the objectives and duration of the investigation. Examples of changes that may be made to this section of the investigational plan and reported in the annual report include:

• *Changes to the name of the device*. This type of change can be made provided that the new name does not imply a new intended use. Name changes that are made in conjunction with a modification to the device, however, should be submitted either as an IDE supplement or as a notice within 5 days of implementation, as appropriate for the device modification.

• *Clarifications to the intended use of the device*. Such changes may be made if the modifications do not implicitly or explicitly affect the intended use.

• *Minor modifications to the study objectives*. Such changes include clarifying the study objectives as long as the intent of the objectives and the study endpoints are not changed. Study objectives related to future labeling claims for the device may be added under the annual report requirements if the change is minor, as described in proposed § 812.35(a)(4). If, however, the change in the objectives requires protocol modifications, the change should be submitted as an IDE supplement or a notice within 5 days of implementation, as appropriate for the protocol modification.

• *Changes in the duration of the investigation*. If the investigation will take less time or more time to complete than was anticipated at the time the IDE application was submitted, this information may be submitted in the annual report.

2. *Risk Analysis*. If information to be added to the risk analysis does not affect the risk to benefit relationship, it may be reported in the annual report. For example, modifying the risk analysis to include foreign data that confirms the original patient risk to benefit relationship could be submitted in the annual report. If, however, during the course of the investigation, the sponsor becomes aware of information that may adversely affect the risk analysis, this information should be submitted as a supplement under § 812.35 indicating that the risk to benefit relationship has changed.

3. *Monitoring Procedures*. A change in the name and/or address of the monitor may be submitted in the annual report. In addition, changes in the monitoring procedures that are consistent with the ''Guideline for the Monitoring of Clinical Investigations'' are eligible for this type of reporting mechanism.

4. *Labeling*. Labeling changes that clarify the instructions for use or serve to increase subject safety may be

implemented without prior agency approval and submitted in the annual report. Adding contraindications, hazards, adverse effects, interfering substances/devices, warnings, or precautions to the labeling, however, may require concomitant changes to the protocol (e.g., modifications to the exclusion criteria) and should be submitted in an IDE supplement or notice within 5 days of implementation, as appropriate for the protocol modification.

5. *Informed Consent*. Revisions to the informed consent materials may be made without prior approval and submitted in the annual report if the changes are, for example, to include preliminary results from the trial (if in agreement with expected outcome(s)), clarify the risks and/or potential benefits of the investigational device, or clarify the procedures/tests to which the subjects may be subject.

6. *IRB Information*. A change in the IRB chairperson or address may be reported in the annual report. Changes in approval status of the study, however, must be reported to FDA, all reviewing IRB's, and participating investigators in accordance with § 812.150(b)(2).

III. Environmental Impact

The agency has determined under 21 CFR 25.30(h) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Analysis of Impacts

FDA has examined the impact of this proposed rule under Executive Order 12866 and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Pub. L. 104–121)), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Order 12866 directs agencies to assess all costs of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. This proposed rule has been determinated to be a significant regulatory action as defined by the Executive Order and so is subject to review under the Executive Order.

Unless the head of the agency certifies that the rule would not have a significant economic impact on a substantial number of small entities, the Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. This proposed rule amends existing regulations to implement section 520(g)(6) of the act.

FDAMA added new section 520(g)(6) to permit certain changes to a device, manufacturing processes, or clinical protocols during the course of a clinical investigation without having to obtain prior FDA approval of a new IDE or an IDE supplement. In addition to specifying the types of changes to clinical studies allowed without prior approval, section 520(g)(6) provides that the sponsor must provide notice within 5 days of making the change, and that the agency define, by regulation, the term ''credible information'' that the sponsor must use as a basis to decide that the types of changes meet the criteria for implementation without prior FDA approval.

Under the existing regulations and policy, §§ 812.35 and 812.150(b)(5), a sponsor is allowed to make certain changes in its investigational device or protocol without prior FDA approval, provided that such changes are reported in an annual progress report. Under the proposed regulation, such changes would be reported in a 5 day notice report, instead of an annual report. Accordingly, the proposed regulation does not require industry to submit a new type of report because a change in a device or protocol triggers a reporting requirement under both the existing and proposed regulation.

FDA's interpretation of the types of changes that are allowed without prior approval in annual reports under the existing regulation, and the proposed regulation's criteria to allow changes without prior approval in 5-day notice reports are consistent. Accordingly, the criteria stated in the proposed regulation does not affect the types of changes that sponsors will be allowed to implement without prior approval, and, therefore, would not add any additional burden to industry.

The kind of credible information that the proposed regulation would require as a basis to determine that a change can be made without prior FDA approval is either currently required under existing regulations, or will not add additional costs. The proposed regulation provides that the type of credible information depends on the type of change.

For design and manufacturing changes, the proposed regulation provides that credible information must be information generated by design controls. The generation of this information currently is required under §§ 812.1 and 820.30. Moreover, this type of information is already required to be submitted in annual progress reports. Under the current regulation, sponsors provide testing data to support the device change. Under the proposed regulation, sponsors are allowed to provide summary information generated by design control procedures. Therefore, sponsors will be able under the proposed regulation to provide less detailed testing information than currently provided in annual progress reports. Accordingly, the proposed regulation's definition of credible information that must be used as a basis to file a 5 day notice does not add any additional burden to industry.

For clinical protocol type changes, the proposed regulation provides that credible information consists of an assessment of the impact of the change on the study design and planned statistical analysis, and approval from the IRB chairperson, a recommendation or concurrence from a DSMB, or published literature that supports the change. The proposed regulation's requirement for an assessment of the impact of the change on the study design and planned statistical analysis is consistent with the analysis performed by sponsors under the current regulation when assessing whether their protocol modification does not affect the scientific soundness. Consultation with an IRB and a DSMB is customary for protocol modifications. Under current regulatory authority, sponsors must report changes to the IRB. *See* 21 CFR 56.108(a)(3), 56.110(b)(2), 812.40 and 812.150(b)(5). Since the current regulations already require that information relating to the study would be generated and provided to IRB's, the generation of this information under the proposed regulation does not add any add additional costs. Although the proposed regulation would add the requirement of IRB chairperson approval, or DSMB recommendation or concurrence, these entities are not paid by the sponsors, and would not generate additional costs.

Similarly, the proposed regulation's requirement for providing FDA with published literature supporting a change does not add additional costs. Under § 812.27(b), sponsors are currently required to submit all publications, whether adverse or supportive, in an IDE application. Supporting publications for changes after approval of an IDE application are submitted in

an annual progress report under § 812.150(b)(5).

The only additional burden posed by the proposed rule would be the timing of the submission. Section 520(g)(6) of the act, as added by FDAMA, requires that the sponsor submit a notice within 5 days of the change. As stated previously, the type of information in the 5 day notice in the proposed regulation would be submitted annually in a progress report under the current regulatory authority. FDA believes that the additional cost of submitting information on each change when that change is made, is not significantly greater than compiling the information and sending it in one annual report. The primary additional costs will be minimal mailing costs.

For the reasons stated previously, the Commissioner of Food and Drugs certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities. Additionally, this proposed rule does not trigger the requirement for a written statement under section 202(a) of the Unfunded Mandates Reform Act because it does not impose a mandate that results in an expenditure of $100 million or more by State, local, or tribal governments in the aggregate, or by the private sector, in any 1 year.

V. Paperwork Reduction Act of 1995

This proposed rule contains information collection provisions which are subject to review by OMB under the Paperwork Reduction Act of 1995 (the PRA) (44 U.S.C. 3501–3520). A description of these provisions is given below with an estimate of the annual reporting burden. Included in the estimate is the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing each collection of information.

FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Medical Devices; Investigational Device Exemptions; Supplemental Applications.

Description: Section 201 of FDAMA amended the act by adding new section 520(g)(6) to the act, which permits a sponsor to implement certain changes to an investigational device or to a clinical protocol without prior approval of an IDE supplement if the modifications meet certain criteria and if notice is provided to FDA within 5 days of making the change. In order to implement this provision, FDA is proposing to amend § 812.35(a) to describe which types of changes may be made without prior approval and to describe the information to be included in a notice to FDA if this provision is to be exercised. For developmental or manufacturing changes, sponsors would be required to submit a summary of the information from the study upon which the change was based, a description of the change, and a statement that no new risks were identified and that the device testing demonstrated that the design outputs met the design input requirements. For a protocol change, the sponsor must submit a description of the change, an assessment of the impact of the change, and supporting documentation from the IRB chairperson, data safety monitoring board, or peer reviewed published literature, as appropriate. FDA will review the notices to determine whether they meet the criteria of section 520(g)(6) of the act or whether additional action is necessary to assure the protection of the public health.

Description of Respondents: Businesses or other for profit organizations.

FDA estimates the burden for this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
812.35(a)(3)	300	1	300	10	3,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Based upon a review of IDE's submitted in recent years, FDA estimates that approximately 300 of these notices of IDE changes will be submitted each year. Based upon discussions with sponsors of IDE's and FDA's own experience in reviewing these types of documents, FDA estimates that it will take approximately 10 hours for a sponsor to prepare a Notice of IDE Change. Therefore, FDA estimates that the total annual burden for preparation of these notices will be 3,000 hours.

As required by section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the agency has submitted the information collection provisions of this proposed rule to OMB for review. Interested persons are requested to send comments regarding the information collection by August 14, 1998 to the Office of Information and Regulatory Affairs, OMB (address above).

VI. Comments

Interested persons may by September 28, 1998, submit to the Dockets Management Branch (address above) written comments regarding this proposed rule. Two copies of any comment are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 812

Health records, Medical devices, Medical research, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act, and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 812 be amended as follows:

PART 812—INVESTIGATIONAL DEVICE EXEMPTIONS

1. The authority citation for 21 CFR part 812 continues to read as follows:

Authority: 21 U.S.C. 331, 351, 352, 353, 355, 356, 357, 360, 360c–360f, 360h–360j, 371, 372, 374, 379e, 381, 382, 383; 42 U.S.C. 216, 241, 262, 263b–263n.

2. Section 812.35 is amended by revising paragraph (a) to read as follows:

§ 812.35 Supplemental applications.

(a) *Changes in investigational plan*—(1) *Changes requiring prior approval.* Except as described in paragraphs (a)(2) through (a)(4) of this section, a sponsor shall submit to FDA a supplemental application if the sponsor or an investigator proposes a change in the investigational plan and obtains FDA approval under § 812.30(a) of any such change, and IRB approval as applicable (see §§ 56.110 and 56.111 of this chapter), before implementation. If a sponsor intends to conduct an investigation that involves an exception to informed consent under § 50.24 of this chapter, a sponsor shall submit a separate investigational device exemption (IDE) application in accordance with § 812.20(a).

(2) *Changes effected for emergency use.* The requirements of paragraph (a)(1) of this section regarding FDA approval of a supplement do not apply in the case of a deviation from the investigational plan to protect the life or physical well-being of a subject in an emergency. Such deviation shall be reported to FDA within 5-working days after the sponsor learns of it (see § 812.150(a)(4)).

(3) *Changes effected with notice to FDA within 5 days.* A sponsor may make certain changes without prior approval of a supplemental application under paragraph (a)(1) of this section if the sponsor determines that these changes meet the criteria described in paragraphs (a)(3)(i) and (a)(3)(ii) of this section, on the basis of credible information defined in paragraph (a)(3)(iii) of this section, and the sponsor provides notice to FDA within 5 days of making these changes.

(i) *Developmental changes.* The requirements in paragraph (a)(1) of this section regarding FDA and IRB approval of a supplement do not apply to developmental changes in the device (including manufacturing changes) that do not constitute a significant change in design or basic principles of operation and that are made in response to information gathered during the course of an investigation.

(ii) *Changes to clinical protocol.* The requirements in paragraph (a)(1) of this section regarding FDA approval of a supplement do not apply to changes to clinical protocols that do not affect:

(A) The validity of the data or information resulting from the completion of the approved protocol, or the relationship of likely patient risk to benefit relied upon to approve the protocol;

(B) The scientific soundness of the investigational plan; or

(C) The rights, safety, or welfare of the human subjects involved in the investigation. The requirements in paragraph (a)(1) of this section regarding IRB approval for such changes are described in paragraph (a)(3)(iii)(B) of this section.

(iii) *Definition of credible information*—(A) Credible information to support developmental changes in the device (including manufacturing changes) is defined as the information generated from the design control procedures under § 820.30.

(B) Credible information to support changes to clinical protocols is defined as the sponsor's documentation supporting the conclusion that a change does not have a significant impact on the study design or planned statistical analysis, and evidence of IRB chairperson (or designee) approval, in accordance with the expedited review procedures described in § 56.110 of this chapter, the concurrence or recommendation of a data safety monitoring board, or peer reviewed published literature supporting the change, as appropriate.

(iv) *Notice of IDE Change.* Changes meeting the criteria in paragraphs (a)(3)(i) and (a)(3)(ii) of this section that are supported by credible information as defined in paragraph (a)(3)(iii) of this section may be made without prior FDA approval if the sponsor submits a notice of the change to the IDE not later than 5-calendar days after making the change. Changes to devices are deemed to occur on the date the device, manufactured incorporating the design or manufacturing change, is distributed to the investigator(s). Changes to a clinical protocol are deemed to occur when a clinical investigator is notified by the sponsor that the change should be implemented in the protocol or, for sponsor-investigator studies, when a sponsor-investigator incorporates the change in the protocol. Such notices shall be identified as a ''Notice of IDE Change.''

(A) For a developmental or manufacturing change to the device, the notice shall include a summary of the relevant information gathered during the course of the investigation upon which the change was based; a description of the change to the device or manufacturing process (cross-referenced to the appropriate sections of the original device description or manufacturing process); and a statement that no new risks were identified by appropriate risk analysis and that the verification and validation testing demonstrated that the design outputs met the design input requirements.

(B) For a protocol change, the notice shall include a description of the change (cross-referenced to the appropriate sections of the original protocol); an assessment supporting the conclusion that the change does not have a significant impact on the study design or planned statistical analysis, and; for changes related to the rights, safety or welfare of the subjects, a letter of approval from the IRB chairperson (or designee). For changes related to the scientific soundness of the investigational plan or validity of the data, documentation of the concurrence/recommendation of the data safety monitoring board, or peer reviewed published literature supporting the change, as appropriate.

(v) *Review of the Notices.* If, at any time during the course of the investigation, FDA has reason to believe that the change(s) made in accordance with paragraphs (a)(3)(i) or (a)(3)(ii) of this section did not meet the applicable criteria, the agency will notify the sponsor that the change(s) required approval under paragraph (a)(1) of this section before being implemented. Upon receipt of such notification, the sponsor shall either suspend the investigation or revert to an investigation of the unmodified device or protocol until the change is approved under paragraph (a)(1) of this section.

(4) *Changes submitted in annual report.* The requirements of paragraph (a)(1) of this section do not apply to minor changes to the investigational plan that do not involve developmental, manufacturing, or protocol changes (i.e., the purpose of the study, risk analysis, monitoring procedures, labeling, informed consent materials, and IRB information) that do not affect:

(i) The validity of the data or information resulting from the completion of the approved protocol, or the relationship of likely patient risk to benefit relied upon to approve the protocol;

(ii) The scientific soundness of the investigational plan; or

(iii) The rights, safety, or welfare of the human subjects involved in the investigation. Such changes shall be reported in the annual progress report for the IDE, under § 812.150(b)(5).

* * * * *

Dated: June 16, 1998.

William B. Schultz,

Deputy Commissioner for Policy.

[FR Doc. 98–18754 Filed 7–14–98; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106031–98]

RIN 1545–AW13

Trading Safe Harbors; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains corrections to REG–106031–98, which was published in the **Federal Register** on Friday, June 12, 1998 (63 FR 32164), relating to the treatment of foreign taxpayers trading in derivative financial instruments for their own account.

FOR FURTHER INFORMATION CONTACT: Milton Cahn, (202) 622–3870 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking that is the subject of this correction is under section 864(b) of the Internal Revenue Code.

Need for Correction

As published, REG–106031–98 contains errors which may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the notice of proposed rulemaking (REG–106031–98), which is the subject of FR Doc. 98–15452, is corrected as follows:

1. On page 32164, column 3, in the preamble under the paragraph heading ''Background'', the second paragraph, line 3, the language ''promulgated in 1972. Since the'' is corrected to read ''promulgated in 1968. Since the''.

2. On page 32165, column 2, in the preamble under the paragraph heading ''2. *Eligible Nondealer*'', the third paragraph, line 9, the language ''securities in 475(c)(1)(B), including'' is corrected to read ''securities in section 475(c)(1)(B), including''.

§ 1.864(b)–1 [Corrected]

3. On page 32166, columns 2 and 3, § 1.864(b)–1(b)(1) introductory text, the last line in column 2 and the first line in column 3, the language ''*nondealer* is a person that is not a resident of the United States and is not,'' is corrected to read ''*nondealer* is a foreign corporation or a person that is not a resident of the United States, and either of which is not,''.

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 98–18749 Filed 7–14–98; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[CO–001–0024b; FRL–6124–5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a State Implementation Plan (SIP) revision submitted by the Governor of the State of Colorado on September 16, 1997. The revision contains the 1993 periodic carbon monoxide (CO) emission inventories for Colorado Springs, Denver, Fort Collins, and Longmont that were submitted to satisfy the 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 adverse comments are received in response to this proposed rule, no further activity is contemplated in relation to this rule. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before August 14, 1998.

ADDRESSES: Written comments may be mailed to Richard R. Long, Director, Air Program, Mailcode 8P2–A, Environmental Protection Agency (EPA), Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Program, Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202. Copies of the State documents relevant to this action are available for public inspection at the Colorado Department of Public Health and Environment, Air Pollution Control Division, 4300 Cherry Creek Drive South, Denver, Colorado 80246–1530.

FOR FURTHER INFORMATION CONTACT: Cindy Rosenberg, EPA, Region VIII, (303) 312–6436.

SUPPLEMENTARY INFORMATION: See the information provided in the Direct Final action of the same title which is located in the Rules and Regulations Section of this **Federal Register**.

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

Dated: July 6, 1998.

Patricia D. Hull,

Acting Regional Administrator, Region VIII.

[FR Doc. 98–18863 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 261

[FRL–6124–2]

RIN 2050–AD88

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Petroleum Refining Process Wastes; and Land Disposal Restrictions for Newly Hazardous Wastes; Notice of Data Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of Data Availability and Request for Comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available for public comment data and information relating to its Notice published in the **Federal Register** on November 20, 1995 (60 FR 57747). That Notice proposed to amend EPA regulations under the Resource Conservation and Recovery Act (RCRA) by designating as hazardous wastes certain petroleum refining waste streams, and to apply universal treatment standards under the Land Disposal Restrictions program to the wastes proposed for listing. That Notice also proposed to broaden existing RCRA exclusions for the recycling of oil-bearing residuals in petroleum refineries. In response to that proposal (and related to a separate, recently-finalized rulemaking on fuels produced from hazardous waste), EPA has received specific information on a technology (gasification) that can

recycle oil-bearing residuals into fuels. EPA is assessing whether or not, as a result of this new information, the proposed rule should also exclude oil-bearing hazardous secondary materials recycled in gasification units. Today's Notice seeks comment on the additional information the Agency has received on gasification, specifically in the context of recycling oil-bearing hazardous secondary materials.

DATES: The Agency is reopening the comment period only for the limited purpose of obtaining information and views on the new data and information described in this document. Comments on the additional data will be accepted through August 14, 1998.

ADDRESSES: Commenters must send an original and two copies of their comments referencing docket number F–98–PR2A–FFFFF to: RCRA Docket Information Center, Office of Solid Waste (5305G), U.S. Environmental Protection Agency Headquarters (EPA, HQ), 401 M Street, SW, Washington, D.C. 20460. Hand deliveries of comments should be made to the Arlington, VA, address listed below. Comments may also be submitted electronically by sending electronic mail through the Internet to: rcradocket@epamail.epa.gov. Comments in electronic format should also be identified by the docket number F–98–PR2A–FFFFF. All electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. If comments are not submitted electronically, EPA is asking prospective commenters to voluntarily submit one additional copy of their comments on labeled personal computer diskettes in ASCII (TEXT) format or a word processing format that can be converted to ASCII (TEXT). It is essential to specify on the disk label the word processing software and version/edition as well as the commenter's name. This will allow EPA to convert the comments into one of the word processing formats utilized by the Agency. Please use mailing envelopes designed to physically protect the submitted diskettes. EPA emphasizes that submission of comments on diskettes is not mandatory, nor will it result in any advantage or disadvantage to any commenter.

Commenters should not submit electronically any confidential business information (CBI). An original and two copies of CBI must be submitted under separate cover to: RCRA CBI Document Control Officer, Office of Solid Waste (5305W), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460.

Public comments and supporting materials are available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page. For information on accessing paper and/or electronic copies of the document, see the ''Supplementary Information'' section.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at (800) 424–9346 or TDD (800) 553–7672 (hearing impaired). In the Washington, D.C., metropolitan area, call (703) 412–9810 or TDD (703) 412–3323. For information on specific aspects of this Notice, contact Maximo Diaz, Jr. or Ross Elliott, Office of Solid Waste (5304W), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460. [E-mail addresses and telephone numbers: Diaz.max@epamail.epa.gov, (703) 308–0439; elliott.ross@epamail.epa.gov, (703) 308–8748].

SUPPLEMENTARY INFORMATION: The index to the docket is available on the Internet. Follow these instructions to access the information electronically:

www: http://www.epa.gov/epaoswer/osw/hazwaste.htm#id

FTP: ftp.epa.gov

Login: anonymous

Password: your Internet address

Files are located in /pub/epaoswer

The official record for this action will be kept in paper form, and will be maintained at the address in **ADDRESSES** at the beginning of this document. EPA will transfer all comments received electronically into paper form and place them in the official record, which will also include all comments submitted directly in writing. The official record is the paper record.

EPA responses to comments, whether the comments are written or electronic, will be in a notice in the **Federal Register** or in a response to comments document placed in the official record for this rulemaking. EPA will not immediately reply to commenters electronically other than to seek clarification of electronic comments that may be garbled in transmission or during conversion to paper form, as discussed above.

Background

On April 19, 1996, EPA proposed to exclude so-called ''comparable fuels'' from the regulatory definition of solid waste. 62 FR at 17459. A comparable fuel is a fuel produced from a hazardous waste which meets a series of specifications for hazardous constituents and other properties based on comparable levels in representative fossil fuels. EPA included among these proposed specifications one for synthesis gas fuel (more usually referred to as syngas) when produced from hazardous wastes. *Id.* at 17465.

Commenters from the gasification industry maintained that syngas fuels were not contained gases and so were not solid wastes and could not be regulated under subtitle C under any circumstance. EPA disagrees, due to the plenary authority to regulate fuels produced from hazardous wastes set out in RCRA section 3004 (q)(1). See 62 FR at 24253 (May 2, 1997). However, it appears to the Agency that gasification of petroleum industry secondary materials might be an activity warranting exclusion as a matter of Agency discretion (rather than due to a statutory mandate), since gasification of such materials can potentially be viewed as a means of recovering otherwise un-utilizable hydrocarbons from the secondary materials and thus potentially be regarded as a final stage of crude oil refining. These are issues at the heart of the instant rulemaking involving listing and exclusion determinations for petroleum refining wastes and secondary materials. Consequently, as the Agency indicated in the recently-finalized comparative fuels rule, we have decided to consider the possibility of a regulatory exclusion for petroleum refining industry secondary materials being gasified in the present proceeding.

Specifically, EPA is assessing whether oil-bearing hazardous secondary materials generated within the petroleum industry should be excluded from the definition of solid waste when inserted into gasification units, in a manner similar to insertion into petroleum cokers as proposed at 40 CFR 261.4(a)(12). 60 FR at 57796. EPA has decided that this Notice of data availability is a useful exercise and will help to strengthen the record for the Agency's decisions, and provide a useful opportunity for further public comment.

The remainder of this Notice addresses new data prompted by public comments.

Description of Gasification Process

Gasification is a chemical conversion process that converts hydrocarbon feedstocks into a synthetic natural gas product, often called ''synthesis gas'' or ''syngas''. This process occurs under oxygen-starved (or reducing) conditions, which distinguishes gasification from combustion. Under high temperature and pressure, the hydrocarbon feedstocks are converted primarily into carbon monoxide, hydrogen gas, nitrogen gas, and hydrogen sulfide. Solid residues from gasification include a glass-like slag produced in the gasification process, and sulfur from clean-up of the synthesis gas. Information the Agency has received indicates the potential advantages of gasification, including very efficient conversion of hydrocarbons to synthesis gas, the lack of air emissions (i.e., SO_x and NO_x compounds) formed during gasification, and a relatively clean product fuel. Based upon the information submitted to the Agency, the gasification process in some ways might compete with the petroleum coker for the same types of oil-bearing materials, but in a somewhat different manner such that gasification does a better job of recovery of energy values. For example, the synthesis gas produced from oil-bearing materials can be used as a fuel (i.e., a substitute for natural gas) in units such as a combustion turbine for producing electricity and/or steam. In addition, the syngas can be used as a feedstock in producing other chemicals, or processed further to produce hydrogen.

Hydrocarbon Feedstocks for Gasification

According to information supplied to EPA suitable hydrocarbon feedstocks for gasification include many of the oil-bearing secondary materials generated at petroleum refineries that are the subject of the proposed exclusions in the November 21, 1995 proposal, including primary and secondary wastewater treatment sludges, and API separator sludges. 60 FR at 57747. Petroleum coke itself (both on-spec and off-spec) can be used as a gasification feedstock. The continued extraction and recovery of hydrocarbon values from these oil-bearing hazardous secondary materials within the petroleum industry is the basis for these proposed exclusions. 60 FR at 57754. It is from this perspective that the Agency is interested in information that would help determine whether or not to extend the exclusion for oil-bearing hazardous secondary materials that are inserted into petroleum refineries, to the same materials when they are inserted into gasification units. The Agency would consider the same conditions on the exclusion as was proposed for materials inserted into petroleum refineries, such as the limitation on the source of the oil-bearing materials, the condition barring land placement or speculative accumulation, and the regulation of residuals generated during the processing of oil-bearing hazardous secondary materials (if the residuals are to be disposed).[1]

Information in the Docket

Information placed in the docket for this Notice was submitted to the Agency primarily from members of the Gasification Technologies Council, both before and after the proposed rulemaking on April 19, 1996 and November 20, 1995. This information includes descriptions of the gasification process, suitable feedstocks for gasification, a description of gasification activities worldwide, and environmental and economic benefits of gasification. Also included are (1) public comments submitted by the gasification industry to EPA during the related comparative fuels rulemaking mentioned above; (2) EPA's letter of May 28, 1995 to Mr. William Spratlin of EPA Region VII describing the present regulatory status of a particular gasification operation operated by Texaco; (3) public comments of Strategic Environmental Analysis, Inc. in this proceeding, maintaining that the gasification process is an environmentally superior means of recovering hydrocarbon values from petroleum industry secondary materials. EPA will evaluate any new comments on whether this additional information supports inclusion of gasification units, along with petroleum refining units, as places where certain oil-bearing hazardous secondary materials can be recycled and still be excluded under the proposed rule.

Dated: June 4, 1998.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 98–18731 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

[1] See example of letter to interested parties requesting comment on the issue of residuals dated October 1, 1997 from David Bussard to Kyle Isakower, American Petroleum Institute; see also comment in response from Amoco Petroleum Products, Comment #PRA–L0011.

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 28

[CGD 88–079]

RIN 2115–AD12

Implementation of the Commercial Fishing-Industry Vessel Regulations

AGENCY: Coast Guard, DOT.

ACTION: Notice of termination of proposed rule.

SUMMARY: This rulemaking project was initiated to address all applicable provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. The Coast Guard addressed all these provisions with the exception of two, immersion suits and vessel stability. Because these issues were controversial, the Coast Guard delayed developing regulations covering them so that other provisions of the Act could proceed. Since that time, new issues pertaining to commercial fishing vessel safety have been identified. The Coast Guard believes it to be in the fishing industry's best interest to develop only one set of regulations to include immersion suits, vessel stability, and all newly identified commercial fishing industry issues. The Coast Guard intends to terminate this docket [89–079], and create a new docket to resolve the remaining issues.

DATES: This notice is effective July 15, 1998.

ADDRESSES: You may mail comments to the Docket Management facility, [USCG 89–079], U.S. Department of Transportation, room PL–401, 400 Seventh Street SW., Washington, DC 20590–0001, or deliver them to room PL–401, located on the Plaza Level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–366–9329.

The Docket Management Facility maintains the public docket for this request for information. Comments, and documents as indicated in this preamble, are part of this docket and will be available for inspection or copying at room PL–401, located on the Plaza level of the Nassif Building at the same address, between 10 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also access this docket on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: For information on the public docket, call Carol Kelley, Coast Guard Dockets

Team Leader, or Paulette Twine, Chief, Documentary Services Division, U.S. Department of Transportation, telephone 202–366–9329. For information concerning the notice of termination, contact Lieutenant Commander Randy Clark, Office of Operating and Environmental Standards (G–MSO), telephone 202–267–0836.

SUPPLEMENTARY INFORMATION:

Commercial Fishing Industry Vessel Safety Act of 1988

On September 9, 1988, chapter 45 (Uninspected Commercial Fishing Industry Vessels, sections 4501 through 4508) of title 46 United States Code, was amended by the Commercial Fishing Industry Vessel Safety Act of 1988, Pub. L. 100–424 (the Act). The Act requires the Secretary of Transportation to prescribe regulations for safety equipment and vessel operating procedures on commercial fishing industry vessels. The Secretary delegated this authority to regulate commercial fishing vessels to the Commandant of the Coast Guard.

Rulemakings Developed Under the Act

Under the Act, several rulemakings emerged. On 14 August 1991, a final rule entitled, ''Commercial Fishing Industry Vessel Regulations'' was published in the **Federal Register** (56 FR 40364). The regulations are for U.S. documented or state numbered uninspected fishing, fish processing, and fish tender vessels. The provisions established requirements for navigation; radio; firefighting and lifesaving equipment; fuel, ventilation, and electrical systems; as well as the original requirements for immersion suits.

On 3 August 1992, the Coast Guard published an interim final rule in the **Federal Register** (57 FR 34188). As a result of the public comments, the rule removed the requirements for vessels to carry immersion suits for each individual on board both undocumented commercial fishing industry vessels operating on coastal waters that are only seasonably cold and documented commercial fishing industry vessels operating inside the Boundary Line on coastal waters that are only seasonably cold.

On 20 May 1993, the Coast Guard published a notice of proposed rulemaking entitled, ''Immersion Suits for Documented and Undocumented Commercial Fishing Industry Vessels Operating on Coastal Waters that are Seasonably Warm'' in the **Federal Register** (58 FR 29502). This rulemaking proposed the reinstatement of the original requirements published in the final rule on 3 August 1992. The proposed action was a result of consultation between the Coast Guard and the Commercial Fishing Industry Vessel Advisory Committee.

Throughout the notice and comment process for all of the rulemakings, significant controversy was identified concerning the provisions affecting immersion suits and vessel stability. Because of this controversy, the Coast Guard recognized that regulatory action would not occur in a timely fashion. Consequently, requirements covering immersion suits and vessels stability were held in abeyance so that other provision of the Act could proceed.

On 24 October 1995, the Coast Guard published a final rule in the **Federal Register** (60 FR 54441) to address the requirements of the Aleutian Trade Act [Pub. L. 101–595].

On 4 September 1997, the Coast Guard published a final rule entitled, ''Commercial Fishing Industry Vessel Regulations'' in the **Federal Register** (62 FR 46672). This rule established requirements for safety equipment and vessel operating procedures on commercial fishing industry vessels to improve their overall safety.

Since that time, other issues pertaining to commercial fishing vessel safety have been identified. The Coast Guard has determined that it can most effectively develop regulations for immersion suits, vessel stability, and other newly identified issues by initiating a new rulemaking under a new docket number.

Dated: May 18, 1998.

R.C. North,

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

[FR Doc. 98–18819 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[GC Docket No. 98–73; FCC 98–98]

Permit-But-Disclose Proceedings

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to amend its regulations concerning ex parte presentations as applied to Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board. In such proceedings, the Commission proposes to require disclosure of presentations by state commissions, their members, and their staffs to Joint Boards and the FCC only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The intended effect of this proposal is to facilitate communications by the states in Joint Board proceedings.

DATES: Comments must be filed on or before August 14, 1998; reply comments must be filed on or before August 31, 1998.

ADDRESSES: Federal Communications Commission, Room 610, 1919 M Street NW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: David S. Senzel, Office of General Counsel (202) 418–1720.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Notice of Proposed Rulemaking (NPRM), GC Docket No. 98–73, adopted on June 26, 1998, and released June 30, 1998. The full text of the NPRM is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street NW., Washington, DC. The complete text may also be purchased from the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, Washington, DC 20036, telephone (202) 857–3800.

Summary of Further Notice of Proposed Rule Making

1. The provisions of the Communications Act recognize the strong public interest in the cooperation of the FCC and the states in deciding questions relating to common carriers. Section 410(c) of the Act, 47 U.S.C. 410(c), requires the establishment of Federal-State Joint Boards with respect to any matter concerning jurisdictional separations of common carrier property, and, with the exception of adjudications designated for hearing, allows the Commission to refer to a Joint Board any other matter relating to common carrier communications of joint federal-state concern. *See also* 47 U.S.C. 410(a). Joint Boards are empowered to issue recommended decisions for review and action by the Commission. They have played a key role in deciding crucial public policy issues regarding common carriers.

2. Joint Boards are subject to the Commission's ex parte rules (47 CFR 1.1200 *et seq.*), which are intended to ensure fairness in Commission proceedings. *See generally, Report and Order in GC Docket No. 95–21,* 62 FR 15852 (April 3, 1997), 12 FCC Rcd 7348 (1997), *pet. recon. pending.* Under these rules, Joint Board proceedings and

proceedings before the Commission involving a recommendation from a Joint Board are classified as ''permit-but-disclose.'' 47 CFR 1.1206(a)(8). Ex parte presentations to decisionmakers are permissible but must be disclosed on the record in accordance with the procedures set forth in the rules. 47 CFR 1.1206(a). Accordingly, all persons, including the states, must file copies of written ex parte presentations [1] to Joint Boards or the Commission for inclusion in the record and must file memoranda of new arguments or data contained in oral ex parte presentations.[2]

3. The Commission believes that the public interest served by this joint federal-state decisionmaking would be further enhanced by allowing appropriate persons from individual states somewhat more freedom to communicate informally with the Joint Board and the Commission. Specifically, as with Congress and the Executive Branch, the Commission proposes that presentations from state commissions, their members, and their staffs in Joint Board proceedings only be required to be disclosed if they are of substantial significance and clearly intended to affect the ultimate decision. This will allow the states a greater opportunity, for example, to discuss issues informally with the Commission and state Joint Board members and staff and thus will lead to a deeper, more vigorous level of federal-state cooperation. These states may also elect to participate in the process by filing formal comments, but the proceedings involved are policy-oriented rulemakings, rather than the kind of adjudicatory proceedings in which the significance of party status would be more pronounced.

4. The Commission therefore invites the states and other interested persons to comment on the following question: should the ex parte rules for Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board be modified to provide that those presentations made by states to Joint Boards or the Commission (or their respective staffs) must be disclosed only if they are of substantial significance and clearly intended to affect the ultimate decision?

[1] 47 CFR 1.1206(b)(1). Written ex parte presentations are written communications directed to the merits or outcome of a proceeding that are not served on all parties to the proceeding. 47 CFR 1.1202(b)(1).

[2] 47 CFR 1.1206(b)(2). Oral ex parte presentations are oral communications directed to the merits or outcome of a proceeding that are made without giving advance notice to the parties and an opportunity for them to be present. 47 CFR 1.1202(b)(2).

Initial Regulatory Flexibility Certification

5. Section 603 of the Regulatory Flexibility Act, as amended, requires a final regulatory flexibility analysis in a notice and comment rulemaking proceeding unless we certify that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). We believe that the rule we propose today will not have a significant economic impact on a substantial number of small entities.

6. As noted above, our purpose in proposing to modify the ex parte rules is to facilitate the participation of states in Joint Board proceedings and proceedings before the Commission involving a recommendation from a Joint Board. The proposed rule does not impose any additional compliance burden on persons dealing with the Commission, including small entities. The new rule would reduce the reporting requirements applicable to the states under the current rules and would not otherwise affect the rights of persons participating in Commission proceedings. There is no reason to believe that operation of the new rule would impose any costs on parties to Commission proceedings.

7. Accordingly, we certify, pursuant to section 605(b) of the Regulatory Flexibility Act, as amended by the Contract with America Advancement Act of 1996 (CWAAA), Pub. L. 104–121, 110 Stat. 847 (1996), that the rules will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). The Commission shall send a copy of this Notice of Proposed rulemaking, including this certification, to the Chief Counsel for Advocacy of the SBA. 5 U.S.C. 605(b).

List of Subjects in 47 CFR Part 1

Administrative practice and procedure, Radio, Telecommunications, Television.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

Part 1 of Title 47 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154, 303, and 309(j) unless otherwise noted.

2. Section 1.1206 is amended by revising paragraph (a)(8) and paragraph (b)(3) to read as follows:

§ 1.1206 Permit-but-disclose proceedings.

(a) * * *

(8) A proceeding before a Joint Board, a proceeding before the Commission involving a recommendation from a Joint Board or a proceeding before the Commission involving further actions that may be required in any such proceeding;

(b) * * *

(3) Notwithstanding paragraphs (b)(1) and (b)(2) of this section, in permit-but-disclose proceedings presentations made by members of Congress or their staffs or by an agency or branch of the Federal Government or its staff shall be treated as ex parte presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. In proceedings before a Joint Board, proceedings before the Commission involving a recommendation from a Joint Board or proceedings before the Commission involving further actions that may be required in any such proceeding, presentations from a state commission, one or more of its members or its staff regarding the proceeding shall be treated as ex parte presentations only if the presentations are of substantial significance and clearly intended to affect the ultimate decision. The Commission staff shall prepare a written summary of such oral presentations covered by this subparagraph and place them in the record in accordance with paragraph (b)(2) of this section and place such written presentations covered by this subparagraph in the record in accordance with paragraph (b)(1) of this section.

* * * * *

[FR Doc. 98–18837 Filed 7–14–98; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 14

Importation, Exportation, and Transportation of Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent.

SUMMARY: This document announces the U.S. Fish and Wildlife Service's (Service) intent to review aspects of the wildlife importation and exportation

regulations pertaining to domesticated species, certain captive-bred and captive-born species. In addition, the Service intends to review the current user fee structure. The Service intends for this review to lead to proposed changes in the wildlife importation and exportation regulations that would ease the burden on importers and exporters dealing in wildlife that involves no conservation risk, and allow the Service to focus its resources on areas of greater concern. This review will assess whether proposed changes in the current method of assessing user fees are warranted. Any proposed changes in the regulation of domesticated species and certain captive bred or captive-born species, will be addressed in a separate rule from any possible proposed changes to the user fee structure.

DATES: Comments and other information received on or before September 14, 1998, will be considered by the Service in developing proposed amendments to 50 CFR part 14.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Director, U.S. Fish and Wildlife Service, P.O. Box 3247, Arlington, Virginia 22203–3247. Comments and materials may be hand-delivered to the U.S. Fish and Wildlife Service, Office of Law Enforcement, 4401 N. Fairfax Drive, Room 500, Arlington, Virginia, between the hours of 8 a.m. and 4 p.m. Monday through Friday. Comments may also be submitted via electronic mail (E-mail) to: r9le__www@fws.gov.

FOR FURTHER INFORMATION CONTACT: Kevin R. Adams, Chief, Office of Law Enforcement, U.S. Fish and Wildlife Service, (703) 358–1949.

SUPPLEMENTARY INFORMATION:

Background

On June 21, 1996, the Service published a final rule (61 FR 31868) that defined ''domesticated species'' to include a list of certain species that would be exempt from the requirements of 50 CFR part 14, subpart B. The Service has experienced difficulty determining which species qualify as domesticated under the current definition in 50 CFR 14.4. In addition, the Service has received continual requests for additions to the list. The Service is considering creating a new definition for ''domesticated species'' and reviewing the list to determine whether species should be added or deleted, or whether the list should be clarified or eliminated.

The Service is interested in reviewing its role in the regulation of international trade of captive-bred and captive-born wildlife parts and products where it can be determined that no conservation risk exists. Many species are regularly bred or born in captivity for international trade such as the Ostrich (*Struthio camelus*) and American Bison (*Bison bison bison*), but are not considered to be domesticated animals and thus are subject to all wildlife import and export regulatory requirements. The Service intends to review those species that are routinely bred or born in captivity, where the commodities in international trade are primarily produced from captive-bred or captive-born populations in order to determine whether a reduced level of regulatory control and/or user fees is warranted.

Finally, in the June 21, 1996 (61 FR 31868) final rule amendments to 50 CFR part 14, the Service also enacted new user fee requirements. All commercial importers and exporters of wildlife are required to be licensed and pay appropriate user fees for each shipment. Since the implementation of the new user fees, the Service has received numerous complaints from small businesses about the increased burden on their operation. Although the Service does not intend to change the license requirement for commercial importers and exporters, the Service is interested in reviewing the user fees charged for each shipment. The Service is exploring different user fee structures including a tiered system that would assess user fees based on various factors including quantity and value. The Service is interested in receiving comments on the current user fees including information documenting specific economic, paperwork, or other burdens that have been imposed on small businesses.

List of Subjects in 50 CFR Part 14

Animal welfare, Exports, Fish, Imports, Labeling, Reporting and recordkeeping requirements, Transportation, Wildlife.

Dated: June 23, 1998.

Donald J. Barry,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 98–18756 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 070198A]

Western Pacific Fishery Management Council; Public Meeting

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

ACTION: Public meeting; availability of documents.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold its 97th meeting in Kailua Kona, Hawaii. The Council will consider, among other things, action on new framework measures for the American Samoa pelagic and NWHI lobster fisheries. Documents for an American Samoa pelagics closure and a Northwestern Hawaiian Islands (NWHI) lobster fishery harvest limitation program are available for comment.

DATES: The Council meeting will be held on July 27–29, 1998. Comments on the documents describing new framework measures for the American Samoa pelagic and NWHI lobster fisheries should be received in the Council office no later than July 27, 1998.

ADDRESSES: The Council's 97th meeting will be held at the King Kamehameha Hotel, Kailua Kona, Hawaii; telephone: 808–329–2911. Copies of the meeting agenda and documents describing new framework measures for the American Samoa pelagic and NWHI lobster fisheries are available from the Western Pacific Fishery Management Council, 1164 Bishop St., Suite 1400, Honolulu, HI 96813.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone 808–522–8220.

SUPPLEMENTARY INFORMATION:

Times and Dates

The Council's Standing Committees will meet on July 27, as follows: Enforcement from 7:30 a.m. to 9:00 a.m., Crustaceans from 8:00 a.m. to 10:00 a.m., VMS from 9:00 a.m. to 10:30 a.m., Pelagics and Bottomfish (concurrent) from 10:30 a.m. to 12:30 p.m., Indigenous Fishing Rights and Ecosystem & Habitat (concurrent) from 1:30 p.m. to 3:00 p.m., and Precious Corals and Executive/Budget & Programing (concurrent) from 3:00 p.m. to 5:00 p.m. The full Council will meet

on July 28 and 29, 1998, from 8:30 a.m. to 5:00 p.m., each day.

Agenda

The Council is one of eight regional fishery management councils authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The full Council will meet to address the agenda items below. The order in which agenda items will be addressed may change. The Council will meet as late as necessary to complete its scheduled business.

Although other issues not contained in this agenda may come before the Council for discussion, in accordance with the Magnuson-Stevens Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice.

8:30 a.m. Tuesday, 28 July 1998

A. Call to order, opening remarks, introductions;
1. Approval of agenda and 95th and 96th Council Minutes;
B. Reports from the Islands: American Samoa, Guam, Hawaii, and Commonwealth of the Northern Mariana Islands (CNMI);
C. Enforcement;
1. Reports from the U.S. Coast Guard, National Marine Fisheries Service Office of Enforcement, and NOAA General Counsel Southwest Region;
2. Cooperative agreement for Guam and CNMI;
3. Standing Committee recommendations;
4. Public comment;
D. Vessel Monitoring System (VMS);
1. Report on NMFS Industry Advisory Panel and National VMS Policy;
2. Report on the Hawaii VMS program;
3. Standing Committee recommendations;
E. Pelagics;
1. Second quarter report for longline fisheries in Hawaii and American Samoa in 1998;
2. Final action on an area closure framework measure for the American Samoa pelagic fishery (see summary of document E.2);
3. Reports on the 3rd Multilateral High-level Conference;
4. Protected species interactions: Albatross and turtles;
5. Issues concerning shark finning in the Western Pacific Region;
6. Report on universal minimum size limit for swordfish in the United States;
7. Pelagic longline and charter interactions in Hawaii;
8. Report on Secretariat of the Pacific Community meetings;
9. Scientific and Statistical Committee (SSC) and Standing Committee recommendations;
10. Public comment/hearing;
F. Crustaceans;
1. Annual allocation of bank-specific harvest guidelines including 1998 bank-specific guidelines and discussion of a framework regulatory measure governing future bank-specific guidelines (see summary of document F.1);
2. SSC, and Standing Committee recommendations;
3. Public comment/hearing;

8:30 a.m. Wednesday, 29 July 1998

G. Reports from Fishery Agencies and Organizations, including: Department of Commerce National Marine Fisheries Service Southwest Region, Southwest Fisheries Science Center, and NOAA General Counsel; and Department of the Interior Fish and Wildlife Service;
H. Precious corals;
1. Consistency between state and Federal regulations;
2. Plan Team, SSC and Standing Committee recommendations;
3. Public comments;
I. Bottomfish;
1. The 1997 annual report for American Samoa, Guam, Hawaii and CNMI, including recommendations;
2. Management of Main Hawaiian Islands onaga, ehu, and hapupuu including: Status of genetic research on stock range and related studies, NMFS research activities (Hawaii, Guam, and CNMI), and implementation of Department of Land and Natural Resources' (DLNR) management plan and Federal management alternatives;
3. Final Council action on amendment to establish a Mau Zone limited access program. Copy of the draft amendment is available for comment from the Council office (see **ADDRESSES**);
4. SSC and Standing Committee recommendations;
5. Public hearing;
J. Native rights and indigenous fishing issues;
1. Review of marine conservation plans from American Samoa, Guam, and CNMI;
2. Status of the CNMI turtle conservation workshop;
3. Status of the community development program;
4. Report on NMFS vessel financing program and status of the drift gillnet vessel in Guam;
5. Advisory Panel appointments;
6. Standing Committee recommendations;
7. Public hearing;
K. Ecosystems and habitat;
1. Coral reef ecosystems;
2. Status of EIS on Farallon de Mendinilla, CNMI;
3. Current ecosystem and habitat issues;
4. SSC and Standing Committee recommendations;
5. Public comment;
L. Program planning;
1. Final Council action on the comprehensive Sustainable Fisheries Act (SFA) amendment for all FMPs regarding bycatch, fishing sectors, fishing communities, overfishing and designation of essential fish habitat(EFH) (including potential fishing and non-fishing threats to EFH and conservation and enhancement measures to mitigate impacts to EFH), and environmental impact of SFA provisions. Copy of the draft amendment is available for comment from the Council office (see **ADDRESSES**);
2. Advisory Panel and Plan Team final comments and SSC and Standing Committee recommendations;
3. Report on WPacFIN;
4. Revision of Council milestones;
5. Public comment/hearing;
M. Administrative matters;
1. Administrative reports;
2. Reports on meetings, workshops, and proposed 98th Council Meeting in November 1998, in Honolulu, Hawaii;
3. Standing Committee recommendations;
4. Public comment; and
N. Other business.

Summary of Documents for Public Comment

American Samoa Pelagics Closure Proposal (E.2)

1. The Council will be taking final action on an area closure framework measure for the American Samoa pelagic fishery.

2. Action is being taken under framework procedures for new measures in the Pelagics Fisheries Management Plan.

3. At its May 1998 meeting, the Council agreed to proceed with this management measure, adopted the initial preferred alternative, and asked that this be included on the agenda for the 97th Council meeting in July 1998 for final Council action. The Council also directed Council staff to prepare a detailed document describing the preferred management alternative and the rejected alternatives which would be available for public comment prior to the July Council meeting.

4. Fishermen in American Samoa who are members of the Council's advisory panels have expressed concern about the long-term sustainability of the local small-boat pelagics fishery. In

particular, there is concern that large longline vessels will seek new fishing opportunities in the exclusive economic zone (EEZ) around American Samoa as fisheries in other areas of the U.S. EEZ become increasingly restricted. In the late 1980s, a rapid influx of large vessels in the Hawaii longline fishery, resulted in extensive gear conflicts. In addition, there is concern that the large vessels supplying fish to American Samoa's tuna canneries already fish in the EEZ occasionally. A widely held perception among small-scale trollers and longliners is that these larger vessels intercept fish migrating to local waters and reduce the supply of tuna and other pelagic species available for capture by artisanal and recreational fishermen.

The Council was asked at the 92nd meeting, in April 1997, to assist in forming a fishermen's working group to consider various management options to ensure the long-term sustainability of the small-boat fishery. Various meetings of the working group and other fishermen were convened by the Council and the American Samoa Department of Marine and Wildlife Resources between June and October 1997. The consensus among fishermen was that the most effective management action would be to close an area around the islands of American Samoa to pelagic fishing vessels longer than 50 ft (15.2 m).

At its April 1998 meeting, the Council recommended as its initial preferred alternative a prohibition against all U.S. fishing vessels (e.g. longliners, purse seiners, trollers and pole-and-line bait boats) greater than 50 ft (15.2 m) in length fishing for pelagic management unit species within an area approximately 100 nautical miles from the islands of American Samoa. Those longline vessels larger than 50 ft (15.2 m) that had acquired a permit and had landed a pelagic management unit species in American Samoa prior to November 14, 1997, would still be eligible to fish within the closed area.

5. A document describing the issue, alternative actions, preferred Council action, and anticipated impacts is available for public comment (see **ADDRESSES**).

NWHI Annual Bank-Specific Harvest Guidelines (F.1)

1. The Council will be discussing and may be taking initial action to establish a process for setting annual bank-specific harvest guidelines for the 1999 NWHI lobster season and beyond.

2. Action is being taken under the framework procedure for new measures in the Crustacean Fisheries Management Plan.

3. At its April 1998 meeting, the Council requested the development of options governing the process by which the NMFS Regional Administrator, in consultation with the Council, allocates the annual harvest guideline among banks or areas to prevent overfishing and achieve optimum yield.

4. A background document summarizing this issue, the need for framework management measure, and alternative actions is available for public comment (see **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or 808–522–8226 (fax), at least 5 days prior to the meeting date.

Dated: July 10, 1998.

Gary C. Matlock,

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

[FR Doc. 98–18889 Filed 7–10–98; 4:02 pm]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 63, No. 135
Wednesday, July 15, 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

Office of the Secretary

Approval of Silos and Smokestacks Partnership Management Plan

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the Omnibus Parks and Public Lands Management Act of 1996, the Secretary of Agriculture hereby gives notice of approval of the Partnership Management Plan submitted for establishment of the America's Agricultural Heritage Partnership.

FOR FURTHER INFORMATION CONTACT: Bart Chilton (202–720–4581), Senior Policy Director, Rural Development, U.S. Department of Agriculture, Room 206–W, Jamie L. Whitten Federal Building, 1400 Independence Avenue, S.W., Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: The Omnibus Parks and Public Lands Management Act of 1996 (Pub. L. 104–333) authorized the establishment of the America's Agricultural Heritage Partnership (Partnership) in Iowa upon publication of notice in the **Federal Register** that a Partnership Management Plan has been submitted to and approved by the Secretary of Agriculture. Silos and Smokestacks is a non-profit regional agricultural heritage tourism organization based in Iowa that is creating a network of sites, activities, and events to tell the story of American agriculture, past and present. Silos and Smokestacks has developed and submitted a management plan to the Department of Agriculture (USDA) for the Partnership. Approval of the management plan by the Secretary does not obligate USDA to expend resources. Consistent with USDA's rural development mission and support for agricultural heritage tourism as a viable economic development tool, the Secretary of Agriculture has approved the America's Agricultural Heritage Partnership plan.

Dated: July 8, 1998.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 98–18912 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–07–U

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent to Seek Approval to Collect Information

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub.L. No. 104–13) and Office of Management and Budget (OMB) regulations at 5 CFR Part 1320 (60 FR 44978, August 29, 1995), this notice announces the intent of the Agricultural Research Service (ARS) to request approval for new information collection, the Food and Nutrition Information Center (FNIC) Customer Satisfaction Survey of Food and Nutrition Service Audiences. This information will assist FNIC staff in providing and delivering better services according to the needs of FNIC's targeted audiences.

DATES: Comments on this notice must be received by September 21, 1998 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Shirley King Evans, Ed.M., R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, 301) 504–7374.

SUPPLEMENTARY INFORMATION: *Title*: Food and Nutrition Information Center (FNIC) Customer Satisfaction Survey for Food and Nutrition Service Audiences.

Type of Request: Approval to collect information on customer satisfaction of the Food and Nutrition Service targeted audiences.

Abstract: The Agricultural Research Service, National Agricultural Library, Public Services Division, Food and Nutrition Information Center is interested in conducting a customer satisfaction survey of Food and Nutrition Service audiences; they are personnel working at the state or local levels of the government, including personnel working on the following: State Child Nutrition programs; Child and Adult Care Food Program; Food Distribution Program on Indian Reservations; Special Nutrition Program for Women, Infants, and Children; and the Nutrition Education and Training Program. Changes in delivery and provision of services have been implemented at the National Agricultural Library so it is important to assess needs, particularly since FNIC has special funding to serve those needs. Data will be analyzed to evaluate how well FNIC currently is serving Food and Nutrition Service audiences and what services need to be modified to meet their needs more effectively. FNIC would like to conduct the survey from September through October 1998.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 30 minutes per response.

Respondents: Health professionals and administrators in government agencies.

Estimated Number of Respondents: 600.

Estimated Total Annual Burden on Respondents: 300 hours.

Copies of this information collection and related intructions can be obtained without charge from Shirley King Evans, Ed.M., R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, (301) 504–7374.

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, such as through the use of appropriate automated, electronic, mechanical, other technological collection techniques, or other forms of information technology. Comments may be sent to: Shirley King Evans, Ed.M.,

R.D., Food and Nutrition Information Center, NAL/ARS/USDA, Room 304, 10301 Baltimore Avenue, Beltsville, MD 20705–2351, (301) 504–7374. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Keith W. Russell,

Deputy Director, NAL.

[FR Doc. 98–18728 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–027–1]

International Sanitary and Phytosanitary Standard-Setting Activities

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice and solicitation of comments.

SUMMARY: In accordance with legislation implementing the results of the Uruguay Round of negotiations under the General Agreement on Tariffs and Trade, we are informing the public of international standard-setting activities of the Office International des Epizooties, the Secretariat of the International Plant Protection Convention, and the North American Plant Protection Organization, and we are soliciting public comment on the standards to be considered.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–027–1, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state in your letter that your comments refer to Docket No. 98–027–1, and state the name of the committee or working group to which your comments are addressed. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. John Greifer, Acting Director, Trade Support Team, International Services, APHIS, room 1128, South Building, 14th Street and Independence Avenue SW., Washington, DC, 20250, (202) 720–7677; or e-mail: jgreifer@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: The World Trade Organization (WTO) was established on January 1, 1995, as the common international institutional framework for the conduct of trade relations among its members in matters related to the Uruguay Round Agreements. The WTO is the successor organization to the General Agreement on Tariffs and Trade. U.S. membership in the WTO was approved by Congress when it enacted the Uruguay Round Agreements Act, which was signed into law (Public Law 103–465) by the President on December 8, 1994. The Uruguay Round Agreements Act amended title IV of the Trade Agreements Act of 1979 (19 U.S.C. 2531 *et seq.*) by adding a new subtitle F, ''International Standard-Setting Activities.'' Subtitle F requires the President to designate an agency to be responsible for informing the public of the sanitary and phytosanitary (SPS) standard-setting activities of each international standard-setting organization. The designated agency must inform the public by publishing a notice in the **Federal Register** that provides the following information: (1) The sanitary or phytosanitary standards under consideration or planned for consideration by the international standard-setting organization; and (2) for each sanitary or phytosanitary (SPS) standard specified: a description of the consideration or planned consideration of the standard; whether the United States is participating or plans to participate in the consideration of the standard; the agenda for United States participation, if any; and the agency responsible for representing the United States with respect to the standard.

Subtitle F defines ''international standard'' as a standard, guideline, or recommendation: (1) Adopted by the Codex Alimentarius Commission (Codex) regarding food safety; (2) developed under the auspices of the Office International des Epizooties (OIE) regarding animal health and zoonoses; (3) developed under the auspices of the Secretariat of the International Plant Protection Convention (IPPC) in cooperation with the North American Plant Protection Organization (NAPPO) regarding plant health; or (4) established by or developed under any other international organization agreed to by the member countries of the North American Free Trade Agreement (NAFTA) or by member countries of the WTO.

The President, pursuant to Proclamation No. 6780 of March 23, 1995 (60 FR 15845), designated the United States Department of Agriculture as the agency responsible for informing the public of the SPS standard-setting activities of Codex, OIE, IPPC, and NAPPO. This responsibility was delegated to the United States Department of Agriculture's (USDA's) Food Safety and Inspection Service (FSIS) for Codex activities and Animal and Plant Health Inspection Service (APHIS) for OIE, IPPC, and NAPPO activities.

FSIS is responsible for publishing an annual notice in the **Federal Register** to inform the public of SPS standard-setting activities for Codex. Codex was created in 1962 by two United Nations organizations, the Food and Agriculture Organization (FAO) and the World Health Organization. It is the major international organization for encouraging international trade in food and protecting the health and economic interests of consumers.

APHIS is responsible for publishing notice of OIE, IPPC, and NAPPO activities related to international standards and representing the United States with respect to these standards.

Following are descriptions of OIE, IPPC, and NAPPO scheduled activities for the coming year. In some cases, working groups and committees have not yet set meeting dates and locations or determined specific standards to be discussed. The OIE, IPPC, and NAPPO sanitary and phytosanitary standard-setting activities for the coming year may be modified as emergency situations may affect the agenda of each standard-setting body.

OIE Standard-Setting Activities

The OIE was created in Paris, France, in 1924 with the signing of an international agreement by 28 countries. It is currently composed of 151 member nations, each of which is represented by a delegate, who, in most cases, is the chief veterinary officer of that country.

The WTO has designated the OIE as the international forum for setting animal health standards, reporting global animal situations and disease status, and presenting guidelines and recommendations on sanitary measures.

The OIE facilitates intergovernmental cooperation to prevent the spread of contagious diseases in animals through the sharing of scientific research among its members. The major function of the OIE is to ensure that scientifically justified standards govern international trade in animals and animal products. The OIE aims to achieve this through the development and revision of international standards for diagnostic tests and vaccines for the safe international trade of animals and animal products.

The OIE provides annual reports on the global distribution of animal diseases, recognizes disease-free status of member countries, categorizes animal diseases with respect to their international significance, publishes bulletins on global disease status and timely reviews of pertinent animal health issues, and provides animal disease control guidelines to member countries.

Positions, policies, and standards established by the OIE can be adopted by consensus or by vote of the delegates upon recommendations from various commissions and working groups within the OIE. The following is a list of those commissions and groups. Each listing contains a description of the general purpose of the commission or group, the items on its current agenda, and the dates and locations of its meetings. Also listed are the U.S. agencies represented or serving as contact points on each commission or group. Commission and working group members are drawn from the five OIE regional commissions and are selected based on their expertise; each commission is made up of three to six members. The scientific community of the United States has the honor of being represented on most, but not all, of the commissions.

OIE Commissions and Working Groups

1. *Committee/Working Group:* General Session.

U.S. Participant: Veterinary Services, USDA–APHIS; Alternate—International Services, USDA–APHIS.

General Purpose: Establish, review, and adopt international standards dealing with animal health.

Date of Meeting: May (annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Animal health standards related to trade, including risk assessment standards, global disease control procedures, regionalization, specific disease issues, and quality assurance of veterinary services.

2. *Committee/Working Group:* Regional Commission for the Americas.

U.S. Participant: Veterinary Services, USDA–APHIS.

General Purpose: The Regional Commission for the Americas is one of five OIE Regional Commissions. Regional Commissions nominate candidates for election to the expert commissions and working groups, discuss regional animal health issues, and propose topics of regional concern as agenda items or for scientific review at upcoming meetings of the OIE General Session.

Date of Meeting: May (annually) and March or April (every 2 years).

Location of Meeting: Variable.

Major Discussion/Agenda: Location of regional office for the Americas, animal health disease control issues of regional concern.

3. *Committee/Working Group:* Standards Commission.

U.S. Participant: Veterinary Services, USDA–APHIS.

General Purpose: The Standards Commission recommends new standards and changes in existing international standards for diagnostic tests and vaccines. These changes, when approved by the General Session, are published in the *OIE Manual of Standards for Diagnostic Tests and Vaccines.*

Dates of Meetings: February and September (twice annually).

Location of Meetings: Paris, France.

Major Discussion/Agenda: Review and recommend revisions to international diagnostic test standards published in the *OIE Manual of Standards for Diagnostic Tests and Vaccines*; review OIE reference laboratories, OIE reference sera, and laboratory quality assurance, and make recommendations to the OIE International Animal Health Code Commission; discuss the most appropriate diagnostic procedures for specific animal and poultry diseases.

4. *Committee/Working Group:* International Animal Health Code Commission.

U.S. Participant: International Services, USDA–APHIS.

General Purpose: The International Animal Health Code Commission develops and updates disease-specific international standards regarding the movement of animals and animal products and generic standards for animal transport, regionalization and risk assessment procedures, surveillance and monitoring guidelines, and evaluation of animal health infrastructures. The Director General appoints ad-hoc groups of experts to assist the Commission in the drafting and review of disease standards. When adopted by the General Session, these standards are published in the *OIE International Animal Health Code*, the WTO-recognized manual of standards for international movement of animals and animal products.

Date of Meeting: January and September (twice annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: The International Animal Health Code Commission reviews and updates the Code. Proposed changes are circulated twice yearly to member countries for comments, and are then submitted for adoption at the General Session.

5. *Committee/Working Group:* Foot and Mouth Disease (FMD) and Other Epizootics Commission.

U.S. Participant: None.

General Purpose: The FMD and Other Epizootics Commission monitors the world status of FMD and other major animal diseases and prepares epidemiological recommendations for adoption by the General Assembly.

Date of Meeting: January and September (twice annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the Commission: International standards for FMD serological testing, protocols for endorsement of FMD-free areas, standards for epidemiological surveillance for contagious bovine pleuropneumonia, surveillance and monitoring standards for bovine spongiform encephalopathy (BSE), and criteria for recognition of BSE-free status.

6. *Committee/Working Group:* Fish Diseases Commission.

U.S. Participant: U.S. Fish and Wildlife Service, Department of Interior.

General Purpose: The Fish Diseases Commission drafted an *Aquatic Animal Health Code* and a *Diagnostic Manual for Aquatic Animal Diseases* that contain international standards for fish diseases. These manuals have been approved by the General Session.

Date of Meeting: September (annually).

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current activities of the Fish Diseases Commission: Continual updating of the OIE fish disease manuals, preparation of the annual OIE report on the worldwide status of fish diseases, and planning and hosting international conferences on current topics in aquatic animal health.

7. *Committee/Working Group:* Ad Hoc Working Group on Biotechnology.

U.S. Participant: Animal Disease Research Unit, Agricultural Research Service, USDA.

General Purpose: The Ad Hoc Working Group on Biotechnology reviews the biotechnological aspects of each chapter of the *OIE Manual for Diagnostic Tests and Vaccines* and prepares an annual report and recommendations dealing with biotechnology for consideration by the General Session. The Working Group has also developed an international database on sources of biotechnologically engineered vaccines and diagnostic reagents.

Date of Meeting: The working group meets when called by the Director General.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the working group: Ongoing reviews of diagnostic test kits, applications of genetic engineering to animal health, veterinary products developed using biotechnology, and possible uses of new biotechnological techniques in veterinary medicine.

8. *Committee/Working Group:* Working Group on Veterinary Drug Registration.

U.S. Participant: Center for Veterinary Medicine, Food and Drug Administration, in cooperation with USDA–APHIS.

General Purpose: Prepares recommendations for the General Session.

Date of Meeting: Every 2 years.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Current issues facing the working group: Developing training programs for veterinary drug registration officials of OIE member countries and assisting an OIE ad hoc group in developing draft international guidelines for veterinary drug registration.

9. *Committee/Working Group:* Working Group on Informatics and Epidemiology.

U.S. Participant: USDA–APHIS is a consultant to the working group.

General Purpose: The Working Group on Informatics and Epidemiology develops programs to increase the efficiency of OIE communications and to assist animal health officials of member countries to more effectively utilize contemporary communications technology. One project of the working group is HandiStatus, an information network on animal diseases of international importance.

Date of Meeting: The working group meets when called by the Director General.

Location of Meeting: Paris, France.

Major Discussion/Agenda: The working group is currently developing a Windows version of HandiStatus and designing and developing the OIE web page.

10. *Committee/Working Group:* Working Group on Wildlife Diseases.

U.S. Participant: Southeastern Cooperative Wildlife Disease Study, College of Veterinary Medicine, University of Georgia.

General Purpose: The working group addresses the relationship between diseases of wildlife and those of domestic animals and poultry.

Date of Meeting: The working group meets when called by the Director General, usually annually in the summer or fall.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Some issues currently facing the working group are: development of reporting methods for wildlife diseases (particularly those naturally transmissible between domesticated and wild species); facilitating worldwide wildlife disease surveillance and the applicability of routine diagnostic tests to wildlife species; and problems related to propagation of wildlife species in captivity and the disease hazards associated with their release from zoos or game farms.

11. *Committee/Working Group:* Ad Hoc Group on Transmissible Spongiform Encephalopathies (TSEs): Coordination of Research and Epidemiological Studies

U.S. Participant: Veterinary Services, USDA–APHIS (periodically, depending upon expertise required at each specific meeting).

General Purpose: The group reports its findings and research recommendations on TSEs and BSE to the Code Commission.

Date of Meeting: At the request of the Director General.

Location of Meeting: Paris, France.

Major Discussion/Agenda: Updating information on TSEs.

For further information on any of the OIE standards, publications, or commissions or working groups, contact Dr. Robert F. Kahrs, Trade Policy Liaison, National Center for Import and Export, VS, APHIS, 4700 River Road Unit 38, Riverdale, MD 20737–1231; (301) 734–6194; or e-mail: rfkahrs@aphis.usda.gov.

IPPC Standard-Setting Activities

The IPPC is an international treaty, first ratified in 1952, aimed at promoting international cooperation to control and prevent the spread of harmful plant pests associated with the movement of people and commodities.

The Convention has been, and continues to be, administered at the national level by plant quarantine officials whose primary objective is to safeguard plant resources from injurious pests. Under the IPPC, the understanding of plant protection has been, and continues to be, broad, encompassing the protection of both cultivated and noncultivated plants from direct or indirect injury by plant pests.

In last year's notice, we explained that the IPPC was undergoing revision as a result of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures (WTO SPS Agreement). Signatory countries agreed on the need to revise the Convention to reflect significant changes in international trade and plant quarantine since the last revision of the IPPC. New revised text was adopted by the FAO Conference in November 1997.

One of the primary objectives of the revision process was to ensure that the IPPC was able to develop international standards, guidelines, and recommendations as envisioned in the SPS Agreement. The standards, guidelines, and recommendations developed by the IPPC are important within the framework of the SPS Agreement for two reasons. First, a WTO member is required to base its phytosanitary measures on international standards, guidelines, and recommendations where they exist, or justify a measure that achieves a higher level of protection. Second, a standard, guideline, or recommendation developed by the IPPC serves as a ''safe haven'' standard, i.e., a national phytosanitary measure that conforms to an IPPC standard will be presumed to be consistent with the requirements set forth in the WTO SPS Agreement and in the General Agreement on Tariffs and Trade.

Member countries agreed that in order for the IPPC to fulfill its role as a standard-setting body, the IPPC would have to strengthen its capability to develop phytosanitary standards. Although the IPPC began developing and adopting standards following the establishment of the Secretariat in 1993, it had not formalized the institutional capability for producing phytosanitary standards in the Convention. The revision of the IPPC began with the primary intent to (1) Institutionalize a standard-setting capability within the IPPC and (2) ensure consistency between the IPPC and the WTO SPS Agreement by incorporating and clarifying within the IPPC a number of phytosanitary concepts contained in the WTO SPS Agreement. The revised IPPC established the Commission on Phytosanitary Measures as the body responsible for carrying out the objectives of the revised IPPC. However, the revised IPPC will not be in force until two-thirds of the member countries accept the revisions. Until this happens, FAO has approved the meeting of an Interim Commission on Phytosanitary Measures, which will serve in the role designed for the Commission in the revised IPPC, but actions will not receive official recognition without FAO council action.

The revised IPPC also formalized the role of the IPPC Secretariat, which is responsible for implementing the policies and activities of the Commission on Phytosanitary Measures. The Secretariat is appointed by the

Director General of FAO and is responsible for the dissemination of information to IPPC member countries regarding (1) Proposed and approved standards; (2) lists of regulated pests; (3) phytosanitary requirements, restrictions, and prohibitions; and (4) translations of all standards and meeting documentation into the official languages of FAO.

The Commission on Phytosanitary Measures

The Commission on Phytosanitary Measures actively examines the state of plant protection in the world and proposes and establishes standards that help to eliminate plant pests and control their spread. The Commission is composed of technically competent officials from member countries who are ultimately responsible for implementing IPPC standards and policies in their countries. The Commission provides member countries with a forum in which to propose international standards and discuss and exchange information on phytosanitary measures, standards, and other issues of concern.

IPPC standards are proposed in a number of ways. The IPPC Secretariat may initiate development of a draft standard by forming a working group to develop a standard deemed a priority by IPPC members. Draft standards or discussion papers may also be submitted to the Secretariat for IPPC consideration by regional or national plant protection organizations or other interested parties. The IPPC Secretariat refers draft standards to the Committee of Experts on Phytosanitary Measures (CEPM), which considers the drafts and recommends action. Drafts approved by the CEPM are then submitted to member countries for consultation and comment (country consultation). Comments made during country consultation are then considered by the Secretariat, which revises the standard before resubmitting it to the CEPM.

If the CEPM approves the revised draft, it is submitted to the Commission on Phytosanitary Measures for adoption.

Each member country is represented on the Commission by a single delegate. Although experts and advisers may accompany the delegate to meetings of the Commission, only the delegate or an authorized alternate may vote on proposed standards or other initiatives. Parties involved in a vote by the Commission are to make every effort to reach agreement on all matters by consensus. Only after all efforts to reach a consensus have been exhausted may a decision on a standard be passed by a vote of two-thirds of delegates present and voting.

Technical experts from the United States have participated directly in working groups and indirectly as reviewers of all IPPC draft standards. In addition, documents and positions developed by APHIS and NAPPO have served as the basis for many of the standards adopted to date.

Scheduled IPPC Meetings

The first meeting of the Interim Commission on Phytosanitary Measures will be held in Rome, November 3–6, 1998.

The 10th Technical Consultation of Regional Plant Protection Organizations will be held in Rome, November 9–10, 1998.

The Regulated Non-quarantine Pest Working Group will convene during the first week of October 1998 (tentative), at a location to be determined.

The next meeting of the Committee of Experts on Phytosanitary Measures (CEPM) is tentatively scheduled for the second week in May, 1999.

Status of International Standards for Phytosanitary Measures

Various formal documents and standards are currently moving through different stages of development, review, and approval. The status of all IPPC formal documents and standards (existing, drafted, and proposed) is listed below.

Existing Standards (subject to revision):

- *The International Plant Protection Convention* (existing, and new revised text), revised November 1997.
- *Principles of Plant Quarantine as Related to International Trade* (reference standard), adopted in 1993.
- *Code of Conduct for the Import and Release of Biological Control Agents,* adopted November 1995.
- *Guidelines for Pest Risk Analysis,* adopted November 1995.
- *Requirements for the Establishment of Pest Free Areas,* adopted November 1995.
- *Glossary of Phytosanitary Terms* (reference standard), revised in September 1995.
- *Guidelines for Surveillance.*
- *Export Certification System.*

Proposed standards to be submitted to the Commission for final approval in November 1998:

- Determination of pest status.
- Guidelines for pest eradication programs. Draft standards undergoing country consultation prior to meeting of regional plant protection organizations in November 1998:
- Requirements for the establishment of pest-free places of production.
- Inspection methodology.
- Pest risk analysis for quarantine pests. Draft standards to be reviewed by the Council of Experts on Phytosanitary Measures in May 1999:
- Guidelines for an import regulatory system.
- Guidelines for phytosanitary certificates.
- Guidelines for surveillance for specific pests: Citrus canker.

Existing standards being updated for alignment with the revised IPPC (1997):

- *Principles of Plant Quarantine as Related to International Trade* (first draft prepared by the Secretariat).
- *Guidelines for Pest Risk Analysis* (first draft prepared by the Secretariat).

Standards under development by the IPPC. The following standards will be prioritized at the November 1998 meeting:

- Guidelines for the preparation of regulated pest lists (no draft or discussion paper).
- Technical justification for regulating nonquarantine pests (draft discussion paper by the IPPC Secretariat; working group for fall 1998).
- Guidelines for notification—interceptions and noncompliance (no draft or discussion paper).
- Systems approaches for risk management (discussion paper in preparation).
- Low pest prevalence (no draft or discussion paper).
- Quarantine nomenclature for plants and plant products (no draft or discussion paper).
- Dispute settlement (draft in preparation).
- Procedures for the preparation of a standard (pending discussion by the Commission).
- Pest-specific monitoring and testing requirements (no draft or discussion paper).
- Training and accreditation of inspectors (no draft or discussion paper).
- Pest control procedures (no draft or discussion paper).
- Procedures for post-entry quarantine (no draft or discussion paper).
- Systems for approving phytosanitary treatments (no draft or discussion paper).
- Guidelines for research requirements for treatment efficacy (no draft or discussion paper).
- Commodity-specific standards (no draft or discussion paper).

Further information on the IPPC standards is available from the FAO web page at: http://www.fao.org/waicent/faoinfo/agricult/agp/agpp/PQ/Default.htm. This page may contain outdated information but is tentatively

scheduled to be updated by July 31, 1998.

Information on U.S. participation in IPPC standard setting, as well as up-to-date information on activities and meetings, is also available by contacting Mr. Alfred Elder, Acting Deputy Administrator, APHIS, USDA, room 302-E, Whitten Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

NAPPO Standard-Setting Activities

NAPPO was created in 1976 to coordinate plant protection activities in Canada, the United States, and Mexico. NAPPO provides a mechanism by which the three countries can exchange information related to plant pest control. NAPPO cooperates with other regional plant protection organizations and the FAO to achieve the objectives of the IPPC.

NAPPO conducts its business through permanent and ad hoc panels and annual meetings of the three member countries. The NAPPO Executive Committee charges individual panels with the responsibility for drawing up proposals for NAPPO positions, policies, and standards. These panels are made up of representatives from each member country who have scientific expertise related to the policy or standard being considered.

Proposals drawn up by the individual panels are then circulated for review to government and industry by Canada, Mexico, and the United States, which may suggest revisions. Once revisions are made, the proposal is then sent to the NAPPO Working Group and the NAPPO Standards Panel for technical reviews, and finally to the Executive Committee for final approval, which is made by consensus.

The following is a summary of panel charges as they relate to the development of standards (see the NAPPO web page for more information, including a list of U.S. participants on the panels, at http://www.nappo.org):

NAPPO Standards Panel

The NAPPO Standards Panel handles or supports development of NAPPO standards and other cross-commodity issues, reviews proposed international standards, and recommends NAPPO positions on proposed international standards. This panel reviews the standards proposed by the other panels before they are sent out for full review, with a focus on modifying such proposed standards where necessary to clarify whether NAPPO or FAO definitions and standards will apply to particular NAPPO activities.

Other current charges to the Standards Panel include:

- Proposing elements for an international standard on regulated nonquarantine pests to submit to the FAO.
- Providing updates to the International Standards for Phytosanitary Measures and NAPPO Standards for the NAPPO Newsletter.

Accreditation Panel

The panel will continue the development of the draft *NAPPO Standard for Laboratory Accreditation* for consideration by the NAPPO Working Group in July 1998 and approval by the Executive Committee in October 1998.

Biological Control Panel

No charges are currently available for this panel.

Biotechnology Panel

The panel will continue working on issues related to transgenic crops in their centers of origin. This includes completion of the report of the workshop on transgenic maize held in Mexico City in October 1997.

Citrus Panel

The panel will develop a draft NAPPO Standard for Phytosanitary Measures establishing requirements for the importation of citrus into a NAPPO member country.

Forestry Panel

The panel will:

- Incorporate comments from the Standards Panel into the draft *NAPPO Dunnage Standard*, circulate the draft for review, and revise it by June 30, 1998, for consideration by the NAPPO Working Group in July 1998. This draft standard is expected to require extensive review, and action may be suspended until each of the three countries has an opportunity for consultation with and input from affected parties.
- Develop a glossary of phytosanitary terms unique to the forestry sector by June 30, 1998, for consideration by the NAPPO Working Group in July 1998 and approval by the Executive Committee in October 1998.

Fruit Fly Panel

The panel will incorporate comments from the Standards Panel, circulate the draft *Surveillance for Fruit Flies Standard* for full review, and revise by June 30, 1998, for consideration by the Working Group in July 1998 and Executive Committee approval in October 1998.

Fruit Tree and Grapevine Nursery Stock Certification Panel

The panel will:

- Incorporate comments from the Standards Panel and circulate the draft *Grapevine Standard* for full review by June 30, 1998, for consideration by the NAPPO Working Group in July 1998. The policy of this draft standard is being carefully reviewed to determine its impact on current industry practice. The review period will be extended as necessary to accommodate further consultation and review.
- Continue work on development of *Citrus*, *Prunus*, and *Malus* standards; draft citrus standard for initial review by Standards Panel in July 1998, and circulate for full review in August 1998.

Grains Panel

The panel will:

- Review the treatment options available for risk management of *Tilletia indica* (Karnal bunt) and recommend treatments for endorsement by NAPPO.
- Identify whether there are phytosanitary or commercial problems associated with weed seeds imported into, or shipped within, North America.
- Develop harmonized procedures to deal with contaminated grain shipments.
- Develop a harmonized regulatory approach to deal with shipments of grain contaminated with *Tilletia* species of ryegrass.

Pest Risk Analysis Panel

The panel will classify areas within North America (as requested by the Grains Panel) according to the relative risk of the introduction (entry and establishment) of *Tilletia indica*.

Potato Panel

The panel will begin work with the European Plant Protection Organization on a global standard for potatoes.

Training Panel

The panel will develop criteria to assess the proficiency of persons to perform tasks described in the *NAPPO Standard for the Accreditation of Individuals to Issue Phytosanitary Certificates* by July 1998.

The current NAPPO meeting schedule is as follows:

NAPPO Annual Meetings

July 19–23, 1998, Halifax, Canada.

October 18–22, 1998, Guanajuato, Mexico.

NAPPO Working Group

July 20–22, 1998, Ottawa, Canada.

October 18, 1998, Halifax, Canada.

NAPPO Executive Committee

August 18, 1998, Grand Rapids, Michigan, United States.

October 19, 1998, Halifax, Canada.

Up-to-date information on NAPPO policies, standard setting activities, U.S. participants, and meeting agendas and dates is available on the NAPPO web page at http://www.nappo.org. Interested individuals may also contact Mr. Alfred Elder, Acting Deputy Administrator, PPQ, APHIS, room 302–E, Whitten Building, 14th Street and Independence Avenue SW., Washington, DC 20250.

Comments on standards being considered or to be considered by any of the OIE, IPPC, or NAPPO committees or working groups listed above may be sent to APHIS as directed under the heading **ADDRESSES**.

Done in Washington, DC, this 9th day of July, 1998.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 98–18839 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Texas Blowdown Changed Condition Analysis, National Forests and Grasslands in Texas, Angelina, Montgomery, Sabine, San Augustine, San Jacinto, and Walker Counties, Texas

AGENCY: Forest Service.

ACTION: Notice.

SUMMARY: This notice is to announce that the U.S. Forest Service will prepare an analysis of storm-damaged areas on the Angelina, Sabine, and Sam Houston National Forests to determine changed conditions due to a catastrophic windstorm. The changed condition analysis will be used to identify proposed actions for site preparation and reforestation on national forest lands extensively damaged by the February 1988 windstorm. Initial plans are for the analysis to consider only areas within Management Area 1—Upland Forest Ecosystems and Management Area 2—Red cockaded Woodpecker (RCW) Emphasis on the three affected National Forests. The analysis will determine the existing conditions of these management areas, the desired future conditions for the areas as directed in the 1996 Land and Resource Management Plan (LRMP) for the National Forests and Grassland in Texas (NFGT), and potential management actions to achieve the desired future conditions.

In addition to the determination of appropriate reforestation needs, the information gathered in this process would be used to analyze the need to amend the forest plan's allocation of Management Area 2 on the Angelina and Sabine National Forests due to changed conditions on these forest caused by the storm damage.

Public involvement will be requested and accepted continually throughout these efforts. Public involvement will also be conducted as part of ''scoping'' following the issuance on the Notice of Intent to prepare an Environmental Impact Statement based on the results of the Changed Condition Analysis.

DATES: The Texas Blowdown Changed Condition Analysis is scheduled to be completed by October 1998.

ADDRESSES: Requests for information, and comments concerning the notice can be sent to: Team Leader, Texas Blowdown Changed Condition Analsysis, National Forests and Grasslands in Texas, 701 North First Street, Lufkin, Texas 75961.

FOR FURTHER INFORMATION CONTACT: Keith Baker, Project Environmental Coordinator. Phone: 409–344–6205 (New Waverly, TX).

SUPPLEMENTARY INFORMATION:

1. Background on the Changed Conditions and Actions Taken to Date

On the afternoon of February 10, 1998, a storm with hurricane-force winds stuck the forests of east Texas. The storm left a path of destruction from near Houston to Toledo Bend Reservoir, a distance of approximately 150 miles. Approximately 103,000 acres of national forest land on the Sabine, Angelina and Sam Houston National Forests were damaged by the windstorm. The LRMP had allocated the majority of the lands affected by the storm to Management Area 1 (upland forest ecosystems) and Management Area 2 (red-cockaded woodpecker emphasis). Other Management Areas (MAs) were also affected, including MA–4 (streamside management zones), MA–8 (special area management), MA–9 (recreation area management), and MA–10 (administrative and special use sites).

The Forest Service categorized the storm damage severity and extent on the three affected national forests as follows:

- extensive damage—loss of greater than 60 percent of the existing trees (11,600 acres),
- moderate damage—loss of 30 to 60 percent of the existing trees (65,400 acres), and
- light damage—loss of 10 to 30 percent of the existing trees (26,000 acres).

The NFGT determined that an emergency response was needed to meet three objectives: (A) reduce the potential for high intensity wildfires spreading into the intermingled private ownerships that include individual homes, subdivisions, and rural communities; (B) minimize further damage to RCW and bald eagle habitat; and (C) reduce the risk of anticipated bark beetle attack to living trees that could kill additional federal and private timber, RCW habitat, and bald eagle habitat. The Forest Service requested approval for alternative arrangements for compliance with the National Environmental Policy Act of 1969 (NEPA) from the Council on Environmental Quality (CEQ) to expedite the removal of the blown down and damaged timber. On March 10, 1998, CEQ approved the Forest Service's request for alternative arrangements and the NFGT undertook actions to remove blown down and damaged trees to meet the three objectives. As part of these alternative arrangements, the Forest Service and CEQ agreed that the actions taken to reforest the damaged areas of the three affected national forests would be analyzed and the effects disclosed in an Environmental Impact Statement.

2. Preparation of the Texas Blowdown Changed Condition Analysis

The objectives of the Changed Condition Analysis are twofold: (1) to provide the basis for reforestation proposals in the storm damaged areas of the NFGT and (2) to analyze the need to adjust land allocations to MA–2 on the Angelina and Sabine National Forests to meet LRMP objectives for red-cockaded woodpecker habitat. The analysis will synthesize a range of information about the affected areas, including inventories of existing vegetation and special features such as heritage sites, threatened, endangered, and sensitive species; potential vegetation as guided by the Ecological Classification System (ECS) developed in conjunction with the Kisatchie National Forest and the Nature Conservancy; and management direction from the 1996 LRMP.

The inventory information will be used to define the existing conditions within the blowdown-affected areas. The ECS information and LRMP direction will provide the basis for the desired future conditions. Comparing the existing conditions to the desired future conditions will identify the management opportunities to meet the objectives of the LRMP.

Once opportunities have been determined, management practices, such as those for site preparation and reforestation or for changes in MA–2 allocations, will be identified and developed into a Proposed Action. The Changed Condition Analysis is scheduled to be completed on or about October 1998.

3. Public Involvement in the analysis Process

The concerns and expectations of National Forest constituents played a significant role in the development of the 1996 LRMP. The February windstorm brought sudden and unexpected changes to the biological and social components of the NFGT, particularly on the Angelina and Sabine National Forests. It is important to involve the public as the Forest Service develops the analysis and determines the opportunities for management actions. Since the analysis will not be a ''decision document'' and will not involve the NEPA process, formal public involvement through scoping will not be done. The NFGT has been regularly informing the public about the progress of the ongoing storm recovery actions through regular information updates. The NFGT will contact the interested public with information about the analysis and offer the opportunity for participation in the analysis process.

4. Issuing the Notice of Intent to Prepare an Environmental Impact Statement

The NFGT will issue a Notice of Intent (NOI) to prepare an Environmental Impact Statement (EIS) after developing proposed actions based on the Changed Condition Analysis. The NOI will include a description of preliminary proposed actions, issues, and alternatives. The public will be asked to comment on these items as part of the scoping process under NEPA. Public comments will be used to further refine the proposed action, issues, and alternatives, and the range of alternatives to be considered in the EIS.

Dated: July 9, 1998.

Ronnie Raum,

Forest Supervisor.

[FR Doc. 98–18823 Filed 7–14–98; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

Submission For OMB Review; Comment Request

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

Agency: Bureau of the Census.

Title: Survey of Income and Program Participation 1996 Panel Wave 9.

Form Number(s): SIPP 16905(L) Director's Letter, CAPI Instrument.

Agency Approval Number: 0607–0813.

Type of Request: Revision of a currently approved collection.

Burden: 117,800 hours.

Number of Respondents: 77,700.

Avg Hours Per Response: Half an hour.

Needs and Uses: The Bureau of the Census conducts the Survey of Income and Program Participation (SIPP) to collect information from a sample of households concerning the distribution of income received directly as money or indirectly as in-kind benefits. SIPP data are used by economic policymakers, the Congress, state and local governments, and Federal agencies that administer social welfare and transfer payment programs such as the Department of Health and Human Services, the Department of Housing and Urban Development, and the Department of Agriculture.

The SIPP is a longitudinal survey, in that households in the panel are interviewed 12 times at 4 month intervals or waves over the life of the panel, making the duration of the panel about 4 years. The next panel of households will be introduced in the year 2000.

The survey is molded around a central core of labor force and income questions, health insurance questions, and questions concerning government program participation that remain fixed throughout the life of a panel. The core questions are asked at Wave 1 and are updated during subsequent interviews. The core is supplemented with additional questions or topical modules designed to answer specific needs.

This request is for clearance of the topical modules to be asked during Wave 9 of the 1996 Panel. The core questions have already been cleared. Topical modules for waves 10 through 12 will be cleared later. The topical modules for Wave 9 are: 1) Assets, Liabilities, and Eligibility, 2) Medical Expenses/Utilization of Health Care Services, and 3) Work Related Expenses and Child Support Paid. Wave 9 interviews will be conducted from December 1998 through March 1999.

Affected Public: Individuals or households.

Frequency: Every 4 months.

Respondent's Obligation: Voluntary.

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

OMB Desk Officer: Nancy Kirkendall, (202) 395–7313.

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

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

Dated: July 9, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18854 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

Showcase Exhibit of U.S. Exports

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Showcase Exhibit of U.S. Exports.

SUMMARY: The International Trade Administration (''ITA'') of the Department of Commerce announces an exhibition of exported U.S. products and services. The exhibition will showcase U.S. exports by displaying successfully exported products and services at ITA headquarters in Washington, D.C., to highlight the benefits of exporting and the impact of exports on the U.S. economy. Companies and trade associations are encouraged to express interest in providing exhibit material. The energy sector will be the next industrial sector to be represented.

DATES: July 15, 1998.

FOR FURTHER INFORMATION CONTACT: *On the energy sector exhibit only, please contact:* Mr. John Rasmussen, Office of Energy, Infrastructure, and Machinery; U.S. Department of Commerce/ITA; Room 4056; Washington, D.C. 20230; Telephone (202) 482–1889; fax (202) 482–0170.

SUPPLEMENTARY INFORMATION:

Background

ITA is showcasing U.S. exports by exhibiting successfully exported products and services at its headquarters in Washington, D.C., to

highlight the benefits of exporting and the impact of exports on the U.S. economy. The exhibit, which represents a series of industries and a variety of companies, is located in the Office of the Under Secretary for International Trade. The exhibit will be rotated approximately every four months. The first sector selected was the motor vehicles and automotive parts industry.

The second sector to be displayed is the energy sector. Companies and trade associations in this sector are encouraged to express interest in showcasing their exports of goods and/or services by contacting ITA through the individual listed above. Displayed items may include illustrations, miniaturized or actual models, or actual products. Examples of appropriate displays would include models or illustrations of drilling platforms or refineries, oil and gas pipeline equipment, geologic instrumentation systems, power plants or electric distribution lines that have been constructed overseas and incorporate substantial U.S. products and/or services.

Selection Process

Items will be selected for exhibition on the basis of the following factors:

(1) Items must be produced in, or representative of services exported from, the United States and have at least a 51% U.S. content, including materials, equipment and labor (in the case of large development projects, the applicant should identify substantial U.S. products or services into the completed project). To highlight the impact of exports on small businesses, items will also be considered that are produced by U.S. companies that do not directly export but rather whose goods or services are incorporated into another company's for export.

(2) The items must relate to the industry selected by ITA and be suitable for exhibition in a limited space.

(3) The company must not be owned or controlled, indirectly or directly, by a foreign government.

(4) Items chosen should reflect diversity of company size, location, demographics, and traditional under-representation in business.

Other conditions: Displayed items will be considered loans to the Department. Companies will be responsible for shipment of the item to and from the Commerce Department, for obtaining appropriate insurance, and for all related costs.

Time Frame for Applications: Expressions of interest from the energy sector should be received by August 17, 1998. Expressions of interest should be sent to the ITA official identified above.

A **Federal Register** notice will be published subsequently to announce the next sector to be highlighted.

Authority:15 U.S.C. 1512.

Dated: July 10, 1998.

David L. Aaron,

Under Secretary for International Trade.

[FR Doc. 98–18853 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Fastener Quality Act—Provisional Listing of Facilities

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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. 104–12 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before September 14, 1998.

ADDRESSES: Direct written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) should be directed to Dr. Subhas G. Malghan, NIST, Building 820, Room 250, Gaithersburg, MD 20899; (301) 975–6101.

SUPPLEMENTARY INFORMATION:

I. Abstract

This submission under the Paperwork Reduction Act represents a request for extension of a currently approved collection by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). NIST requires this information to ensure that manufacturing facilities that are seeking provisional listing do, in fact, meet all requirements of the Fastener Quality Act (FQA) and the implementing regulations while completing their formal registration process. During the provisional listing period, the listed facilities will be able to test and certify that their fasteners meet the stated standards and specifications, and comply with the FQA.

II. Method of Collection

Applicants will submit written information to NIST.

III. Data

OMB Number: 0693–0026.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Businesses and for-profit organizations.

Estimated Number of Respondents: 50.

Estimated Time Per Response: 4.

Estimated Total Annual Burden Hours: 200.

Estimated Total Annual Cost: The estimate of the total annual cost to submit this information for fiscal year 1998 and future years is $500. There are no capital expenditures required.

IV. Requests for 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated July 8, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18814 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Fastener Quality Act—Laboratory Accreditation Body Approval and Registrar Accreditation Body Approval

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, 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. 104–12 (44 U.S.C. 3506 (c)(2)(A)).

DATES: Written comments must be submitted on or before September 14, 1998.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Dr. Subhas G. Malghan, NIST, Building 820, Room 282, Gaithersburg, MD 20899; (301) 975–6101.

SUPPLEMENTARY INFORMATION:

I. Abstract

This submission under the Paperwork Reduction Act represents a request for extension of a currently approved collection by the U.S. Department of Commerce's National Institute of Standards and Technology (NIST). NIST requires this information to evaluate laboratory accreditation bodies that apply for NIST's approval to accredit laboratories under the Fastener Quality Act and to registrar accreditation bodies that apply for NIST's approval to accredit quality system registrars and who in turn will register fastener manufacturing facilities that use quality assurance system of manufacturing fasteners.

II. Method of Collection

Applicants will submit information in written form to NIST.

III. Data

OMB Number 0693–0015.

Form Number NIST 1269.

Type of Review Regular submission.

Affected Public Business and other non-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Response: 12.

Estimated Total Annual Burden Hours: 120.

Estimated Total Annual Cost: The estimate of the total annual cost to submit this information for fiscal year 1998 and future years is $1,500. The cost is borne by the entities submitting the information. No capital expenditures are required.

IV. Requests for 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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, an clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they will also become a matter of public record.

Dated: July 8, 1998.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 98–18815 Filed 7–14–98; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 980429111–8111–01]

RIN 0648–ZA43

Coastal Services Center Coastal Change Analysis Program; Correction

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Federal assistance; correction.

SUMMARY: On June 18, 1998, the Coastal Services Center announced the availability of Federal assistance for fiscal year 1999 in the Coastal Change Analysis Program (63 FR 33352), FR Doc. 98–16268. This document contained incorrect dates for submitting applications and the award target start date.

FOR FURTHER INFORMATION CONTACT: Dr. Dorsey Worthy, (843) 740–1234 or dworth@csc.noaa.gov.

CORRECTION: In the **Federal Register** issue of June 18, 1998, in FR Doc. 98–16268, on page 33352, in the second column, correct the Date to read:

DATES: Completed applications will be accepted through 5:00 pm Eastern Daylight Time on August 31, 1998. Target award date is anticipated to be January 4, 1999.

On page 33354, first column, correct the Selection Schedule paragraph to read:

SELECTION SCHEDULE: The following are the approximate milestones and dates for the selection schedule of the cooperator:

Applications due: August 31, 1998.

Award target start date: January 4, 1999.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 98–18933 Filed 7–13–98; 3:09 am]

BILLING CODE 3510–08–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–80–000]

Boundary Gas, Inc.; Notice of GRI Refund Report

July 9, 1998.

Take notice that on July 6, 1998, Boundary Gas, Inc. (Boundary) tendered for filing a refund report reflecting the flowthrough of the Gas Research Institute (GRI) refund received by Boundary on May 29, 1998.

Boundary states that it has calculated refunds proportionally for its firm customers of non-discounted service based on the GRI surcharges those customers paid during calendar year 1997. Boundary states that it mailed each customer a check for its portion of the refund on or about July 2, 1998.

Boundary also states that copies of this filing were served upon each of Boundary's affected customers and the state commissions of New York, Connecticut, New Jersey, Massachusetts, New Hampshire, and Rhode Island.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 16, 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. Any person wishing to become a party must file a motion to intervene. Copies

of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18791 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–343–000]

Dauphin Island Gathering Partners; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 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 become effective August 1, 1998:

First Revised Sheet No. 217
First Revised Sheet No. 226

DIGP states that the modifications to the listed tariff sheets are proposed to comply with the requirements of Order 587–G, issued by the FERC on April 16, 1998.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18808 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–325–000]

Eastern Shore Natural Gas Company; Notice of Filing

July 9, 1998.

Take notice that on July 1, 1998 Eastern Shore Natural Gas Company (Eastern Shore) tendered a filing to terminate its Account No. 191—Unrecovered Purchased Gas Costs as of October 31, 1997, and to refund/surcharge the balance in such account to its customers as necessary. Eastern Shore states that such termination is the result of Eastern Shore's conversion to a Part 284 open access transportation pipeline and the implementation of its new open access FERC Gas Tariff on November 1, 1997, (*See* 81 FERC ¶ 61,013 (1998)).

Eastern Shore states that Section 38—Transition Cost Recovery Mechanism, of the General Terms and Conditions (''GT & C'') of its FERC Gas Tariff, Second Revised Volume No. 1, effective November 1, 1997, provides for the recovery of costs incurred as a result of implementing, in connection with implementing, or attributable to the requirements of the Commission's Order No. 636, such costs being referred to as ''transition costs''. Eastern Shore states that the Commission identified from specific types of transition costs: (1) Account No. 191 costs; (2) Gas Supply Realignment Costs; (3) Stranded Costs; and (4) certain new facilities. Eastern Shore states that this filing, however, pertains only to the first category described above, Account No. 191 costs.

Eastern Shore further states that Section 38(a) of the CT & C permits Eastern Shore to direct bill a customer, in the case of a positive (debit) Account No. 191 balance, or refund a customer, in the case of a negative (credit) Account No 191 balance, that customer's share of the total unrecovered costs contained in Eastern Shore's Account No. 191. The portion of unrecovered costs that relate to demand shall be allocated on the basis of each particular customer's contract demand quantity under Eastern Shore's former CD–1 or CD–E rate schedule in effect on October 31, 1997, the day prior to the implementation of open access on Eastern Shore's system. The portion of unrecovered costs that relate to commodity shall be allocated on the basis of each particular customer's commodity purchases under Eastern Shore's former CD–1 or CD–E rate schedules for the period November 1, 1996 through October 31, 1997, the twelve immediately preceding the implementation of open access on Eastern Shore's system.

Finally, Eastern Shore states that it intends to distribute refunds or direct bill surcharges on September 1, 1998, and has calculated the appropriate carrying charges through such date.

Eastern Shore states that copies of the filing have been served upon its affected customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.214 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 14, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18803 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–020]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective July 1, 1998:

Seventeenth Revised Sheet No. 30
Ninth Revised Sheet No. 31

El Paso states that the above tariff sheets are being filed to implement four negotiated rate contracts pursuant to the Commission's Statement of Policy on Alternatives to Traditional Cost-of-Service Ratemaking for Natural Gas Pipelines and Regulation of Negotiated Transportation Services of Natural Gas Pipelines issued January 31, 1996 at

Docket Nos. RM95–6–000 and RM–96–7–000.

Any person desiring to be 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. 98–18799 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–310–006]

Garden Banks Gas Pipeline, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Garden Banks Gas Pipeline, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub. Third Revised Sheet No. 136, proposed to be effective June 30, 1998.

GBGP states the purpose of the filing is to correctly state the GIGP standards that were adopted by reference on its filing made June 2, 1998 in Docket No. RP97–310–005.

Any person desiring 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. 98–18784 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP91–143–046]

Great Lakes Gas Transmission Limited Partnership; Notice of Interest Plan

July 9, 1998.

Take notice that on July 2, 1998, Great Lakes Gas Transmission Limited Partnership (Great Lakes) tendered for filing with the Commission a proposed Interest Plan to be applicable to Past Period refunds and charges amounts established in Great Lakes' rate proceeding in Docket No. RP91–143 et al., and approved under prior Commission orders.

Great Lakes states that the filing of the Interest Plan is made pursuant to the Commission's order issued on June 29, 1998 in Docket No. RP91–143–045 and the U.S. Court of Appeals (DC Circuit) decision issued January 16, 1998, in *Southeastern Michigan Gas* v. *FERC*, 133 F. 3d 34 (1998) reh'g denied (May 21, 1998), wherein Great Lakes was directed to determine interest on refunds and charges for the entire period that incremental rates were in effect.

Any person desiring to file comments with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, should file their comments on or before July 17, 1998. The comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18796 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–76–000]

Kentucky West Virginia Gas Company L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on June 30, 1998, as corrected on July 2, 1998, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West), tendered for filing to become part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheet, to become effective July 1, 1998.

Fourth Revised Sheet No. 320

Kentucky West states that this filing is made to update Kentucky West's index of customers. In Order No. 581 the Commission established a revised format for the Index of Customers to be included in the tariffs of interstate pipelines and required the pipelines to update the index on a quarterly basis to reflect changes in contract activity. Kentucky West requests a waiver of the Commission's notice requirements to permit the tariff sheet to take effect on July 1, 1998, the first calendar quarter, in accordance with Order No. 581.

Kentucky West States that a copy of its filing has been served upon its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18789 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–273–000]

Kentucky West Virginia Gas Company L.L.C.; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on June 30, 1998, as corrected on July 2, 1998, Kentucky West Virginia Gas Company, L.L.C. (Kentucky West) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1998:

Fourth Revised Sheets No. 173
Original Sheets No. 174
Sheets Nos. 175–202

Kentucky West states that the purpose of this filing is to comply with the Commission's Order No. 587–G issued on April 16, 1998 in Docket No. RM96–1–007 adopting new, revised and interpretation of the standards promulgated by the Gas Industry Standards Board (GISB). These standards require interstate natural gas pipelines to follow certain new and revised business practice procedures. The Commission directed pipelines to make a filing to change all references to GISB standards in their tariffs to Version 1.2 by August 1, 1998. This version number applies to all standards contained in GISB's Version 1.2 Standards Manuals, including standards that have not changed from the previous versions. In compliance, Kentucky West filed to adopt Version 1.2 in Section 38 of its General Terms and Conditions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18802 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–53–002]

KN Interstate Gas Transmission Co.; Notice of Revised Tariff Filing

July 9, 1998.

Take notice that on July 1, 1998, KN Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, proposed to be effective August 1, 1998:

Third Revised Volume No. 1–A

2nd Rev First Revised Sheet No. 4–E
2nd Rev First Revised Sheet No. 4–F

First Revised Volume No. 1–C

2nd Rev Substitute Ninth Revised Sheet No. 4

KNI states that this filing revises the fuel and loss percentage rates previously filed on June 1, 1998 in this proceeding, and sets forth a system-wide fuel and loss reimbursement percentage, rather than the zonal fuel and loss percentage previously filed. KNI states that, pursuant to the suspension order in its general rate proceeding in Docket No. RP98–117, it will be implementing a system-wide fuel rate effective August 1, 1998.

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. 98–18810 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–639–000]

Midwestern Gas Transmission Company; Notice of Request Under Blanket Authorization

July 9, 1998.

Take notice that on June 26, 1998, Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–639–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to operate an existing delivery point facility that was initially constructed under Section 311(a) of the Natural Gas Policy Act of 1978 (NGPA), under Midwestern's blanket certificate issued in Docket No. CP82–414–000 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.

The proposal states that Midwestern has recently constructed a delivery point (Purdue Farm Delivery Point) under Section 311(a) of the NGPA for use in the transportation of natural gas under Subpart B of Part 284 of the Commission's regulations. Granting this requested authorization will enable Midwestern to fully utilize the facility for all transportation services, pursuant to Section 311 of the NGPA and Section 7 of the NGA and will increase the transportation options of customers on Midwestern's system.

Midwestern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accomplish the changes without detriment or disadvantage to other customers. There will not be an effect on Midwestern's peak day and annual deliveries and the total volumes deliveries will not exceed total volumes authorized prior to this request.

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 Procedures 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. Boergers,

Acting Secretary.

[FR Doc. 98–18785 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–340–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1998:

Fifth Revised Sheet No. 80

In compliance with the Commission's April 16, 1998 Order No. 587–G in Docket No. RM96–1–007, MRT submits the referenced tariff sheet to incorporate by reference GISB Standards Version 1.2.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18805 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–648–000]

National Fuel Gas Supply Corporation; Notice of Application

July 9, 1998.

Take notice that on July 1, 1998, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP98–648–000, an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Federal Energy Regulatory Commission's (Commission) regulations for a certificate of public convenience and necessity authorizing National Fuel to revise the storage field boundary for its Zoar Storage Field (Zoar) in Erie and Cattaraugus County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

National Fuel requests Commission authorization to extend Zoar's storage boundary in the areas northeast and southwest of the field to include an additional 4,127 acres and 772 acres, respectively, exclusive of the buffer zone. The proposed, revised storage area will be protected by a 1,000 foot buffer zone. National Fuel states that it has acquired and/or obtained operating rights with regard to each of the wells found to be in communication with Zoar in the proposed expanded storage area to the northeast of the existing storage area.

Any person desiring to participate in the hearing process or to make any protest with reference to said application should on or before July 30, 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. The Commission's rules require that protestors provide copies of their protests to the party or person to whom the protests are directed. 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents issued by the Commission, filed by the applicant, or filed by all other intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as filing an original and 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of such comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a Federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion 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 National Fuel to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18788 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–446–003]

Nautilus Pipeline Company, LLC; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Nautilus Pipeline Company, LLC (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Substitute First Revised Sheet No. 216, proposed to be effective June 30, 1998.

Nautilus states the purpose of this filing is to correctly state the Gas Industry Standards Board (GISB) standards that were adopted by reference on its filing made June 3, 1998 in Docket No. RP97–446–002.

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. 98–18801 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–339–000]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective August 1, 1998:

Fourth Revised Sheet No. 306

In compliance with the Commission's April 16, 1998 Order No. 587–G in Docket No. RM96–1–007, NGT submits the referenced tariff sheet to incorporate by reference GISB Standards Version 1.2.

NGT states that copies of the filing have been served to each of NGT's customers and interested state commissions.

Any persons desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18804 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–347–013]

Northern Natural Gas Company; Notice of Filing

July 9, 1998.

Take notice that on July 12, 1998, pursuant to the Carlton Settlement filed in Docket No. RP96–347 and its FERC Gas Tariff, Northern Natural Gas (Northern) has filed various schedules detailing the Carlton surcharge dollars reimbursed to the appropriate parties.

Northern states that copies of the filing were served upon Northern's customers and interested State Commissions.

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 on or before July 16, 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. 98–18797 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–341–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998, Northern Natural Gas Company (Northern), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, proposed to be effective August 2. 1998:

Fourth Revised Sheet No. 201
First Revised Sheet No. 304
First Revised Sheet No. 305

Northern states that the above-referenced tariff sheets amend the General Terms and Conditions of Northern's Tariff to allow Northern to acquire and hold interruptible contractual rights on other pipelines for transportation and storage capacity for operational support.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18806 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 11574–000–CT]

City of Norwich, Department of Public Utilities; Notice of Site Visit to Project Area

July 9, 1998.

On July 24, 1998, the Federal Energy Regulatory Commission staff will visit the Occum Hydro Project, FERC No. 11574, located on the Shetucket in the City of Norwich, New London County, Connecticut.

The site visit is scheduled to begin at 9:00 a.m. at 16 South Golden Street in Norwich, Connecticut.

If you have any questions concerning this matter, please contact Mr. Ed Lee at (202) 219–2809 or Mr. Peter Polubiatko at (860) 887–2555.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18795 Filed 7–10–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER98–3615–000]

Rochester Gas and Electric Corporation; Notice of Filing

July 9, 1998.

Take notice that on June 29, 1998, Rochester Gas and Electric Corporation (RG&E), tendered for filing a Market Based Service Agreement between RG&E and Ontario Hydro (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of RG&E's FERC Electric Rate Schedule, Original Volume No. 3 (Power Sales Tariff).

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of June 1, 1998, for an Ontario Hydro Service Agreement.

RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before July 17, 1998. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18781 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–138–007]

Shell Gas Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998 Shell Gas Pipeline Company (SGPC) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub. Third Revised Sheet No. 137, proposed to be effective June 30, 1998.

SGPC states the purpose of the filing is to correctly state the GISB standards that were incorporated by reference on its filing made June 2, 1998 in Docket No. RP97–138–006.

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. 98–18798 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–643–000]

Tennessee Gas Pipeline Company; Notice of Request Under Blanket Authorization

July 9, 1998.

Take notice that on June 30, 1998, Tennessee Gas Pipeline Company (Tennessee), Post Office Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–643–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to install a delivery point to provide transportation service to Edinburg Energy Limited Partnership (Edinburg), an independent electric power producer. Tennessee makes such request under its blanket certificate issued in Docket No. CP82–413–000 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.

Tennessee proposes to install a delivery point at approximately Mile Post 409A–101+5 on Tennessee's 24-inch South Texas Donna Line in Hidalgo County, Texas to provide transportation service on a released capacity basis of up to a proposed maximum of 200,000 dekatherms per day to Edinburg. Tennessee states it will install a 12-inch hot tap, electronic gas measurement (EMG), communications equipment, chromatograph, and approximately 40-feet of interconnecting pipe to the edge of Tennessee's right-of-way. It is further states that Tennessee will inspect Edinburg's installation of interconnecting pipe from the edge of Tennessee's right-of-way to the meter station, flow control equipment, separator with containment, and measurement facilities.

Tennessee indicates that the installation will take place within the meter station site provided by Edinburg, and that Edinburg will own, operate and maintain the interconnecting pipe from the edge of Tennessee's right-of-way to the meter station, separator with containment, and will own and maintain the flow control equipment and measurement facilities. It is states that Edinburg will provide any necessary site preparations, additional utility services, and an all-weather access road.

Tennessee states that it will own, operate and maintain the 12-inch hot tap, EMG, communications equipment, chromatograph and interconnecting pipe to the edge of Tennessee's right-of-way, and will operate the flow control equipment and measurement facilities.

It is averred that the total quantities to be delivered to Edinburg after the delivery point is installed will not exceed the total quantities authorized prior to this request. Tennessee asserts that the proposed modification is not probated by its tariff, and that it has sufficient capacity to accomplish deliveries at the delivery point without detriment or disadvantage to Tennessee's other customers.

Tennessee estimates the project cost to be approximately $220,900 stating that Edinburg has agreed to reimburse Tennessee's cost.

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. Boergers,

Acting Secretary.

[FR Doc. 98–18786 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–644–000]

Tennessee Gas Pipeline Company; Notice of Application

July 9, 1998.

Take notice that on June 30, 1998, Tennessee Gas Pipeline Company (Tennessee), PO Box 2511, Houston, Texas 77252–2511, filed in Docket No. CP98–644–000 an application pursuant to Section 7(b) of the Natural Gas Act for authorization to abandon minor metering facilities in Lamar County, Alabama, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee proposes to abandon facilities associated with Meter No. 1–2069, which were installed in 1990 under the authorization of Section 311 of the Natural Gas Policy Act and subsequently converted to Section 7(c) authorization. Specifically, Tennessee proposes to abandon by removal the check valve, riser and interconnecting pipe and to abandon the tap in place. Tennessee states that the facilities were installed for deliveries to Bishop Pipeline Company, which no longer receives gas at this point and has removed its meter. It is stated that the facilities are no longer used and that no customers would lose service as a result of the abandonment.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 30, 1998, file with the Federal Energy Regulatory Commission, Washington, DC 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 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 Tennessee to appear or be represented at the hearing.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18787 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–010]

Texas Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 1, 1998, Texas Gas Transmission Corporation (Texas Gas) tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Tenth Revised Sheet No. 13, with an effective date of June 1, 1998.

Texas Gas states that this filing is being made to correct a typographical error on Tenth Revised Sheet No. 13 which presents the FSS injection/withdrawal commodity maximum daily rate as $0.00114 rather than the correct rate of $0.0114 as shown in the minimum rate column. Texas Gas has discussed this error with the only customer currently using service under this rate schedule, and the customer agrees that the corrected rate, which is equal to the minimum rate, will be billed for June 1998 service. Therefore, Texas Gas is filing Substitute Tenth Revised Sheet No. 13 to correct the referenced rate effective June 1, 1998.

Texas Gas states that a copy of the revised tariff sheet is being mailed to Texas Gas's jurisdictional customers and interested state commissions.

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. 98–18800 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–344–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice on July 2, 1998, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to its FERC Gas Tariff, Third Revised Volume No. 1, which tariff sheets are enumerated in the filing. The proposed effective date for the tariff sheets is August 1, 1998.

Transco states that the purpose of the instant filing is to comply with the Commission's Order No. 587–G issued April 16, 1998 in Docket No. RM96–1–007 (the Order). The Order incorporates by reference Version 1.2 of the Gas Industry Standards Board (GISB) standards and adopts regulations for electronic communication.

Transco is serving copies of the instant filing to customers. State Commissions and other interested parties.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to

be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18809 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–12–29–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

July 9, 1998.

Take notice that on July 2, 1998 Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing certain revised tariff sheets to Third Revised Volume No. 1 of its FERC Gas Tariff. Transco states that Appendix A attached to the filing contains the enumeration and effective dates of the revised tariff sheets.

Transco states that the purpose of the instant filing is to track rate changes attributable to transportation service purchased from Texas Gas Transmission Corporation (Texas Gas) under its Rate Schedule FT the costs of which are included in the rates and charges payable under Transco's Rate Schedule FT–NT. The filing is being made pursuant to tracking provisions under Section 4 of Transco's Rate Schedule FT–NT.

Included in Appendix B attached to the filing is the explanation of the rate changes and details regarding the computation of the revised Rate Schedule FT–NT rates.

Transco states that copies of the filing are being mailed to each of its FT–NT customers and interested State Commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18811 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–79–000]

Williston Basin Interstate Pipeline Company; Notice of Filing

July 9, 1998.

Take notice that on July 1, 1998, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 1, 1998:

Ninth Revised Sheet No. 775
Thirteenth Revised Sheet No. 776
Fifteenth Revised Sheet No. 777
Fourthteenth Revised Sheet No. 825
Twelfth Revised Sheet No. 826
Seventeenth Revised Sheet No. 827
Twelfth Revised Sheet No. 828
Nineteenth Revised Sheet No. 829
Eighteenth Revised Sheet No. 830
Twenty-fourth Revised Sheet No. 831
Twenty-fourth Revised Sheet No. 833

Williston Basin states that the revised tariff sheets are being filed simply to update and clarify its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18790 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

July 8, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to License.

b. *Project No.:* 2131–015.

c. *Date Filed:* June 18, 1998.

d. *Applicant:* Wisconsin Electric Power Company.

e. *Name of Project:* Kingsford Project.

f. *Location:* The project is located on the Menominee River in Dickinson County, Michigan and Florence County, Wisconsin.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Ms. Rita L. Hayen, Wisconsin Electric Power Company, 231 W. Michigan, P.O. Box 2046, Milwaukee, WI 53201–2046, (414) 221–2345.

i. *FERC Contact:* Steve Hocking, (202) 219–2656.

j. *Comment Date:* August 13, 1998.

k. *Description of Amendment:* Wisconsin Electric Power Company (Wisconsin Electric) filed an application to amend its license for the Kingsford Hydroelectric Project. Wisconsin Electric proposes to remove a 220-acre parcel of land from the Kingsford project boundary. This 220-acre parcel would become part of a larger Florence County Planned Development Unit. Removing the parcel would satisfy, in part, a settlement agreement among Wisconsin Electric, Wisconsin Department of Natural Resources, Michigan Department of Natural Resources, U.S. Fish and Wildlife Service, National Park Service, River Alliance of Wisconsin and Michigan Hydro Relicensing Coalition. The parcel of land is located south of U.S. Highway 2 bordering the Menominee River in sections 11 and 14 of Township 39 North, Range 19 East, Florence County, Wisconsin.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to

intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18783 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed With the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2161–006.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Rhinelander Paper Company.

e. *Name of Project:* Rhinelander Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Town of Rhinelander, Oneida County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Mr. Bruce Olson, Rhinelander Paper Company, 515 West Davenport Street, Rhinelander, Wisconsin 54501, (715) 369–4244.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:* The existing, operating project consists of: (1) an 180-foot-long earth dam with a concrete section containing two waste gates; (2) a 3,576-acre reservoir with normal water surface elevation 15555.33 feet msl; (3) an intake structure containing 14 gates; (4) a 965-foot-long and 60-foot-wide intake canal; (5) a 36-foot-wide Tainter gate spillway adjacent to the intake canal; (6) a brick powerhouse containing two 560-kW and one 1,000-kW generating units; (7) transmission line connections; and (8) appurtenant facilities.

l. With this notice, we are initiating consultation with the *WICSONSIN STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18792 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing with the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* 2192–008.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Biron Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Village of Biron, Wood and Portage Counties, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. *Applicant Contact:* Kenneth K. Knapp, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, WI 54495, (715) 422–3073.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:* The existing, operating project consists of: (1) a 2,533-foot-long, 34-foot-high concrete gravity dam with intake section, three spillway sections, and 22 Tainter gates; (2) a concrete seawall and earth embankments along the banks of the reservoir; (3) a 2,078-acre reservoir at water surface elevation 1035.3 feet National Geodetic Vertical Datum; (4) a powerhouse, integral with the dam, containing two 1,450-kW generators and an industrial building with one 400-kW generator; (5) generator leads; and appurtenant electrical facilities necessary to interconnect with transmission system.

l. With this notice, we are initiating consultation with the *WISCONSIN STATE HISTORIC PRESERVATION OFFICER (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18793 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulation Commission

Notice of Application Ready for Environmental Analysis

July 9, 1998.

Take notice that the following hydroelectric application has been filed

with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2487–006.

c. *Date filed:* December 10, 1997.

d. *Applicant:* John M. Skorupski.

e. *Name of Project:* Hoosick Falls Hydroelectric Project.

f. *Location:* On the Hoosic River in Rensselaer County, New York.

g. *Filed pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:*

John M. Skorupski, 71 River Road, Hoosick Falls, New York, (518) 686–0062

Douglas C. Clark, Clark Engineering & Surveying, P.C., 658 Route 20, P.O. Box 730, New Lebanon, NY 12125, (518) 794–8613

i. *FERC Contact:* John Costello at (202) 219–2914.

j. *Deadline Date:* See standard paragraph D10.

k. *Status of Environmental Analysis:* This application has been accepted for filing and is ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would consist of: (1) an existing 16-foot-high and 14.5-foot-long dam; (2) an existing 16-acre reservoir; (3) a powerhouse containing two generating units for a total installed capacity of 830 KW; (4) a 500-foot-long transmission line; and (5) appurtenant facilities. The applicant estimates that the total average annual generation would be 3,700 MWh, for the project.

m. *Purpose of Project:* Project power would be provided to Niagara Mohawk Power Corporation; who would either use the power or utilize it for sale to their customers.

n. *This notice also consists of the following standard paragraphs:* A4 and D10.

o. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Washington, DC 20426 or by calling (202) 208–1371. A copy is also available for inspection and reproduction at Clark Engineering & Surveying, P.C., 658 Route 20, New Lebanon, New York, 12125 or by calling (518) 794–8613.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D10. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b).

Agencies may obtain copies of the application directly from the applicant. Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of service on all persons listed on the service list prepared by the Commisson in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18794 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission

July 9, 1998.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 2110–003.

c. *Date Filed:* June 26, 1998.

d. *Applicant:* Consolidated Water Power Company.

e. *Name of Project:* Stevens Point Hydroelectric Project.

f. *Location:* On the Wisconsin River in the Town of Stevens Point, Portage County, Wisconsin.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contract:* Kenneth K. Knapp, Consolidated Water Power Company, P.O. Box 8050, Wisconsin Rapids, Wisconsin 54495, (715) 422–3073.

i. *FERC Contact:* Chris Metcalf (202) 219–2810.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project*: The existing, operating project consists of: (1) a 28-foot-high and 1,390-foot-long concrete gravity dam composed of a powerhouse section, a spillway section with fifteen Tainter gates, and dikes at the ends of the dam; (2) a 3,915-acre reservoir at water surface elevation 1,087.4 feet National Geodetic Vertical Datum (NGVD); (3) a 2,000-foot-long concrete uncontrolled overflow spillway located about 1¼ mile upstream of the dam having crest elevation at 1,088.6 feet NGVD; (4) a powerhouse with six generating units each rated at 640–kW; (5) generator leads; and (6) appurtenant electrical facilities necessary to interconnect with transmission system.

l. With this notice, we are initiating consultation with the *Wisconsin State Historic Preservation Officer (SHPO),* as required by § 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to Section 4.32(b)(7) of 18 CFR of the Commission's regulations, if

any resource agency, Indian Tribe, or person believes that an additional scientific study be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18813 Filed 7–14–98; 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

July 9, 1998.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, July 15, 1998, at 10:00 a.m., and will continue on Thursday, July 16, 1998, at the offices of the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, for the purpose of reviewing the draft settlement documents in 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. 98–18812 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–309–000]

Great Lakes Gas Transmission Company; Notice of Technical Conference

July 9, 1998.

On July 16, 1998, the staff of the Office of Pipeline Regulation (OPR) will conduct a technical conference with representatives of the Great Lakes Gas Transmission Company and Entrix, OPR's third party contractor for the Great Lakes 300 Expansion Project Environmental Impact Statement (EIS). The purpose of the conference is to discuss the proposed schedule for the EIS and the timing for providing environmental information required for completion of the EIS.

The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Although all interested parties may attend, only issues pertaining to the scheduling of environmental information needed to complete the EIS will be discussed.

For further information, please contact Paul McKee at (202) 208–1088.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18782 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–342–000]

Panhandle Eastern Pipe Line; Notice of Reconciliation Report

July 9, 1998.

Take notice that on July 2, 1998, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing its final reconciliation report in accordance with Commission's letter orders issued December 24, 1997 in Docket No. RP98–75–000 and May 29, 1998 in Docket No. RP98–211–000. The Commission's letter orders required the filing of a reconciliation report as soon as practicable following the suspension of the Miscellaneous Stranded Transportation Cost Reservation Surcharge.

Panhandle states that its filing of May 1, 1998, in Docket No. RP98–211–000 reduced the Miscellaneous Stranded Transportation Cost Reservation Surcharge applicable to firm transportation services provided under Rate Schedules FT, EFT and LFT and the Miscellaneous Stranded Transportation Cost Volumetric Surcharge applicable to service provided under Rate Schedule SCT for the Reconciliation Recovery Period effective June 1, 1998. Panhandle's May 1, 1998 filing was approved by Commission letter order issued May 20, 1998.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 16, 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. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

David P. Boergers,

Acting Secretary.

[FR Doc. 98–18807 Filed 7–14–98; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6123–9]

Sole Source Aquifer Determination for the Cloverly Aquifer (Dakota and Lakota Sands)

Elk Mountain, Wyoming

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final determination.

SUMMARY: Pursuant to section 1424(e) of the Safe Drinking Water Act, the Regional Administrator in Region VIII of the U.S. Environmental Protection Agency (EPA) has determined that the Cloverly Aquifer, Dakota and Lakota Sands at Elk Mountain, Wyoming and the immediately adjacent recharge area is the sole or principal source of drinking water for a region. The region is located in south central Wyoming extending (in an irregular shape) from the Town of Elk Mountain 3 miles east, 7 miles west along the Interstate 80 corridor and 18 miles to the south. The entire area is within Carbon County, Wyoming. No viable alternative sources of drinking water with sufficient supply exist. If this aquifer is contaminated a significant hazard to public health could occur.

The boundaries of the designated area have been reviewed and approved by EPA. As a result of this action, Federal

financially assisted projects constructed in the approximately 174 square mile area mentioned above will be subject to EPA review to ensure that these projects are designed and constructed in a manner which does not create a significant hazard to public health. For the purposes of this designation the Aquifer Service Area and the Project Review Area are the same as the Designated Area.

EFFECTIVE DATE: This determination shall be promulgated for purposes of judicial review at 1:00 p.m. Mountain Daylight time on July 15, 1998.

ADDRESSEES: The data upon which these findings are based and a map of the designated area are available to the public and may be inspected during normal business hours at the U.S. Environmental Protection Agency, Region VIII, 999 18th Street, Suite 500, Denver, CO 80202–2405.

FOR FURTHER INFORMATION CONTACT: William J. Monheiser, Sole Source Aquifer Coordinator, Ground Water Program, 8P2-W-GW, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2405, Phone: (303) 312–6271, e-mail: *monheiser.william@epamail.epa.gov*.

SUPPLEMENTARY INFORMATION: Notification is hereby given that, pursuant to section 1424(e) of the Safe Drinking Water Act, 42 U.S.C. 300f, 300h-3(e), Pub. L. 93–523 as amended, the Regional Administrator of the U.S. Environmental Protection Agency has determined that the Cloverly Aquifer is the sole or principal source of drinking water for the Elk Mountain area of south central Wyoming described above. Pursuant to section 1424(e), Federal financially assisted projects constructed anywhere in the Elk Mountain area described above will be subject to EPA review.

I. Background

Section 1424 (e) of the Safe Drinking Water Act states

If the Administrator determines, on his own initiative or upon petition, that an area has an aquifer which is the sole or principal drinking water source for the area and which, if contaminated, would create a significant hazard to public health, he shall publish notice of that determination in the **Federal Register**. After the publication of any such notice, no commitment for Federal financial assistance (through a grant, contract, loan guarantee, or otherwise) may be entered into for any project which the Administrator determines may contaminate such aquifer through a recharge zone so as to create a significant hazard to public health, but a commitment for Federal financial assistance may, if authorized under another provision of the law, be entered into to plan or design the project to assure that it will not so contaminate the aquifer.

Effective March 9, 1987, authority to make a Sole Source Aquifer Designation Determination was delegated to the U.S. EPA Regional Administrators.

On August 18, 1997, a petition was received from the Town of Elk Mountain, P.O. Box 17, Elk Mountain, Wyoming, 82324, requesting EPA to designate the ground water resources of the Cloverly Aquifer, Dakota and Lakota Sands in the Elk Mountain area as a Sole Source Aquifer. In response to this petition, EPA published a notice of a public meeting held in the Town of Elk Mountain, Wyoming on February 17, 1998. This document was published in the Saratoga Sun and the Rawlins Daily Times. EPA also sent copies of the notice with descriptive information to all parties in the Elk Mountain area. This document announced receipt of the petition and requested public comment in writing or oral comments at the public meeting and for a 30-day comment period. Comments received by telephone were also accepted. The public comment period extended from February 2, 1998 to March 4, 1998.

Subsequently, EPA determined that the petition is both administratively and technically complete and adequate.

II. Basis for Determination

Among the factors considered by the Regional Administrator in connection with the designation of a Sole Source Aquifer under section 1424(e) are: (1) Whether the aquifer is the area's sole or principal source of drinking water and (2) whether contamination of the aquifer would create a significant hazard to public health.

On the basis of information available to this Agency, the Regional Administrator has made the following findings, which are the basis for the determination noted above:

1. The Cloverly Aquifer (Dakota and Lakota sands) serves as the ''sole source'' of drinking water for approximately 186 permanent residents within the Town of Elk Mountain. There is no existing alternative drinking water source or combination of sources which could provide fifty percent or more of the drinking water to the designated area, nor is there any projected future alternative source capable of supplying the area's drinking water needs at an economical cost.

2. Although the Cloverly Formation underlies much of the State of Wyoming, in the Elk Mountain area the aquifer is of high quality, able to be used as a drinking water source with minimal treatment. This constitutes a resource unique to this area and if contaminated would create a significant hazard to public health. Potential sources of contamination include: (1) Petroleum, mineral exploration, and geophysical drilling, (2) direct impacts to the exposed outcrop of the Cloverly Formation from silvaculture and agriculture, (3) accidental spills along roadways, and (4) abandoned but unplugged petroleum, mineral and geophysical wells.

III. Description of the Petitioned Aquifer

The Town of Elk Mountain is located in the Pass Creek Basin of south central Wyoming along the northern flank of the Medicine Bow Mountains. Typically Pass Creek Basin strata are folded and faulted inward into a series of north plunging, asymmetrical anticlines less than 1 mile in width.

The Cloverly Aquifer consists of lower Cretaceous age sediments with a medium to fine grained clean Dakota sandstone and the clean conglomeritic Lakota Sandstone separated by Fuson Shale. The aquifer is confined and averages about 90 feet thick. Since the sediments have been extensively folded and faulted the target water producing zones are structurally controlled and vary from 2,380 to 2,780 feet below ground surface. Transmissivities are about 1100 gal/day/ft with an estimated porosity of .18, and a hydraulic gradient of .032 to the northwest along the axis of the regional anticlines.

IV. Information Utilized in Determination

The information utilized in this determination includes the petition from the Town of Elk Mountain, research of available literature, the results of investigative efforts conducted to date on the ground-water resources of the area, and written and verbal comments submitted by the public. These data are available to the public and may be inspected during normal business hours at EPA Region VIII, 999 18th Street, Denver, Colorado.

V. Project Review

EPA Region VIII will work with the Federal agencies that may in the future provide financial assistance to projects in the designated area. Interagency procedures will be developed in which EPA will be notified of proposed commitments by Federal agencies for projects which could contaminate the aquifer. EPA will evaluate such projects and, where necessary, conduct an in-depth review, including soliciting public comments where appropriate. Should EPA determine that a project may contaminate the aquifer so as to

create a significant hazard to public health, no commitment for Federal assistance may be entered into. However, a commitment for Federal assistance may, if authorized under another provision of law, be entered into to plan or design the project to assure that it will not contaminate the aquifer.

Although the project review process cannot be delegated to state or local agencies, the EPA will rely upon any existing or future state and local control mechanisms to the maximum extent possible in protecting the ground-water quality of the aquifer. Included in the review of any Federal financially assisted project will be coordination with local agencies. Their comments will be given full consideration, and the Federal review process will attempt to complement and support state and local groundwater quality protection mechanisms.

VI. Summary and Discussion of Public Comments

In response to the public notice and public meeting, a total of 42 oral and written comments were received. In general those who favor designation reside in the Town of Elk Mountain and are financially responsible for the drinking water system. Those opposed to designation are from the area outside of town and within the designated area. The majority of comments support the designation of the area as a sole or principal source of drinking water. In addition, a resolution supporting designation was adopted by the Town Council.

No data were presented during the public comment period regarding aquifer characteristics, the boundary delineation or potential errors of fact presented in the petition.

Dated: July 1, 1998

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 98–18865 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–66252; FRL 5797–2]

Notice of Receipt of Requests to Voluntarily Cancel Certain Pesticide Registrations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In accordance with section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, EPA is issuing a notice of receipt of requests by registrants to voluntarily cancel certain pesticide registrations.

DATES: Unless a request is withdrawn by January 11, 1999, orders will be issued cancelling all of these registrations.

FOR FURTHER INFORMATION CONTACT: By mail: James A. Hollins, Office of Pesticide Programs (7502C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location for commercial courier, delivery telephone number and e-mail: Rm. 216, Crystal Mall No. 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5761; e-mail: hollins.james@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 6(f)(1) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), as amended, provides that a pesticide registrant may, at any time, request that any of its pesticide registrations be cancelled. The Act further provides that EPA must publish a notice of receipt of any such request in the **Federal Register** before acting on the request.

II. Intent to Cancel

This Notice announces receipt by the Agency of requests to cancel some 28 pesticide products registered under section 3 or 24(c) of FIFRA. These registrations are listed in sequence by registration number (or company number and 24(c) number) in the following Table 1.

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION

Registration No.	Product Name	Chemical Name
000352 WA–88–0009	Du Pont Vendex 50 WP Miticide	Hexakis(2-methyl-2-phenylpropyl)distannoxane
000655–00351	Prentox (R) Residual Spray Contains Propoxur	*o*-Isopropoxyphenyl methylcarbamate
000655–00641	Prentox Roach and Ant Killer with 1.0% Propoxur	*o*-Isopropoxyphenyl methylcarbamate
000655–00642	Prentox Roach and Ant Killer with 0.5% Propoxur	*o*-Isopropoxyphenyl methylcarbamate
001021–01005	Pyrocide Intermediate 6894	*o*-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
001270–00094	Zep Roach and Ant Surface Spray	*o*-Isopropoxyphenyl methylcarbamate
004822–00055	Johnson End Bac Pressurized Disinfectant Spray	Ethanol
		Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
004822–00088	Glade Spray Disinfectant	Ethanol
		Alkyl* dimethyl benzyl ammonium chloride *(60%C_{14}, 30%C_{16}, 5%C_{18}, 5%C_{12})

TABLE 1. — REGISTRATIONS WITH PENDING REQUESTS FOR CANCELLATION—Continued

Registration No.	Product Name	Chemical Name
		Alkyl* dimethyl ethylbenzyl ammonium chloride *(50%C_{12}, 30%C_{14}, 17%C_{16}, 3%C_{18})
		Triethylene glycol
004822–00095	New Formula Raid Ant and Roach Killer	*o*-Isopropoxyphenyl methylcarbamate
		2,2-Dichlorovinyl dimethyl phosphate
004822–00100	Johnson Buggy Whip Residual Crawling Insect Killer	*o*-Isopropoxyphenyl methylcarbamate
004822–00101	Raid Wasp and Hornet Killer	*o*-Isopropoxyphenyl methylcarbamate
		(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
004822–00111	Raid Ant & Roach Killer	*o*-Isopropoxyphenyl methylcarbamate
		2,2-Dichlorovinyl dimethyl phosphate
004822–00329	Glade Disinfectant	Ethanol
004822–00333	Raid Wasp & Hornet Formula X	*o*-Isopropoxyphenyl methylcarbamate
		(1-Cyclohexene-1,2-dicarboximido)methyl 2,2-dimethyl-3-(2-methylpropenyl)cycloprop
005383–00060	Troysan 186	4,4-Dimethyloxazolidine
005905–00488	Agco Dipel 150 Dust	Bacillus thuringiensis *subsp. kurstaki*
009688–00063	Automatic Insect Fogger ''D''	2-Methyl-4-oxo-3-(2-propenyl)-2-cyclopenten-1-yl *d-trans*-2,2-dimethyl-
		O,O-Diethyl *O*-(3,5,6-trichloro-2-pyridyl) phosphorothioate
010163 OR–77–0017	Imidan 50-WP Agricultural-Insecticide-Wettable Power	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–81–0096	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–91–0002	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–92–0008	Imidan 50-WP Agricultural Insecticide	*N*-(Mercaptomethyl)phthalimide *S*-(*O,O*-dimethyl phosphorodithioate)
010163 OR–96–0040	Prefar 6-E Herbicide	*S*-(*O,O*-Diisopropyl phosphorodithioate) ester of *N*-(2-mercaptoethyl)benzenesulfonamide
010370–00174	Roach and Cricket Bait	*o*-Isopropoxyphenyl methylcarbamate
011556–00062	Para-Ban Pressurized Spray	*o*-Isopropoxyphenyl methylcarbamate
036029–00008	This Is the Way Bait for Ground Squirrels (.52%)	Strychnine
047000–00081	CPI ''RE-SID'' Ant & Roach Spray	*o*-Isopropoxyphenyl methylcarbamate
		N-Octyl bicycloheptene dicarboximide
		(Butylcarbityl)(6-propylpiperonyl) ether 80% and related compounds 20%
		Pyrethrins
049585–00019	Super K Gro-Rotenone Dust	Rotenone
		Cube Resins other than rotenone
068098 WA–94–0024	Mycoshield Brand of Agricultural Terramycin	Calcium oxytetracycline

Unless a request is withdrawn by the registrant within 180 days of publication of this notice, orders will be issued cancelling all of these registrations. Users of these pesticides or anyone else desiring the retention of a registration should contact the applicable registrant directly during this 180–day period. The following Table 2 includes the names and addresses of record for all registrants of the products in Table 1, in sequence by EPA Company Number.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION

EPA Company No.	Company Name and Address
000352	E. I. Du Pont De Nemours & Co., Inc., Barley Mill Plaza, Walker's Mill, Wilmington, DE 19880.
000655	Prentiss Inc., C.B. 2000, Floral Park, NY 11001.

TABLE 2. — REGISTRANTS REQUESTING VOLUNTARY CANCELLATION—Continued

EPA Company No.	Company Name and Address
001021	Mclaughlin Gormley King Co., 8810 Tenth Ave North, Minneapolis, MN 55427.
001270	ZEP Mfg. Co., Box 2015, Atlanta, GA 30301.
004822	S.C. Johnson & Son Inc., 1525 Howe Street, Racine, WI 53403.
005383	Lewis & Harrison, Agent For: Troy Chemical Corp., 122 C St NW, Ste 740, Washington, DC 20001.
005905	Helena Chemical Co., 6075 Poplar Ave, Suite 500, Memphis, TN 38119.
009688	Chemsico, Div of United Industries Corp., Box 15842, St Louis, MO 63114.
010163	Gowan Co., Box 5569, Yuma, AZ 85366.
010370	AgrEvo Environmental Health, 95 Chestnut Ridge Rd., Montvale, NJ 07645.
011556	Bayer Corp., Agriculture Division, Animal Health, Box 390, Shawnee Mission, KS 66201.
036029	Wilco Distributors, Inc., Box 291, Lompoc, CA 93438.
047000	Chem-Tech Ltd, Attn: James Melton, 4515 Fleur Dr. #303, Des Moines, IA 50321.
049585	Alljack, Division of United Industries Corp., Box 15842, St Louis, MO 63114.
068098	Mt Adams Orchard Corp., Box 1588, Yakima, WA 98907.

III. Procedures for Withdrawal of Request

Registrants who choose to withdraw a request for cancellation must submit such withdrawal in writing to James A. Hollins, at the address given above, postmarked before January 11, 1999. This written withdrawal of the request for cancellation will apply only to the applicable 6(f)(1) request listed in this notice. If the product(s) have been subject to a previous cancellation action, the effective date of cancellation and all other provisions of any earlier cancellation action are controlling. The withdrawal request must also include a commitment to pay any reregistration fees due, and to fulfill any applicable unsatisfied data requirements.

IV. Provisions for Disposition of Existing Stocks

The effective date of cancellation will be the date of the cancellation order. The orders effecting these requested cancellations will generally permit a registrant to sell or distribute existing stocks for 1 year after the date the cancellation request was received. This policy is in accordance with the Agency's statement of policy as prescribed in **Federal Register** (56 FR 29362) June 26, 1991; [FRL 3846–4]. Exceptions to this general rule will be made if a product poses a risk concern, or is in noncompliance with reregistration requirements, or is subject to a data call-in. In all cases, product-specific disposition dates will be given in the cancellation orders.

Existing stocks are those stocks of registered pesticide products which are currently in the United States and which have been packaged, labeled, and released for shipment prior to the effective date of the cancellation action. Unless the provisions of an earlier order apply, existing stocks already in the hands of dealers or users can be distributed, sold or used legally until they are exhausted, provided that such further sale and use comply with the EPA-approved label and labeling of the affected product(s). Exceptions to these general rules will be made in specific cases when more stringent restrictions on sale, distribution, or use of the products or their ingredients have already been imposed, as in Special Review actions, or where the Agency has identified significant potential risk concerns associated with a particular chemical.

List of Subjects

Environmental protection, Pesticides and pests, Product registrations.

Dated: June 30, 1998.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 98–18861 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6124–6]

Fresno Industrial Supply Inc. Superfund Site; Notice of Proposed Agreement for Payment Future Costs and Recovery of Past Response Costs

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 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (SARA), notice is hereby given that a proposed CERCLA Section 122(h)(i) Agreement for Payment of Future Costs and Recovery of Past Response Costs (Agreement) associated with the Fresno Industrial Supply Inc Site (Site) was executed by EPA and the U.S. Department of Defense (DOD), including the following component agencies: the Department of the Army, the Department of the Navy, the Department of the Air Force and the Defense Logistics Agency. The proposed Agreement would resolve certain claims of EPA under section 107 of CERCLA, 42 U.S.C. 9607. The proposed Agreement would require DOD, including its component agencies, to pay to EPA $387,000 from fiscal year 1998 funds for future work to be conducted by EPA at the Site. The proposed Agreement also would require DOD, including its component agencies, to use best efforts to obtain specific

appropriations from Congress to reimburse EPA $778,425 for past costs incurred by EPA at the Site.

For thirty (30) days following the date of publication of this notice, EPA will receive written comments relating to the settlement. If requested prior to the expiration of this notice, EPA will provide an opportunity for a public meeting in the affected area. EPA's response to any comments received will be available for inspection at the U.S. Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

DATES: Comments must be submitted on or before August 14, 1998.

ADDRESSES: *Availability:* A copy of the proposed Agreement may be obtained from Danita Yocom, Assistant Regional Counsel (RC–3), 75 Hawthorne Street, San Francisco, California 94105. Comments should reference the Fresno Industrial Supply Inc., Superfund Site and EPA Docket No. 98–2, and should be addressed to Danita Yocom at the above address.

FOR FURTHER INFORMATION CONTACT: Danita Yocom, Office of Regional Counsel, U.S. EPA, Region IX, 75 Hawthorne Street, (RC–3), San Francisco, California 94105; E-mail: yocom.danita@epa.gov; Telephone: (415) 744–1347.

Dated: July 6, 1998.

Michael Feeley,

Deputy Director, Superfund Division, U.S. EPA, Region IX.

[FR Doc. 98–18864 Filed 7–14–98; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Statement of Policy Regarding the National Environmental Policy Act of 1969

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed Statement of Policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act), the FDIC is proposing to revise its Statement of Policy on the National Environment Policy Act of 1969 (NEPA). The original Statement of Policy, issued on March 31, 1980, describes the FDIC's responsibility and procedures with respect to the NEPA.

The revised Statement of Policy reflects the FDIC's experience in applying the current NEPA Statement of Policy, and primarily affects applications for deposit insurance for de novo institutions, establishment of a domestic branch, and relocation of a domestic branch or main office. Categorical exclusions are established for all other filings submitted to the FDIC pursuant to 12 CFR part 303. In extraordinary circumstances, however, the NEPA procedures may also impact categorically excluded filings. The revision also makes the Statement of Policy more concise and understandable.

DATES: Comments must be submitted on or before August 31, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. Comments may be hand delivered to the guard station located at the rear of the 17th Street building, on F Street, on business days between 7:00 a.m. and 5:00 p.m. The FAX number is (202) 898–3838, and the Internet address is comments@fdic.gov. Comments may be inspected and photocopied at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Marilyn Reddy, Review Examiner, Division of Supervision (202) 898–6772; A. Ann Johnson, Counsel, Legal Division (202) 898–3573; David Fisher, Counsel, Legal Division (202)–736–3103, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI Act, 12 U.S.C. 4803(a), requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

As part of this review, the FDIC has determined that its Statement of Policy on the NEPA should be revised. The NEPA sets forth a national policy to promote preservation of the environment. It requires, in part, that all agencies of the Federal Government include in every recommendation or report on major Federal actions significantly affecting the quality of the human environment a detailed statement that addresses the environmental impact of the proposal. The Council on Environmental Quality (CEQ) has adopted regulations that implement this requirement. 40 CFR part 1500.

The FDIC issued its current Statement of Policy in 1980 to provide guidance on the NEPA and its implementing regulations. The Statement of Policy provides that the FDIC will consider relevant environmental factors and make a threshold determination that a proposed action does or does not significantly affect the environment. The determination is required for applications for deposit insurance, to establish a branch, to merge, or to move an office. The current Statement of Policy also provides detailed information on the preparation of an environmental impact statement.

Consistent with the goals of the CDRI Act review, the FDIC is proposing modifications to the Statement of Policy that will enhance efficiency in implementing the NEPA requirements. Pursuant to the CEQ regulations (40 CFR 1507.3(b)), the proposed Statement of Policy establishes categorical exclusions for all filings made by depository institutions pursuant to 12 CFR part 303 with the exception of applications for deposit insurance for de novo institutions, and applications for establishment of a domestic branch or relocation of a domestic branch or main office. Absent extraordinary circumstances, filings subject to a categorical exclusion require no further NEPA action.

For those applications that are categorically excluded, the proposed Statement of Policy provides that the FDIC may request additional information from applicants if extraordinary circumstances indicate that a normally excluded action may have a significant environmental effect. For example, additional information may be requested where filings involve real property with endangered or threatened species, wetlands or floodplains, cultural or historic sites, or where construction is proposed.

The proposed Statement of Policy also describes the responsibilities of the applicant in submitting a part 303 filing and the FDIC in reviewing the filing. Before approving a filing that is not categorically excluded, the FDIC must prepare an environmental assessment (EA). The applicant is required to submit sufficient information for the FDIC to determine whether the application may affect the quality of the human environment.

If the EA prepared by the FDIC indicates that approval of the filing will not significantly affect the quality of the human environment, the NEPA process

will conclude with a finding of no significant impact (FONSI) to document the FDIC's determination.

On the other hand, if the EA indicates that approval of the filing may significantly affect the quality of the human environment, the FDIC will prepare and circulate an environmental impact statement (EIS) in accordance with the CEQ regulations. Because cases that involve the preparation of an EIS are expected to be extremely rare, the proposed Statement of Policy no longer includes detailed information on the preparation of an EIS. Instead, the proposed Statement of Policy states that the FDIC will comply with the requirements of the CEQ regulations.

In addition, the proposed Statement of Policy provides for public involvement in the FDIC's NEPA compliance activities.

According to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.), the FDIC may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. Although the proposed Statement of Policy does not create or change any collection of information, OMB has approved the information collections referenced in the proposed Statement of Policy as parts of a larger collection of information. OMB control numbers for the approved information collections specifically referenced in the proposed Statement of Policy are OMB control number 3064–0001, expiring on July 31, 2000, for applications dealing with deposit insurance, and OMB control number 3064–0070, expiring on November 30, 2000, for applications dealing with establishment of a branch, relocation of a main office, and relocation of a branch. Application requirements and procedures are located at 12 CFR part 303.

The Board of Directors of the FDIC hereby proposes the revised Statement of Policy on the National Environmental Policy Act, as set forth below.

Proposed Statement of Policy; National Environmental Policy Act; Procedures Relating to Filings Made With the FDIC

This Statement of Policy addresses the FDIC's compliance with the National Environmental Policy Act of 1969, 42 U.S.C. 4331, et seq. (NEPA), with respect to applications, notices, and requests (filings) submitted to the FDIC in accordance with governing regulations at 12 CFR part 303. The procedures in this Statement of Policy primarily affect applications for deposit insurance for de novo institutions, establishment of a domestic branch, and relocation of a domestic branch or main office. There may be extraordinary circumstances where these NEPA procedures also impact other filings submitted pursuant to part 303.

A. Responsibility of the FDIC

The NEPA sets forth a national policy to promote preservation of the environment. Section 102(2)(C) of the NEPA requires, in part, that all agencies of the Federal Government include in every recommendation or report on major Federal actions significantly affecting the quality of the human environment a detailed statement that addresses the environmental impact of the proposal. The Council on Environmental Quality (CEQ) has adopted regulations that implement section 102(2)(C) of the NEPA. 40 CFR part 1500.

The FDIC believes that its decisions on part 303 filings will rarely have a significant effect on the human environment. Nevertheless, it is the policy of the FDIC to evaluate fully its regulatory actions, as necessary, in accordance with the requirements of the NEPA. This Statement of Policy supplements, and shall be used by the FDIC in conjunction with, the CEQ regulations.

B. Background

NEPA and the implementing CEQ regulations require a Federal agency to prepare an ''environmental impact statement'' (EIS) to analyze the effects of, and discuss alternatives for, any proposed major Federal action (including approval of a filing) significantly affecting the quality of the human environment. Often, to determine whether an EIS must be prepared, an agency will prepare an ''environmental assessment'' (EA). The EA will result in either a finding that an EIS must be prepared, or a finding of no significant impact (FONSI).

C. Definitions

As used in this statement of policy:

- ''Major Federal action'' includes actions with effects that may be major and which are potentially subject to Federal control and responsibility.
- ''Environmental impact statement'' (EIS) means a detailed written statement as required by section 102(2)(C) of the NEPA which analyzes the environmental impact of the FDIC's approval of a filing.
- ''Environmental assessment'' (EA) means a concise document that sets forth sufficient information for the FDIC to determine whether to prepare an EIS.
- ''Finding of no significant impact'' (FONSI) means a determination that approval of the filing will not have a significant effect on the quality of the human environment and therefore no further NEPA analysis is required.
- ''Categorical exclusion'' means a category of filings that do not individually or cumulatively have a significant effect on the human environment, and which require no NEPA analysis.

D. Categorical Exclusions

The CEQ regulations require Federal agencies to develop categorical exclusions as part of the agencies' NEPA procedures. 40 CFR 1507.3(b)(2)(ii). Accordingly, the FDIC is establishing categorical exclusions for all filings made by depository institutions pursuant to part 303 with the exception of applications for:

(1) Deposit insurance for de novo institutions.

(2) Establishment of a domestic branch, or relocation of a domestic branch or main office.

All other part 303 filings are subject to categorical exclusions and, therefore, require no further NEPA action. Consistent with the CEQ regulations, however, the FDIC may request additional information from applicants if extraordinary circumstances indicate that a normally categorically excluded action may have a significant environmental effect. Such extraordinary circumstances may exist, for example, where filings involve real property where endangered or threatened species, wetlands or floodplains may be present, where the applicant's proposed activity impacts cultural or historic sites, or where construction is proposed.

E. FDIC Procedure

In reviewing a part 303 filing, the FDIC will determine whether the filing falls within the categorical exclusions established by this statement of policy. If the filing falls within the categorical exclusions, the FDIC will determine whether the proposal involves any extraordinary circumstances that require NEPA analysis. If necessary, the FDIC may request additional information from an applicant to aid in this determination.

1. Environmental Assessment

The FDIC must prepare an EA before approving a filing for (1) deposit insurance for a de novo institution, or (2) establishment of a domestic branch, or relocation of a domestic branch or main office. The applicant must provide sufficient information for the FDIC to determine whether the application may

affect the quality of the human environment.

The applicant shall provide information on compliance with local zoning laws and regulations, and effects on traffic patterns (including, for example, adequacy of roads and parking places, increase or decrease of traffic hazards and congestion, and favorable impacts such as potential decrease in pollution or fuel consumption). The FDIC may request additional information, as warranted, on other matters. Based on its evaluation of this information, the FDIC will prepare the EA.

2. Finding of No Significant Impact

If the EA indicates that approval of the filing will not significantly affect the quality of the human environment, the NEPA process will conclude with a FONSI to document the FDIC's determination of no significant effect on the human environment.

3. Environmental Impact Statement

If the EA indicates that approval of the filing may significantly affect the quality of the human environment, the FDIC will prepare an EIS in accordance with the CEQ regulations.

F. Public Involvement

Pursuant to the CEQ regulations, the FDIC will make diligent efforts to involve the public in its NEPA compliance activities. In addition to the public notice requirements set forth in part 303, the FDIC will apprise the public of the availability of any environmental impact statements it prepares and will provide opportunity for public comment prior to the finalization of those documents.

G. Summary and Conclusion

Most of the filings made by depository institutions pursuant to part 303 will fall within the categorical exclusions established by this Statement of Policy. For those filings not falling within the categorical exclusions, or involving extraordinary circumstances, the FDIC will analyze relevant information with respect to environmental factors and incorporate it into the FDIC's environmental assessment. Filings that require the FDIC's preparation of an environmental impact statement are expected to be extremely rare. When those instances arise, the FDIC will comply with the requirements of the CEQ regulations regarding the preparation and processing of environmental impact statements.

H. Information Requests

Inquiries regarding specific filings and requests for documents and information should be directed to the appropriate regional director of the FDIC's Division of Supervision.

By order of the Board of Directors.

Dated at Washington, D.C., this 7th day of July, 1998.

Federal Deposit Insurance Corporation.

James LaPierre,

Deputy Executive Secretary.

[FR Doc. 98–18817 Filed 7–14–98; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, July 21, 1998 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 98–19038 Filed 7–13–98; 3:45 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984. Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street, N.W., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 203–011325–016

Title: Westbound Transpacific Stabilization Agreement

Parites:

A.P. Moller-Maersk Line

American President Lines, Ltd.

China Ocean Shipping Company, Inc.

Hapag-Lloyd Container Line GmbH

Kawasaki Kisen Kaisha, Ltd.

Mitsui O.S.K. Lines, Ltd.

Nippon Yusen Kaisha Line

Orient Overseas Container Line, Inc.

P&O Nedlloyd Limited

P&O Nedlloyd B.V.

Sea-Land Service, Inc.

Evergreen Marine Corporation, Ltd.

Hanjin Shipping Co., Ltd.

Hyundai Merchant Marine Co., Ltd.

Transpacific Westbound Rate Agreement

Synopsis: The proposed amendment (1) clarifies operating procedures regarding the adoption of policy or rate guidelines, (2) shifts the Agreement's communications functions and responsibilities to the Agreement's Secretariat and Managing Director, and (3) corrects the title of the Chief Executive Officer of the Agreement.

Agreement No.: 203–011479–005

Title: Serpac Service Agreement

Parties:

Compania Sudamericana de Varpores S.A.

Transportation Maritima Grancolombiana S.A.

Columbus Line

Synopis: The proposed modification revises the Agreement to include intermodal authority in both the U.S. and foreign portions of the geographic scope.

Agreement No.: 201–201020–002

Title: Jacksonville-Jaxport Refrigerated Services Terminal Lease Agreement

Parties:

Jacksonville Port Authority

Jaxport Refrigerated Services, Inc.

Synopsis: The proposed amendment amends the provision for wharfage and the Minimum Annual Guarantee. The amendment also includes a provision for a crane rental. The agreement continues to run through March 9, 2017.

Dated: July 9, 1998.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 98–18755 Filed 7–14–98; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than July 30, 1998.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 90 Hennepin Avenue, P.O. Box 291, Minneapolis, Minnesota 55480-0291:

1. Thomas Sexton, St. Paul, Minnesota; to acquire voting shares of Yellow Medicine Bancshares, Inc., Granite Falls, Minnesota, and thereby indirectly acquire voting shares of Yellow Medicine County Bank, Granite Falls, Minnesota.

Board of Governors of the Federal Reserve System, July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18867 Filed 7–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 30, 1998.

A. Federal Reserve Bank of Richmond (A. Linwood Gill III, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. Carolina First Corporation, Greenville, South Carolina; to acquire Poinsett Bank, FSB, Travelers Rest, South Carolina, and thereby engage in operating a savings and loan association, pursuant to § 225.28(b)(4)(ii) of Regulation Y.

Board of Governors of the Federal Reserve System, July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18866 Filed 7–14–98; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Board of Governors of the Federal Reserve System.

TIME AND DATE: 11:00 a.m., Monday, July 20, 1998.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, N.W., Washington, D.C. 20551

STATUS: Closed

MATTERS TO BE CONSIDERED:

1. Proposed amendments to the Voluntary Guide to Conduct for Federal Reserve System Officials. (This item was originally announced for a closed meeting on June 22, 1998.)

3. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

4. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.bog.frb.fed.us for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: July 10, 1998.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 98–18931 Filed 7–13–98; 10:34 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–136]

Public Health Assessments Completed

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces those sites for which ATSDR has completed public health assessments during the period October 1997–March 1998. This list includes sites that are on or proposed for inclusion on the National Priorities List (NPL), and includes a site for which an assessment was prepared in response to a request from the public.

FOR FURTHER INFORMATION CONTACT: Robert C. Williams, P.E., DEE, Director, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–0610.

SUPPLEMENTARY INFORMATION: The most recent list of completed public health assessments was published in the **Federal Register** on March 11, l998, [63 FR 11896]. This announcement is the responsibility of ATSDR under the regulation, Public Health Assessments and Health Effects Studies of Hazardous Substances Releases and Facilities [42 CFR Part 90]. This rule sets forth ATSDR's procedures for the conduct of public health assessments under section 104(i) of the Comprehensive Environmental Response, Compensation, and Liability Act (of 1980) (CERCLA), as amended by the Superfund Amendments and Reauthorization Act (of 1986) (SARA) [42 U.S.C. 9604(i)].

Availability

The completed public health assessments and addenda are available for public inspection at the Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, Building 33, Executive Park Drive, Atlanta, Georgia (not a mailing address), between 8 a.m. and 4:30 p.m., Monday through Friday except legal holidays. The completed public health assessments are also available by mail through the U.S. Department of Commerce, National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, or by telephone at (703) 487–4650. NTIS charges for copies of public health assessments and addenda. The NTIS order numbers are listed in parentheses following the site names.

Public Health Assessments Completed or Issued

Between October 1, 1997 and March 31, l998 public health assessments were issued for the sites listed below:

NPL Sites

Alabama

USA Alabama Army Ammunition Plant—Childersburg—(PB98–118631)

Arizona

Williams Air Force Base—Mesa—(PB98–113236)

California

Sacramento Army Depot—Sacramento—(PB98–108939)
Sharpe Army Depot (aka Defense Distribution Depot, San Joaquin, California—Sharpe)—Lathrop—(PB98–137342)

Hawaii

Schofield Barracks—Wahiawa—(PB98–126196)

Indiana

Carter Lee Lumber Company—Indianapolis—(PB98–114739)

Maryland

Naval Surface Warfare Center Indian Head Division (NSWC–IHDIV)—Indian Head—(PB98–119167)

Massachusetts

Natick Laboratory Army Research—[aka U.S. Army Soldier System Command (SSCOM)—Natick]—Natick—(PB98–133630)

Michigan

Aircraft Components (Michigan Radiologic) (aka D & L Sales)—Benton Harbor—(PB98–113590)
H & K Sales (Michigan Radiologic) (aka D & L Sales)—Belding—(PB98–113590)
Organic Chemicals Incorporated—Grandville—(PB98–133622)

New York

Rosen Site (aka Rosen Brothers Site)—Cortland—(PB98–117930)

Washington

Fairchild Air Force Base (4 Areas)—Spokane—(PB98–118672)
Palermo Wellfield Groundwater Contamination—Tumwater—(PB98–116031)

West Virginia

Sharon Steel Corporation (aka Fairmont Coke Works)—Fairmont—(PB98–110901)

Non-NPL Petitioned Sites

U.S. Virgin Islands

Bovoni Dump—St. Thomas—(PB98–124332)

Dated: July 8, 1998.

Georgi Jones,

Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 98–18767 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

Safety and Occupational Health Study Section: Notice of Charter Renewal

This gives notice under the Federal Advisory Committee Act (Pub. L. 92–463) of October 6, 1972, that the Safety and Occupational Health Study Section, National Institute for Occupational Safety and Health (NIOSH), of the Department of Health and Human Services, has been renewed for a 2-year period beginning July 1, 1998, through June 30, 2000.

For further information, contact Pervis C. Major, Ph.D., Scientific Review Administrator, Office of Extramural Coordination and Special Projects, Office of the Director, NIOSH, 1095 Willowdale Road, Morgantown, West Virginia 26505. Telephone 304/285–5979.

Dated: July 8, 1998.

Carolyn J. Russell

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18825 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Announcement 98082]

National Minority Organizations Strategies for the Prevention and Control of Diabetes, The National Diabetes Education Program; Notice of Availability of Fiscal Year 1998 Funds

Introduction

The Centers for Disease Control and Prevention (CDC) announces the availability of funds for fiscal year (FY) 1998 for the award of cooperative agreements to national minority organizations (NMOs) for National Diabetes Education Program (NDEP) activities related to the prevention and control of diabetes within special populations groups disproportionately burdened by this chronic disease (i.e. Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native). These awards will assist NMOs to reach their targeted populations with culturally and linguistically appropriate NDEP prevention and control messages through community-based intervention approaches and delivery channels.

CDC is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a national activity to reduce morbidity and mortality and to improve the quality of life. This announcement is related to the priority area of Diabetes and Chronic Disabling Conditions. (To order a copy of Healthy People 2000, see the section ''Where To Obtain Additional Information''.)

Authority

This program is authorized under Sections 301(a) and 317(k)(2) [42 U.S.C. 241(a) and 247b (k) (2)] of the Public Health Service Act, as amended. Applicable program regulations are found in 45 CFR Part 74.

Smoke-Free Workplace

CDC strongly encourages all grant recipients to provide a smoke-free workplace and to promote the nonuse of all tobacco products, and Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities that receive federal funds in which education, library, day care, health care, or early childhood development services are provided to children.

Eligible Applicants

Eligible applicants are public and private nonprofit, national minority organizations that have the ability to reach those special populations specified in the Introduction. Eligible applicants must meet all the criteria listed below and provide evidence of eligibility in a cover letter and supporting documentation attached to their application. If the applicants do not meet all the eligibility criteria below, the application will be returned and not reviewed.

A. The applicant organization must have a primary relationship with one of the targeted populations. A primary relationship is one in which the targeted population is viewed as the most important benefactor or constituent of the organization's mission and activities. The relationship to the targeted population must be direct (membership or service) rather than indirect or secondary (philanthropy or fund-raising).

B. The applicant organization must have affiliate offices, chapters, or related-membership organizations in more than one State or territory. Individual affiliates or chapters of parent organizations are not eligible to apply.

C. The applicant organization must provide a copy of a letter of commitment from the organization's President or Executive Director, acknowledging their intent to develop a diabetes prevention and control policy and plan that will be adopted by the national organization, and moved for adoption by affiliates, chapters, and related-membership organizations. If a diabetes prevention and control policy and plan already exists within the national organization's office, they should be submitted in lieu of a letter of commitment.

D. A private nonprofit organization must include evidence of its nonprofit status with the application. Any of the following is acceptable evidence.

1. A reference to the organization's listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations described in section 501(c)(3) of the IRS Code.

2. A copy of a currently valid Internal Revenue Service Tax exemption certificate.

3. A statement from a state taxing body, State Attorney General, or other appropriate State official certifying that the applicant organization has a nonprofit status and that none of the net earnings accrue to any private shareholders or individuals.

4. A certified copy of the organization's certificate of incorporation or similar document if it clearly establishes the nonprofit status of the organization.

In addition, to be considered a national minority organization, eligible applicants must meet the following criteria:

1. At least 51 percent of persons on the governing board must be members of racial or ethnic minority populations.

2. The organization must possess a documented history of serving racial and ethnic minority populations through its offices, affiliates, or participating minority organizations at the national level for at least 12 months before submission of the application to CDC.

Note: Effective January 1, 1996, Public Law 104–65 states that an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 which engages in lobbying activities will not be eligible for the receipt of federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

Availability of Funds

Approximately $1.5 million is available in FY 98 to fund from five to six awards.

CDC expects to fund one award in each of the following targeted populations: Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native.

It is expected that the average award will be $300,000, ranging from $200,000 to $400,000. It is expected that the awards will begin on or about September 30, 1998, and will be made for a 12-month budget period within a project period of up to 3 years. Funding estimates may vary and are subject to change.

Continuation awards within the approved project period will be made on the basis of satisfactory progress and the availability of funds.

Funds may not be expended for the purchase or lease of land or buildings, construction of facilities, renovation of existing space, or the delivery of clinical and therapeutic services. The purchase of equipment is discouraged but will be considered for approval if justified on the basis of being essential to the program and not available from any other source.

Use of Funds

Restrictions on Lobbying

Applicants should be aware of restrictions on the use of HHS funds for lobbying of Federal or State legislative bodies. Under the provisions of 31 U.S.C. Section 1352 (which has been in effect since December 23, 1989), recipients (and their subtier contractors) are prohibited from using appropriated Federal funds (other than profits from Federal contract) for lobbying Congress or any Federal agency in connection with the award of a particular contract, grants, cooperative agreement, or loan. This includes grants/cooperative agreements that, in whole or in part, involve conferences for which Federal funds cannot be used directly or indirectly to encourage participants to lobby or to instruct participants on how to lobby.

In addition, the FY 1998 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act (Public Law 105–78) states in Sec. 503(a) and (b) no part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relations, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislative body itself. No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

Background

Diabetes is a serious and costly public health problem in the United States. In 1997, an estimated 15.7 million people (5.9 percent) have diabetes and one-third or 5.4 million people are undiagnosed. Diabetes contributed to approximately 187,800 deaths in 1995 and it was the seventh leading cause of death according to the National Center for Health Statistics. Approximately 798,000 new diabetes cases are diagnosed annually. The prevalence of diabetes is 8.2 percent, equally impacting both males and females. Diabetes disproportionately affects those aged 65 years or older. For example, the prevalence of diabetes in the general population aged 20 years or older is 8.2 percent; the prevalence is 18.4 percent among those aged 65 years or older. The population 65 years or older represent 12.8 percent of the U.S. population.

Diabetes is the leading cause of blindness among working-aged adults. It is the leading cause of kidney failure requiring dialysis and transplantation. Additionally, more than half of lower limb amputations occur among people

with diabetes. Diabetes imposes a tremendous cost with the direct medical and indirect costs totaling approximately $92 billion in 1992. People with diabetes have a twofold-fourfold increase in cardiovascular disease. The incidence of diabetes is expected to rise in the United States given the aging of America, increase in minority populations, and trends in higher prevalence of obesity.

The racial and ethnic population in the United States is disproportionately affected by diabetes. For instance, the prevalence of diabetes among non-Hispanic blacks is 10.8 percent or 38.5 percent higher than among non-Hispanic whites (7.8 percent). On average, Hispanic/Latinos are nearly twice as likely to have diabetes as non-Hispanic whites of similar age. Prevalence data for Asian Americans and Pacific Islanders are limited, however, selected studies such as the King County, Washington study indicate that among second-generation Japanese Americans 45 to 74 years of age, 20 percent of the men and 16 percent of the women had diabetes.

Strong scientific evidence exists to support secondary and tertiary prevention efforts to reduce the medical, social, and economic burden of diabetes among all populations. Results of the Diabetes Control and Complications Trial (DCCT) clearly showed that persons with Type 1 diabetes who maintained tight control of their blood glucose levels can dramatically reduce their risk for long-term medical complications such as blindness, lower limb amputations, and kidney failure. Other studies suggest that tight glucose control has similar benefits for persons with Type 2 diabetes and reduces the risk for heart attacks, strokes, and peripheral vascular diseases. With so much scientific evidence, the question now becomes, What could and should be done to improve the prognosis for all people with diabetes?

The answer begins with the recognition that there is a big gap between what is known versus current practice in good diabetes care. There is a lack of awareness that diabetes is serious, common, costly, and controllable; and that prevention and early detection practices may prevent or delay the progression of long-term medical complications. This gap is especially true among racial and ethnic minority populations who have less access to culturally and linguistically appropriate diabetes information in the communities where they live. The U.S. health care system inadequately provides prevention and early detection services to people with diabetes and does not have the capacity to address the special needs of racial/ethnic diverse populations.

CDC and the National Institutes of Health (NIH) joined forces in 1995 to develop a major new initiative, the NDEP. The NDEP is a collaborative effort to improve the treatment and outcome for people with diabetes, promote early diagnosis, and ultimately, prevent the onset of disease. The NDEP will initially focus on secondary and tertiary strategies aimed at the prevention, early detection and control of medical complications related to diabetes including the reduction of risk factors for cardiovascular disease.

Targeted audiences of the NDEP include the general public, people with diabetes and their families, health professionals, and, purchasers and payers of health care and policy makers. The goal of the NDEP is to reduce morbidity and mortality caused by diabetes and its complications. The NDEP objectives are to (1) increase public awareness of the seriousness of diabetes, its risk factors, and potential strategies for preventing diabetes and its complications; (2) improve understanding of diabetes and its control and to promote self-management behaviors among people with diabetes; (3) improve health care providers' understanding of diabetes and its control and to promote an integrated approach to care; and, (4) promote health care policies and activities that improve quality and access to diabetes care.

The underlying theme of NDEP messages is, ''diabetes is serious, common, costly, and controllable.''

Through a nationwide Partnership Network, diverse public and private sector organizations will be brought together to collaboratively address the nation's diabetes burden. The NDEP will facilitate the coordination of efforts to reduce the burden of diabetes from a national perspective. Science-based diabetes messages will be developed and delivered using a wide variety of approaches and channels that effectively reach targeted audiences. NDEP messages and strategies will be integrated into existing systems of diabetes care, education programs, and community-based interventions. NDEP partners include federal agencies; State and local health departments; multiple professional, voluntary health, racial and ethnic minority groups, national, academic, community-based, and civic organizations; as well as private sector enterprises (e.g., managed care organizations, corporations and small businesses, pharmaceutical and diabetes equipment companies, national and local media including racial and ethnic minority media, and others).

It is essential to reach racial and ethnic minority populations through the NDEP. Creative and nontraditional methods need to be employed to accommodate the cultural, language, literacy, intergenerational, and other challenges of delivering diabetes messages and education programs to these groups. National minority organizations have a great depth of cultural understanding and established trust with their targeted populations and many who serve them. They have established relationships with individuals and organizations at the national, State and local levels that are respected by the targeted populations. Additionally, they have unique knowledge of how to effectively reach the targeted populations with awareness and education programs. NMOs are critical partners of the NDEP. It is through them and the partnerships formed to extend the reach of the NDEP that an impact may be made in reducing the burden of diabetes among racial and ethnic minority populations.

Purpose

The purpose of this announcement is to strengthen the capacity of national minority organizations (NMOs) to collaborate with the NDEP to reduce the disproportionate burden of diabetes among high-risk populations (e.g. Black or African-American, Hispanic or Latinos, Asian, Native Hawaiian or Other Pacific Islanders, and American Indian or Alaska Native). These awards will assist NMOs to reach their targeted populations with culturally and linguistically appropriate NDEP prevention and control messages through trusted and valued community-based intervention approaches and delivery channels.

Program Requirements

Program activities should focus on delivering NDEP messages to the targeted populations using a variety of culturally valued and effective community-based approaches and channels, establishing coalitions and partnerships to extend the reach of the NDEP in the targeted populations, and strengthening the health care system's capacity to competently provide culturally and linguistically appropriate diabetes education and support to diverse racial and ethnic minority populations. All program activities should support and be consistent with the purpose, goal, objectives, partnership guidelines, messages, and strategies of the NDEP.

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under A. (Recipient Activities), and CDC will be responsible for conducting activities under B. (CDC Activities).

A. Recipient Activities

1. Required Activities (Select 3 or More) (based on the needs and priorities of the targeted populations and adequacy of existing diabetes awareness and education activities).

(a) Identify and replicate effective cultural and linguistically appropriate community-based diabetes awareness and education activities and programs that are consistent with the NDEP and deliver them through trusted and valued channels. Examples: lay health workers or promoters, church-based education, or worksite education.

(b) Develop and carry out creative new community-based intervention strategies for the delivery of culturally and linguistically appropriate NDEP messages designed to improve the knowledge, attitude, skills, and behaviors related to the prevention, early detection, and control of diabetes complications. Example: community information and diabetes health promotion partnerships with local businesses, health care organizations, government health care programs (e.g., Medicare), or media outlets that serve the targeted populations.

(c) Establish community-based diabetes coalitions among organizations that serve the targeted population to extend the reach of the NDEP in at least 5 geographically distinct communities with a high concentration of the targeted population. Geographically distinct communities may be located in different States where the targeted population resides. Examples: Actively engage coalition members in a State and local partnership network to identify community needs and resources, incorporate NDEP messages into existing programs, develop joint initiatives and otherwise extend the reach of the NDEP.

(d) Develop and disseminate user friendly, consumer oriented inventories of diabetes education and care resources available to the targeted population in 5 or more geographically distinct communities with a high concentration of the targeted population. Geographically distinct communities may be located in different States where the targeted population resides. Examples: referral and resource directories.

(e) Establish culturally and linguistically appropriate mechanisms to respond to public inquiries regarding diabetes generated by NDEP media and other activities. Examples: multi language 1–800 number or information service from local multi language health care clinics.

(f) Identify, evaluate, and recommend existing diabetes awareness & education products that are culturally and linguistically appropriate for the targeted population, based on current science and consistent with the NDEP. Examples: brochures and pamphlets, videos, books, and public service announcements.

(g) Strengthen the capacity of the State/local health care system to competently provide culturally and linguistically appropriate diabetes information, education and support to the targeted population consistent with the NDEP. Examples: provider training on cultural sensitivity relative to diabetes or patient advocate and outreach program.

2. Other Required Activities:

(a) Participate in appropriate NDEP work groups to define the characteristics and needs of the targeted population, recommend priority activities and delivery strategies, and develop and test culturally and linguistically appropriate diabetes messages, information and educational products, and guidelines for developing community-based programs that reach the targeted population through participation on appropriate NDEP work groups.

(b) Incorporate culturally and linguistically appropriate NDEP diabetes prevention and control messages into all proposed program activities.

(c) Establish public and private sector partnerships to extend the reach of the NDEP in the targeted population.

(d) Assess the accomplishment and effectiveness of each program objective and major activity following a well-designed evaluation plan.

(e) Participate in the annual CDC Diabetes Control Conference, annual NDEP Partnership Network meeting, and 1–2 NDEP work group meetings (as appropriate).

(f) Identify additional public and private sector resources to extend, sustain and expand NDEP program activities initiated under this program announcement.

(g) Disseminate pertinent program information to other CDC-funded grantees, NDEP partner organizations, and other appropriate agencies and partners at the national, State and local levels.

B. CDC Activities

1. Provide periodic updates of the nationwide activities and progress of the NDEP and an explanation of how they relate to the purpose of this award.

2. Include recipients as participants in NDEP work groups formed to develop specific program components that are relevant to the purpose of this award.

3. Provide culturally and linguistically tested NDEP messages, information and education products, and guidelines for the development of community-based programs that reach the targeted populations as they become available for dissemination.

4. Collaborate with recipients in the development, implementation, evaluation, and dissemination of proposed program activities to ensure their consistency with the NDEP and provide technical assistance and consultation, as needed.

5. Provide periodic updates about public knowledge, attitudes, practices, and effective interventions for the prevention, early detection, and control of diabetes, and up-to-date scientific information.

6. Collaborate with recipients in the development of publications, manuals, modules, etc. that relate to this award.

Technical Reporting Requirements

An original and two copies of a quarterly progress report are due 30 days after the end of each quarter. The progress reports must include the following for each program, function, or activity: (1) A comparison of actual accomplishments to the objectives established for the reporting period; (2) the reasons for slippage if established objectives were not met; and (3) other pertinent information.

An original and two copies of the financial status report (FSR) must be submitted no later than 90 days after the end of each budget period. A final financial status and performance reports providing an overall evaluation of the 3 year program are required no later than 90 days after the end of the project period. All reports are submitted to the Grants Management Branch, Procurement and Grants Office, CDC.

Application Content

Applicants should focus on reaching the targeted population that they have the greatest likelihood of impacting and propose program activities that are consistent with the purpose of the award and description of recipient activities in this announcement. All program activities should support and be consistent with the purpose, goal, objectives, partnership guidelines, messages, and strategies of the NDEP. The application should be organized and presented following the outline described below. Program definitions

and information that can be helpful in completing the application are attached.

Applicants must develop their applications in accordance with PHS Form 5161–1 (OMB Number 0937–0189), information contained in the program announcement, and the instructions below. The application should be limited, including PHS forms, budget information, and appendixes, to no more than 75 single-spaced pages. All materials should be suitable for photocopying. The application should not contain audiovisual materials, posters, tapes, etc.

A. Background and Need

1. Describe the targeted population to include the magnitude and scope of diabetes, existing activities and programs, barriers and gaps in diabetes prevention and control efforts, and need for the proposed program activities.

2. Describe the characteristics of the targeted population relative to their racial and ethnic diversity and knowledge, attitudes, beliefs, and health practices relative to diabetes.

B. Objectives

1. Identify the 3-year measurable outcome objectives for the program consistent with the purpose of this announcement and recipient activities.

2. Identify the process objectives for each budget year.

C. Program Activities

1. Clearly describe the specific activities that will be undertaken to achieve each of the program's process objectives during the year 01 budget period consistent with the recipient activities.

2. Briefly describe the activities planned for budget years 2 and 3.

D. Capabilities

1. Describe the organization's mission, structure and function, size, national membership, substructure, activities on a regional, State, or local level, and methods of routine communication with constituents and members (newsletters, journals, meetings, etc.). Explain how this infrastructure will be used to support successful implementation of the proposed program activities.

2. Describe the organization's past and present awareness and education activities in the prevention, early detection, and control of diabetes. Describe the organization's other past and present diabetes activities such as diabetes support groups and clinical services. Explain how NDEP messages can be integrated and how the proposed program activities will expand rather than duplicate present activities.

3. Describe the organization's past and present participation in planning or developing the National Diabetes Education Program.

4. Describe past and present collaborative partnerships with public and private sector organizations that serve or have established linkages in the targeted population. Include evidence of collaborations with partners such as memorandums of agreement. Explain how these partnerships can be used to support successful implementation of the proposed program activities.

5. Describe the nature and extent of constituent support for past and present organizational activities related to awareness and education activities for the prevention and control of diabetes. Explain how constituent support will be secured for the proposed program activities.

E. Project Management

1. Submit a work plan that outlines the main implementation steps and activities to be completed by specified targeted dates to achieve the process objectives for the budget year. Identify the persons or positions responsible for carrying out the activities.

2. Describe each proposed position for this program by job title, function, general duties, and the main activities with which that position will be involved. Describe the qualifications for the project coordinator position in terms of education, experience and desired skills. Include the level of effort and allocation of time for each project activity by staff position. Minimal staffing should include a full-time project coordinator and one program assistant.

F. Program Evaluation Plan

Identify methods for attaining measurable outcome and process objectives, accomplishing program activities, and monitoring program quality including the consistency of activities with the NDEP. The evaluation plan should include qualitative and quantitative data collection and assessment mechanisms. As appropriate, this plan should include baseline data for the proposed objectives or the mechanism that will be used to establish the baseline data; the minimum data to be collected to evaluate the achievement of proposed program objectives; and the systems for collecting and analyzing the data. Data to be reported will be dependent on the proposed program objectives and activities, however, examples of potential data include, but are not limited to the following:

1. The number expected to be reached in the targeted population and the plan for evaluating the number actually reached.

2. Information about the State affiliates, local community-based organizations and other partners reached and their activities.

3. Information about the health organizations and providers reached and populations served.

4. When, where, and how often activities are conducted.

5. Cultural and linguistically appropriate program products developed and disseminated and their consistency with the NDEP.

6. Information on the change in knowledge, attitudes, and self-management practices among people with diabetes.

7. Information on the number of existing programs or organizations that have incorporated the NDEP messages and strategies including a description of their activities.

8. Information on the number and types of public and private sector partnerships and coalitions established to extend the reach of the NDEP including a description of their activities.

G. Budget and Narrative Justification

Provide a detailed line-item budget and narrative justification for all operating expenses consistent with the proposed objectives and planned activities. Be precise about the program purpose of each budget item and itemize calculations when appropriate.

Applicants should budget for the following costs: Out-of-State Travel: Participation in CDC-sponsored training workshops and meetings is essential for the effective implementation of diabetes control programs. Travel funds should be budgeted for the following meetings:

1. Two persons to attend the CDC Diabetes Prevention and Control Conference (3 days) held during Spring of 1999.

2. Two persons to attend the 1999 NDEP Partnership Network Meeting in Atlanta, or another specified location (2–3 days).

3. One person to attend 1–2 NDEP work group meetings related to program development during 1999 (2 days each meeting).

H. Attachments

Provide these attachments:

1. An organizational chart and 1-page résumés of current and proposed staff. Include 1 page job descriptions of proposed staff.

2. A list of applicant's constituents by regional, State, and local organization(s).

3. Evidence of collaboration with other organizations that serve the same targeted populations. Include Memorandums of Agreement and letters of support.

4. A description of funding from other sources to conduct similar activities:

(a) Describe how funds requested under this announcement will be used differently or in ways that will expand on the funds already received, applied for, or being received.

(b) Identify proposed personnel devoted to this project who are supported by other funding sources and the activities they are supporting.

(c) Written statement that the funds being requested will not duplicate or supplant funds received from any other sources.

5. Proof of eligibility.

Typing and Mailing

Applicants are required to submit an original and two copies of the application. Number all pages clearly and sequentially and include a complete table of contents for the application and its appendixes. The original and each copy of the application must be submitted unstapled and unbound. Print all material, single-spaced, in a 12-point or larger font on 8 1/2″ by 11″ paper, with at least 1″ margins and printed on one side only. The application length should be no more than 75 pages total including appendixes, an itemized budget with justification and the required forms.

Evaluation Criteria (100 Points)

Objective Review panels evaluate the scientific and technical merit of applications and their responsiveness to the information requested in the ''Application Content'' section above. The application will be reviewed and evaluated according to the following criteria:

A. Background and Need (10 Points)

The extent to which the applicant demonstrates an understanding of the program's purpose and objectives, describes the characteristics, diabetes burden and needs of the targeted population, and justify the need for the proposed activities.

B. Objectives (15 Points)

The extent to which the proposed outcome and process objectives are specific, time-related, measurable, appropriate for the targeted audience, and consistent with the stated purpose of this announcement.

C. Program Activities (25 Points)

The appropriateness of the proposed program activities for the targeted population, likelihood that they are achievable, and expectation that their implementation will lead to accomplishment of the proposed process and outcome objectives within the project period.

D. Capabilities (20 Points)

1. The capacity of the applicant's infrastructure in supporting successful implementation of the proposed program activities in the targeted population.

2. The success of the applicant's past and present experiences in working with the targeted population, conducting diabetes awareness and education activities, collaborating with public and private sector partners and the potential contribution of these experiences to the success of the proposed program activities.

3. The success of the applicant in generating constituent support for past and present organizational activities and the likelihood that strong support can be secured for the proposed program activities.

E. Project Management (20 Points)

1. The adequacy of the work plan in outlining the main program implementation steps with time lines and identification of appropriate responsible positions or persons.

2. The adequacy of proposed personnel time allocations and the extent to which proposed staff exhibit appropriate qualifications and experience to accomplish the program activities.

F. Program Evaluation Plan (10 Points)

The appropriateness and quality of the evaluation plan for monitoring the program's progress, quality and accomplishments relative to the achieving the outcome and process objectives and completing the proposed program activities.

G. Budget and Justification (Not Weighted)

The extent to which the budget is reasonable and consistent with the purpose and objectives of the cooperative agreement.

Content of Noncompeting Continuation Applications

In compliance with 45 CFR 74.51(d), noncompeting continuation applications submitted within the project period need only include:

A. A brief progress analysis that describes the accomplishments from the start of the project period.

B. Any new or significantly revised items or information (objectives, scope of activities, operational methods, evaluation, etc.) not included in the year 01 application.

C. An annual budget and justification. Existing budget items that are unchanged from the previous budget period do not need rejustification. Simply list the items in the budget and indicate that they are continuation items. Supporting justification should be provided where appropriate.

Executive Order 12372 Review

Applications are not subject to Executive Order 12372, Intergovernmental Review of Federal Programs.

Public Health System Reporting Requirements

This program is subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.283.

Other Requirements

Paperwork Reduction Act

Projects that involve the collection of information from 10 individuals or more and funded by the cooperative agreement will be subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act.

Human Subjects Requirements

If a project involves research on human subjects, assurance (in accordance with Department of Health and Human Services Regulations, 45 CFR Part 46) of the protection of human subjects is required. In addition to other applicable committees, Indian Health Service (IHS) institutional review committees also must review the project if any component of IHS will be involved with or will support the research. If any American Indian community is involved, its tribal government must also approve that portion of the project applicable to it. Unless the grantee holds a Multiple Project Assurance, a Single Project Assurance is required, as well as an assurance for each subcontractor or cooperating institution that has immediate responsibility for human subjects. The Office for Protection from Research Risks (OPRR) at the National Institutes of Health (NIH) negotiates assurances for all activities involving human subjects that are supported by the Department of Health and Human Services.

Inclusion of Women and Racial and Ethnic Minorities in Research

It is the policy of the Centers for Disease Control and Prevention (CDC) and the Agency for Toxic Substances and Disease Registry (ATSDR) to ensure that individuals of both sexes and the various racial and ethnic groups will be included in CDC/ATSDR-supported research projects involving human subjects, whenever feasible and appropriate. Racial and ethnic groups are those defined in OMB Directive No. 15 and include American Indian or Alaska Native, Asian, Black or African American, Hispanic or Latino, Native Hawaiian or Other Pacific Islander. Applicants shall ensure that women, racial and ethnic minority populations are appropriately represented in applications for research involving human subjects. Where clear and compelling rationale exist that inclusion is inappropriate or not feasible, this situation must be explained as part of the application. This policy does not apply to research studies when the investigator cannot control the race, ethnicity, and/or sex of subjects. Further guidance to this policy is contained in the **Federal Register**, Vol. 60, No. 179, pages 47947–47951, and dated Friday, September 15, 1995.

Application Submission and Deadline

The original and two copies of the application PHS Form 5161–1 (Revised 5/96, OMB Number 0937–0189) must be submitted to Sharron P. Orum, Grants Management Officer, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 300, Mail Stop E–18, 255 East Paces Ferry Road, NE., Atlanta, GA 30305, on or before August 15, 1998.

1. Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; and

(b) Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks will not be accepted as proof of timely mailing.)

2. Late Applications: Applications that do not meet the criteria in 1.(a) and 1.(b) above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where to Obtain Additional Information

A complete program description and information on application procedures may be obtained in an application package. Business management technical assistance may be obtained from Sharron Orum, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), Room 314, Mail Stop E–18, 255 East Paces Ferry Road, NE., Atlanta, GA 30305; telephone (404) 842–6508 or the Internet at, slh3@cdc.gov. Programmatic technical assistance may be obtained from Rita Díaz-Kenney, Division of Diabetes Translation, National Center for Chronic Disease Prevention and Health Promotion, Centers for Disease Control and Prevention (CDC), Mail Stop K–10, 4770 Buford Highway NE., Atlanta, GA 30341–3724; telephone (770) 488–5016, or the Internet at: rvd1@cdc.gov.

You may also obtain this announcement, and other CDC announcements, from one of two Internet sites on the actual publication date: CDC's home-page at http://www.cdc.gov or the Government Printing Office home-page (including free on-line access to the **Federal Register** at http://www.access.gpo.gov).

Please refer to Announcement number 98082 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; stock No. 017–001–00473–1) referenced in the Introduction through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325; telephone (202) 512–1800.

Dated: July 9, 1998.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18824 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Ethics Subcommittee and the Advisory Committee to the Director, Centers for Disease Control and Prevention: Cancellation of Meetings

This notice announces the cancellation of previously announced meetings.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 34901, June 26, 1998.

PREVIOUSLY ANNOUNCED TIMES AND DATES: 9 a.m.–3 p.m., July 16, 1998, and 8:30 a.m.–3 p.m. July 17, 1998.

CHANGE IN THE MEETING: These meetings have been cancelled.

CONTACT PERSON FOR MORE INFORMATION: Linda Kay McGowan, Executive Secretary, Advisory Committee to the Director, CDC, 1600 Clifton Road, NE, M/S D–24, Atlanta, Georgia 30333, telephone 404/639–7080.

Dated: July 10, 1998.

Nancy C. Hirsch,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 98–18934 Filed 7–14–98; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–98–800]

Memorandum of Understanding Between the Food and Drug Administration and the Indian Health Service

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the Indian Health Service (IHS). The purpose of the MOU is to develop a more cohesive relationship to mutually address American Indian and Alaska Native issues within the context of each organization's jurisdiction.

DATES: The agreement became effective July 9, 1997.

FOR FURTHER INFORMATION CONTACT: Mary C. Wallace, Office of External Affairs (HFE–3), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4406.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: July 8, 1998.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

BILLING CODE 4160–01–F

225-98-8000

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE FOOD AND DRUG ADMINISTRATION
AND
THE INDIAN HEALTH SERVICE

I. PURPOSE

The Food and Drug Administration (FDA) and the Indian Health Service (IHS), U.S. Department of Health and Human Services (DHHS), have mutual interests in fostering improved health care and access to policy and education programs.

FDA and IHS intend to work to develop a more cohesive relationship to mutually address American Indian and Alaska Native issues within the context of each organization's jurisdiction. FDA and IHS agree to work together to promote and support appropriate ongoing DHHS and organizationally specific initiatives, such as:

- Collaborative Tribal Consultations
  - -- National Congress of American Indians
  - -- National Indian Health Board
  - -- Regional Health Boards
- The White House Initiative on Tribal Colleges and Universities
- Expert Technical Assistance
- Collaborative Public Health Education Campaigns
  - -- Tobacco
  - -- Clinical Trials and Education
  - -- Women's Health Issues --(Urban and Rural)
  - -- "Take Time to Care" Campaign
  - -- Food Labeling Education
  - -- Food/Nutrient/Deficiency/Food supplementation issues for women of child bearing age and health professionals
  - -- Food Safety Initiative
  - -- Health Fraud
- Collaborative Consumer Studies
- Collaborative Recruitment

This MOU establishes policies and principles by which the parties may be guided when executing specific interagency agreements for the exchange of funds, services, or personnel.

II. AUTHORITY

Food and Drug Administration: Section 903 of the FFDCA (21 U.S.C. 393), Section 301 of the PHSA, (42 U.S.C. 241), Sections 1701 et seq. of the PHSA (42 U.S.C. 300u et seq.)

Indian Health Service: Transfer Act (42 U.S.C. 2001) of 1954.

III. BACKGROUND

The FDA and the IHS have been independently conducting activities, in the context of their jurisdictions, to improve the knowledge base of American Indian and Alaska Native populations and to involve these individuals in their respective processes. The FDA and the IHS recognized that the success of those efforts can be enhanced by greater collaboration.

The IHS has focused its outreach activities primarily on the needs of American Indian and Alaska Native populations. Similarly, the FDA has focused its efforts primarily upon the needs of the general population with intermittent emphasis upon American Indian and Alaska Native populations.

The goals of the FDA and the IHS collaborations will be to accomplish the following:

(1) More effectively interface with the IHS, the National Indian Health Board, the National Congress of American Indians, Regional Health Boards, and other DHHS components by:

-- soliciting tribal advice and recommendations on approaches to achieve appropriate levels of effective and efficient involvement of American Indians and Alaska Natives in the FDA's regulatory and outreach processes;

-- Enhancing local consultations and collaborations with tribal governments, when appropriate;

-- receiving assistance in improving involvement of American Indians and Alaska Natives in Agency policy initiatives;

-- discussing collaborative approaches to promote the safe and practical use of FDA-regulated products among American Indian and Alaska Native populations;

-- discussing approaches and establishing distribution systems for materials through IHS Tribal and Urban Indian Health Programs, Indian schools, community colleges and universities, IHS Medical Centers and the Department of Veterans Affairs' regional medical centers;

(2) Improve access of American Indians and Alaska Natives to FDA generated information on health risks and policy issues;

(3) provide community based organizations and concerned individuals with the opportunities to have appropriate input into regulatory processes such as;

-- encourage participation of American Indians and Alaska Natives in Agency-sponsored conferences, meetings, focus groups, and consumer studies;

-- promote opportunities to serve on the FDA's advisory committees and panels, science boards, and in research;

(4) provide FDA and IHS officials and managers with the perspectives on American Indian and Alaska Native health care and education needs and policy issues;

(5) promote diversity in the planning and application of existing educational programs and services that encourage youth to pursue careers in the sciences, math, and other disciplines that may lead to careers in the advanced sciences, engineering and the health professions; and

(6) continue recruitment efforts to American Indian and Alaska Native populations through programs such as the Cooperative Education Programs (CO-OP), Commissioned Officer Student Training and Extern Program (COSTEP), fellowships, personnel exchanges, and summer employment programs through Tribal Colleges and Universities and professional associations.

IV. SCOPE OF WORK

The FDA and the IHS hereby express their firm intentions to jointly address American Indian and Alaska Native issues within the context of regulatory processes and programs conducted by the FDA primarily for the general U.S. population, as resources permit. Given the diversity of education, knowledge, understanding and cultures within the American Indian and Alaska Native populations, the IHS will work with FDA to enhance its activities with American Indian and Alaska Native populations.

FDA and IHS have established formal liaisons for both Agencies that will foster an information exchange on all aspects of the MOU. Other functions of the Agency liaisons may include the following:

- Work with intra/inter-agency task groups to identify the type of technical assistance and outreach necessary to provide American Indian and Alaska Native populations with information and education.

- Exchange information on currently funded programs that have objectives to address the health education needs of American Indian and Alaska Native populations.

- Review opportunities for mutual and flexible funding and cooperative extension of funded programs for American Indian and Alaska Native populations through FDA and IHS grant programs.

- Strengthen mutual cooperative activities and technical support in working with other DHHS components in developing resources to collect improved statistics on American Indian and Alaska Native populations.

Page 5 - Memorandum of Understanding with IHS

V. DURATION OF AGREEMENT

This MOU will become effective upon acceptance by both parties and will continue in effect indefinitely. This MOU may be modified by mutual written consent or terminated by either party upon 60 day advance notice to the other party.

VI. LIAISONS/PROJECT OFFICERS

Mary C. Wallace
Director of Consumer Programs
and FDA Minority Health Liaison
Food and Drug Administration
Office of External Affairs
Office of Consumer Affairs
5600 Fishers Lane, Room 16-85, HFE-3
Rockville, MD 20857
(301) 827-4406
Fax (301) 443-9767

Phyllis Eddy
Special Assistant to the Director
of Headquarters Operations
Indian Health Service
Office of the Director
5600 Fishers Lane, Room 6-22
Rockville, MD 20857
(301) 443-7261
Fax (301) 481-3192

VII. AUTHORIZING SIGNATURES AND DATES

APPROVED AND ACCEPTED BY
FOOD AND DRUG
ADMINISTRATION

LEAD DEPUTY COMMISSIONER
FOOD AND DRUG
ADMINISTRATION

Date: JUL - 9 1997

APPROVED AND ACCEPTED BY
INDIAN HEALTH SERVICE

DIRECTOR
INDIAN HEALTH SERVICE

Date: 07/9/97

[FR Doc. 98–18829 Filed 7–14–98; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Statement of Organization, Functions and Delegations of Authority

This notice amends Part R of the Statement of Organization Functions and Delegations of Authority of the Department of Health and Human Services (DHHS), Health Resources and Services Administration (60 FR 56605 as amended November 6, 1995, as last amended at 63 FR 35938–39 dated July 1, 1998). This notice reflects the establishment of the Health Resources and Services Administration (HRSA) Office for the Advancement of Telehealth (RAB).

Establish The Office for the Advancement of Telehealth (RAB) in the Office of the Administrator to read as follows:

Telehealth is the use of electronic communications and information technologies to provide and support health care services and training when distance separates the participants. The Office for the Advancement of Telehealth (OAT) serves as the focal point within the Health Resources and Services Administration (HRSA) for coordinating and advancing the use of electronic communications and information (telehealth) technologies. Telehealth technologies can be used in a broad array of applications, including, but not limited to, the provision of: health care at a distance (telemedicine); technical assistance to grantees using electronic media; distance-based learning to improve the knowledge of HRSA staff, grantees, and others; and improved information dissemination to both consumers and providers about the latest developments in health care, and other activities designed to improve the health status of the nation. The Office for the Advancement of Telehealth carries out the following functions. Specifically: provides leadership within HRSA in developing and coordinating telehealth programs and policies and in facilitating the electronic dissemination of best practices in health care to health professionals and others; (2) provides technical assistance and support to HRSA components and others as they develop telehealth initiatives; (3) produces, and provides technical support and training to HRSA components in the production and planning of health-related media; (4) administers grant programs to promulgate and evaluate the use of appropriate telehealth technologies among HRSA grantees and others; (5) assesses new and existing telehealth technologies and advises the HRSA Administrator on strategies to maximize the potential of these technologies for meeting HRSA's educational, technical assistance and other objectives; (6) provides a resource center for the dissemination of the latest information and research findings related to the use of telehealth technologies in HRSA programs and underserved areas, including findings on ''best practices''; (7) staffs the Joint Working Group on Telemedicine; (8) works with other components of the Department, with other Federal and state agencies, and with the private sector to promote and overcome barriers to cost-effective telehealth programs; and (9) advises the Administrator and the Department on telehealth policy.

Delegations of Authority. All delegations and redelegations of authority which were in effect immediately prior to the effective date hereof have been continued in effect in them or their successors pending further redelegation.

This reorganization is effective upon date of signature.

Dated: July 7, 1998.

Claude Earl Fox,

Administrator.

[FR Doc. 98–18753 Filed 7–14–98; 8:45 am]

BILLING CODE 4160–15–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities Under Emergency Review by the Office of Management and Budget

The Substance Abuse and Mental Health Services Administration (SAMHSA) has submitted the following request (see below) for emergency OMB review under the Paperwork Reduction Act (44 U.S.C. Chapter 35). OMB approval has been requested by July 30, 1998. A copy of the information collection plans may be obtained by calling the SAMHSA Reports Clearance Officer on (301)443–7978.

Title: CAPI/ACASI Pretest of 1999 National Household Survey on Drug Abuse (NHSDA).

OMB Number: 0930-New.

Frequency: Single time.

Affected public: Individuals or households.

SAMHSA will conduct a field pretest and cognitive laboratory testing of the proposed 1999 NHSDA questionnaire from August 1–31, 1998. Household screening will be conducted electronically, using a hand-held computer. The interview will be conducted using a laptop computer. Sections of the questionnaire currently administered on paper by an interviewer will be Computer-Assisted Personal Interview (CAPI) and those sections which are currently self-administered by respondents on paper will be Audio Computer-Assisted Self Interview (ACASI). The national implementation of fully automated data collection in the NHSDA was originally planned for the year 2000. In early June, the Department of Health and Human Services made the decision to include in the 1999 NHSDA an expanded tobacco module to be conducted using ACASI. SAMHSA has determined that using the computer-assisted methodology for only one portion of the interview could be problematic. Therefore, the entire 1999 NHSDA interview will be conducted using this methodology, and will be pretested in a field sample and in a cognitive laboratory. Approximately 150 field interviews and 150 laboratory interviews will be conducted with persons age 12 and older. The estimated response burden for the field test is shown below:

	No. of respondents	Responses/ respondent	Hours per response	Response burden
Electronic household screener	836	1	0.05	41.8
Electronic household questionnaire:				
Respondents age 12–17	75	1	1.20	90.0
Respondents age 18+	75	1	1.20	90.0
Screening verification	25	1	.067	1.7
Interview verification	23	1	.067	1.5

	No. of respondents	Responses/ respondent	Hours per response	Response burden
Cognitive laboratory electronic questionnaire:				
Respondents age 12–17 (tobacco module)	50	1	0.75	37.5
Respondents age 12+	100	1	1.50	150.0
TOTAL				412.5

Written comments and recommendations concerning the proposed information collection should be sent within two weeks of this notice to: Daniel Chenok, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 9, 1998.

Richard Kopanda,

Executive Officer, SAMHSA.

[FR Doc. 98–18826 Filed 7–14–98; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. 4349–N–27]

Notice of Proposed Information Collection: Comment Request

AGENCY: Office of the Assistant Secretary for Administration.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: September 14, 1998.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Christine Jenkins, Real Estate Assessment Center, Department of Housing and Urban Development, 490 L'Enfant Plaza East, SW., Washington, DC 20024–2135.

FOR FURTHER INFORMATION CONTACT: Christine Jenkins (202) 755–2082 X134 (this is not a toll-free number) for copies of the proposed forms and other available documents:

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Assessment of Resident Satisfaction with their Living Conditions.

OMB Control Number, if applicable: None.

Description of the need for the information and proposed use: This survey will supply the Real Estate Assessment Center with an additional source of information on the performance of FHA multifamily participants and public housing authorities.

Agency form numbers, if applicable: None.

Members of affected public: Individuals or households.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response:

Respondents	Frequency	Hours per response	Total hours
400	1	.25	100

Status of the proposed information collection: New Collection.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: July 7, 1998.

Donald J. LaVoy,

Director, Real Estate Assessment Center.

[FR Doc. 98–18822 Filed 7–14–98; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of application.

The following applicant has applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

PRT–844592

Applicant: James W. Eckblad, Luther College, Decorah, Iowa.

The applicant requests a permit to take (capture, handle, and release) fat pocketbook [*Potamilus* (=*Proptera*) *capax*], Higgins' eye pearlymussel (*Lampsilis higginsi*), and winged mapleleaf mussel (*Quadrula fragosa*) in the states of Illinois, Iowa, Missouri, and Wisconsin. Activities are proposed to document presence or absence of the species for the purpose of survival and enhancement of the species in the wild.

Written data or comments should be submitted to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056, and must be received within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Ecological Services Operations, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056. Telephone: (612/713–5332); FAX: (612/713–5292).

Dated: July 7, 1998.

John A. Blankenship,

Assistant Regional Director, IL, IA, MO (Ecological Services), Region 3, Fort Snelling, Minnesota.

[FR Doc. 98–18765 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of a Draft Environmental Assessment/Habitat Conservation Plan and Receipt of Application for an Incidental Take Permit for the City of Austin for the Operation and Maintenance of Barton Springs Pool and Adjacent Springs

ACTION: Second Notice of Availability.

SUMMARY: This is the second issuance of this draft document. The Service has decided that new information incorporated into this document was significant enough to warrant an additional public comment period. The City of Austin has applied to the Fish and Wildlife Service (Service) for an incidental take permit pursuant to Section 10(a) of the Endangered Species Act (Act). The applicant has been assigned permit number PRT–839031. The requested permit, which is for a period of 15 years, would authorize the incidental take of the endangered Barton Springs salamander (*Eurycea sosorum*). The proposed take would occur as the result of the operation and maintenance of Barton Springs Pool and adjacent springs in Austin, Travis County, Texas. The Service and the City of Austin have prepared an Environmental Assessment/Habitat Conservation Plan (EA/HCP) for the incidental take permit application. A determination of jeopardy to the species or a Finding of No Significant Impact (FONSI) will not be made before at least 30 days from the date of publication of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act regulations (40 CFR 1506.6).

DATES: Written comments on the application should be received on or before August 14, 1998.

ADDRESSES: Persons wishing to review the EA/HCP may obtain a copy by contacting Matthew Lechner, Ecological Services Field Office, 10711 Burnet Road, Suite 200, Austin, Texas 78758 (512/490–0057). Documents will be available for public inspection by written request, by appointment only, during normal business hours (8:00 to 4:30) at the U.S. Fish and Wildlife Service, Austin, Texas. Written data or comments concerning the application and EA/HCP should be submitted to the Field Supervisor, Ecological Services Field Office, Austin, Texas, at the above address. Please refer to permit number PRT–839031 when submitting comments.

FOR FURTHER INFORMATION CONTACT: Matthew Lechner at the above Austin Ecological Services Field Office.

SUPPLEMENTARY INFORMATION: Section 9 of the Act prohibits the ''taking'' of endangered species such as the Barton Springs salamander. Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect. However, the Service, under limited circumstances, may issue permits to take endangered wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered species are at 50 CFR 17.22.

Applicant: The City of Austin plans to maintain and operate Barton Springs Pool and the adjacent springs in Austin, Travis County, Texas. This action may cause the incidental take of less than 20 salamanders per year, for the 15-year term of the permit. The applicant proposes to minimize and mitigate for the incidental take of the Barton Springs salamander by placing 10 percent of the total revenues generated at Barton Springs Pool into a conservation fund. The fund will be used for enhancing habitat and for ecological and biological research on the Barton Springs salamander. In addition, mitigation measures are included in the Habitat Conservation Plan.

Dated: July 6, 1998.

Frank Shoemaker,

Regional Director, Region 2, Albuquerque, New Mexico.

[FR Doc. 98–18827 Filed 7–14–98; 8:45 am]

BILLING CODE 4510–55–U

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Letter of Intent To Submit a Petition for Federal Acknowledgement of Existence as an Indian Tribe

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8. Pursuant to 25 CFR 83.9(a) notice is hereby given that the: Mackinac Bands of Chippewa and Ottawa Indians, 132 North State Street, St. Ignace, Michigan 49781 has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs (BIA) on May 13, 1998, and was signed by members of the group's governing body.

This is a notice of receipt of a petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under Section 83.9(a) of the Federal regulations, third parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the BIA's files. Such submissions will be provided to the petitioner upon receipt by the BIA. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined, by appointment, in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, 1849 C Street, N.W., MS 4603-MIB, Washington, D.C. 20240, (202) 208–3592.

Dated: June 1, 1998.

Hilda Manuel,

Deputy Commissioner of Indian Affairs.

[FR Doc. 98–18818 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–02–U

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Availability of Environmental Documents.

Prepared for OCS Mineral Proposals on the Gulf of Mexico OCS.

SUMMARY: Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR Section 1501.4 and Section 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's), prepared by MMS for the following oil and gas activities proposed

on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Acitivity/operator	Location	Date
Shell Pipeline Corporation, Pipeline Activity, SEA No. G–19666.	Viosca Knoll Area, Blocks 786, 785, 829, 828, 827, 826, 782, 781, 780, 779, 736, 735, and 734; Main Pass Area, South and East Addition, Blocks 283, 284, 285, 286, 287, 288, and 289; Lease OCS–G 19666, 67 to 73 miles south of Mobile County, Alabama.	04/17/98
Viosca Knoll Gathering Company, Pipeline Activity, SEA No. G–19675.	Main Pass Area, South and East Addition, Blocks 261 and 260, Lease OCS–G 19675, 61 miles South of Baldwin County, Alabama.	04/17/98
Amoco Production Company, Pipeline Activity, SEA Nos. G–19681 and G–19682.	Viosca Knoll Area, Blocks 915, 871, 827, 826, 782, 738, 694, and 693; Main Pass area, South and East Addition, Blocks 259, 260, 249, 248, and 225; Leases OCS–G 19681 and 19682, 50 miles east of Plaquemines Parish, Louisiana.	04/01/98
Transcontinental Gas Pipe Line Corporation, Pipeline Activity, SEA No. G–20503.	Main Pass Area, South and East Addition, Blocks 259, 260, and 261, Lease OCS–G 20503, 61 miles south of Baldwin County, Alabama.	05/21/98
Walter Oil and Gas Corporation, Pipeline Activity, SEA No. G–20499.	Garden Banks Area, Blocks 179, 180, and 136; High Island Area, East Addition, South Extension, Blocks A–397, A–385, and A–384; Lease OCS–G 20499, 110 miles south of Cameron Parish, Louisiana.	06/05/98
Shell Offshore, Incorporated, Pipeline Activity, SEA No. G–20510.	High Island Area, South Addition, Blocks A–545, A–548, and A–547, Lease OCS–G 20510, 103 miles south of Jefferson County, Texas.	06/11/98
Union Oil Company of California, Exploration Activity, SEA No. N–6029.	Mobile Area, Block 871, Lease OCS–G 13044, 6.9 miles south of Baldwin County, Alabama.	05/14/98
Union Oil Company of California Exploration Activity, SEA No. N–6057.	Mobile Area, Blocks 1004, 1005, and 1006, Leases OCS–G 15406, 15407, and 15408, 15 miles south of Baldwin County, Alabama.	05/15/98
Exxon Company, U.S.A., Development Activity, SEA No. N–6134U.	East Breaks Area, Blocks 945, 946, and 988, Leases OCS–G 8211, 8212, and 8213, 126 miles south-southeast of Brazoria County, Texas.	06/19/98
Chevron U.S.A., Exploration Activity, SEA No. N–6173.	Viosca Knoll Area, Block 390, Lease OCS–G 15429, 41 miles south of Baldwin County, Alabama.	06/19/98
Union Oil Company of California, Development Activity, SEA No. S–4525U.	Mobile Area, Blocks 915, 917, 961, and 962, Leases OCS–G 5752, 5754, 5761, and 12115, 9.5 miles south of Baldwin County, Alabama.	04/22/98
Chevron U.S.A., Development and Pipeline Activity, SEA No. S–4667.	Mobile Area, Blocks 862, 863, and 864, Leases OCS–G 5748, 5063, and 5064, 5–7 miles south of Baldwin County, Alabama.	06/29/98
Vastar Resources, Inc., Exploration Activity, SEA No. R–3202.	Viosca Knoll Area, Block 1001, Lease OCS–G 16560, 56 miles southeast of Plaquemines Parish, Louisiana.	06/01/98
Union Pacific Resources Corporation, Structure Removal Operation, SEA Nos. ES/SR 97–063A.	Galveston Area, Block A–125, Lease OCS–G 9055, 56 miles southeast of Brazoria County Texas.	06/19/98
Forest Oil Corporation, Structure Removal Operations, SEA Nos. ES/SR 97–147A through 97–149A.	West Cameron Area, Block 44, Lease OCS–G 6566, 7 miles south of Cameron Parish, Louisiana.	03/05/98
Taylor Energy Company, Structure Removal Operations, SEA No. ES/SR 98–017.	Vermilion Area, Block 247, Lease OCS–G 2080, 56 miles south of Vermilion Parish, Louisiana.	04/24/98
Chevron U.S.A., Structure Removal Operations, SEA Nos. ES/SR 98–018 through 98–022.	Main Pass Area, Blocks 42 and 127, Leases OCS 0375 and OCS–G 1312, 25 to 32 miles east of Venice, Louisiana.	04/22/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–023.	Eugene Island Area, Block 252, Lease OCS–G 0983, 46 miles south-southwest from the shoreline of Terrebonne Parish, Louisiana.	04/24/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–024 and 98–025.	Vermilion Area, Block 24, Lease OCS–G 3543, 7 miles south of Vermilion Parish, Louisiana.	05/14/98
Samedan Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–027 and 98–028.	West Cameron Area, Block 458, Lease 5332; High Island Area, Block A–515; Lease OCS–G 4189, 78 miles south of Cameron Parish, Louisiana and 80 miles south of Jefferson County, Texas.	04/24/98
Forecenergy Inc., Structure Removal Operations, SEA No. ES/SR 98–038.	High Island Area, Block A–490, Lease OCS–G 3117, 103 miles south of Jefferson County, Texas.	04/30/98
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–039A.	South Marsh Area, Block 143, Lease OCS–G 1217, 84 miles south of St. Mary Parish, Louisiana.	05/22/98
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/SR 98–039.	South Marsh Island Area, Block 143, Lease OCS–G 1217, 84 miles south of St. Mary Parish, Louisiana.	05/14/98
EEX Corporation, Structure Removal Operations, SEA No. ES/SR 98–040.	Brazos Area, Block 455, Lease OCS–G 7220, 18 miles south of Matagorda County, Texas.	05/20/98
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 98–041.	Mobile Area, Block 862, Lease OCS–G 5063, 3 miles south of Jackson County, Mississippi.	05/22/98
Vastar Resources, Inc., Structure Removal Operations, SEA No. ES/SR 98–042.	Mustang Island Area, Block 789, Lease OCS–G 12761, 24 miles south of Harbor Island, Texas.	05/01/98
Murphy Exploration & Production Company, Structure Removal Operations, SEA Nos. ES/SR 98–043 through 98–046.	Matagorda Island Area, Blocks 589 and 604, Leases OCS–G 10196 and OCS–G 6037, 20 miles southeast of Port O'Connor, Texas.	06/01/98
The Houston Exploration Company, Structure Removal Operations, SEA No. ES/SR 98–047.	Galveston Area, Block 297, Lease OCS–G 12501, 32 miles south of Galveston, Texas.	05/20/98
Forcenergy Inc., Structure Removal Operations, SEA Nos. ES/SR 98–048 through 98–053.	South Marsh Island Area, Block 11, Lease OCS–G 1182, 44 miles south of Vermilion Parish, Louisiana.	06/03/98
Santa Fe Energy Resources, Inc., Structure Removal Operations, SEA No. ES/SR 98–054.	West Cameron Area, Block 141, Lease OCS–G 13559, 20 miles south of Cameron Parish, Louisiana.	06/23/98

Acitivity/operator	Location	Date
Ocean Energy, Inc., Structure Removal Operations, SEA No. ES/SR 98–055.	Eugene Island Area, Block 301, Lease OCS–G 14476, 64 miles south of Terrebonne Parish, Louisiana.	06/17/98
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 98–057.	West Delta Area, Block 20, Lease OCS–G 7789, 18 miles south of Plaquemines Parish, Louisiana.	06/23/98
Burlington Resources Offshore Inc., Structure Removal Operations, SEA Nos. ES/SR 98–061 and 98–062.	Eugene Island Area, Blocks 93 and 94, Leases OCS 0228 and OCS–G 5488, 26 miles south of St. Mary Parish, Louisiana.	06/09/98

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT:

Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, Louisiana 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects.

Environmental Assessments are used as a basis for determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA Section 102(2)(C). A FONSI is prepared in those instances where MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: July 8, 1998.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 98–18766 Filed 7–14–98; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 C.F.R. § 50.7, notice is hereby given that on the 23rd day of March, 1998, a proposed Consent Decree in *United States,* v. *Rudi R. Vafadari, et al.,* Civil Action CV 96–1434 PHX EHC was lodged with the United States District Court for the District of Arizona. The Complaint was filed in this case for recovery of response costs and civil penalties from Rudi R. Vafadari and others, pursuant to Sections 104, 106 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (''CERCLA''), 42 U.S.C. 9604, 9606 and 9607, related to the DCE Circuits site, in Phoenix, Arizona.

Pursuant to the consent decree, the defendants will pay $328,500 in response costs, and a civil penalty of $10,000 for failure to provide timely and complete responses to information request letters.

For thirty (30) days from the date of publication of this notice, the Department of Justice will receive written comments relating to the Consent Decree from persons who are not parties to the action. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Rudi R. Vafadari et al.,* D. J. Ref. No. 90–11–2–413C.

The proposed Consent Decree may be examined at the Region IX office of the U.S. Environmental Protection Agency, 75 Hawthorne Street, San Francisco, California 94105, or at the U.S. Attorney's Office, 230 First Avenue, Phoenix, Arizona.

Copies of the Consent Decree also may be examined at the Consent Decree Library, 1120 G Street, N.W., 4th Floor, Washington, D.C. 2005, telephone number (202) 634–0892. A copy of the Consent Decree may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please tender a check in the amount of $6.75 (25 cents per page reproduction charge) payable to ''Consent Decree Library.''

Joel Gross,

Chief, Environmental Enforcement Section.

[FR Doc. 98–18849 Filed 7–14–98; 8:45 am]

BILLING CODE 4410–15–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 30–31373–CivP; ASLBP No. 98–735–01–CivP; EA 97–207]

Atomic Safety and Licensing Board; Notice of Evidentiary Hearing

July 9, 1998.

In the Matter of: Conam Inspection, Inc., Itasca, Illinois (License No. 12–16559–01). Order Imposing Civil Monetary Penalty.

Notice is hereby given that, as provided in the Licensing Board's Memorandum and Order dated June 4, 1998, the evidentiary hearing in this civil penalty proceeding will commence on Monday, September 14, 1998, at 9:30 a.m. CDT, and will continue, to the extent necessary, on September 15–18, 1998, beginning at 9:00 a.m. CDT each day. The hearing will be held at the Federal Building, Room LLA, 536 South Clark Street, Chicago, IL 60610. Parties are to file formal lists of witnesses and documents to be utilized to be in our possession by Wednesday, September 9, 1998.

Members of the public are invited to attend these hearing sessions. Materials concerning this proceeding are on file at the Commission's Public Document Room, 2120 L Street N.W., Washington, D.C. 20555, and at the Commission's Region III Office, 801 Warrenville Road, Lisle, Illinois 60532–4351.

For the Atomic Safety and Licensing Board.

Charles Bechhoefer,

Chairman, Administrative Judge, Rockville, Maryland.

[FR Doc. 98–18836 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–298]

Nebraska Public Power District; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–46, issued to Nebraska Public Power District (the licensee), for operation of the Cooper Nuclear Station (CNS) located in Nemaha County, Nebraska.

The proposed amendment in the licensee's application of March 27, 1997, would increase the minimum volume of diesel fuel oil in the fuel oil storage tanks from 48,000 gallons to 49,500 gallons. This change is Document of Change (DOC) 3.8.3–M.2 of the conversion of the current Technical Specifications (CTS) for the CNS to the improved Technical Specifications (ITS) that was noticed in the **Federal Register** on March 17, 1998 (63 FR 13074). DOC 3.8.3–M.2 is the second more restrictive change to ITS Section 3.8.3 for the CNS.

This proposed change would have a value different from the CTS and the Improved Standard Technical Specifications (ISTS) provided in NUREG–1433, ''Standard Technical Specifications, General Electric Plants, BWR/4,'' Revision 1, dated April 1995. The conversion is based on NUREG–1433 and the Commission's ''Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132).

The exigent circumstances for this notice is that the staff has recently determined that this change in the minimum volume of diesel fuel oil in the fuel oil storage tanks is beyond the scope of the conversion to the ITS; however, the change should be made to the ITS because the proposed value more properly accounts for the fuel oil needed for the diesel generators during all design basis accidents. The staff expects to issue the ITS for the CNS by July 29, 1998. To allow the staff to include the higher value for the minimum volume of fuel oil in the ITS, it is necessary for the staff to issue of this notice of proposed change to the CTS before July 15, 1998, to meet the requirements in 10 CFR 50.91 on notices for public comment of license amendments.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

In accordance with the criteria set forth in 10 CFR. 50.92, the Nebraska Public Power District has evaluated this proposed Technical Specifications change and determined it does not represent a significant hazards consideration. The following is provided in support of this conclusion.

1. Does the change involve a significant increase in the probability or consequences of an accident previously evaluated?

The proposed change provides more stringent requirements for operation of the facility. These more stringent requirements do not result in operation that will increase the probability of initiating an analyzed event and do not alter assumptions relative to the mitigation of an accident or transient event. The more restrictive requirements continue to ensure process variables, structures, systems, and components are maintained consistent with safety analyses and [CNS] licensing basis. [The storage of fuel oil is not an initiator of a design basis accident for the CNS and the licensee has an approved fire protection program.] Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed change does not involve a physical alteration of the plant (no new or different type of equipment will be installed) or changes in the methods governing normal plant operation. The proposed change does impose different requirements. However, this change is consistent with the assumptions in the safety analyses and [CNS] licensing basis. [The licensee has an approved fire protection program for the hazard of having to store more fuel oil.] Thus, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does this change involve a significant reduction in a margin of safety?

The imposition of more restrictive requirements either has no impact on or increases the margin of plant safety. As provided in the discussion of the change, each change in this category [(more restrictive)] is by definition, providing additional restrictions to enhance plant safety. The change maintains requirements within the safety analyses and [CNS] licensing basis. [The additional amount of diesel fuel oil required will provide additional assurance that there is sufficient fuel oil to run the diesel generators through an event.] Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 14 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 14-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 14-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of

Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below. By August 14, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Mr. John R. McPhail, Nebraska Public Power District, Post Office Box 499, Columbus, NE 68602–0499, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated March 27, 1997, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room, located at the Auburn Memorial Library, 1810 Courthouse Avenue, Auburn, NE 68305.

Dated at Rockville, Maryland, this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Project Directorate IV–1, Division of Reactor Projects III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18831 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company, Surry Nuclear Power Station, Units 1 and 2; Confirmatory Order Modifying License Effective Immediately

I

Virginia Electric and Power Company (VEPCO, the Licensee) is the holder of Facility Operating License No. DPR–32, which authorizes operation of Surry Nuclear Power Station (SNPS), Unit 1, and Facility Operating License No. DPR–37, which authorizes operation of SNPS, Unit 2, located in Surry County, Viginia.

II

The staff of the U.S. Nuclear Regulatory Commission (NRC) has been concerned that Thermo-Lag 330–1 fire barrier systems installed by licensees may not provide the level of fire endurance intended and that licensees that use Thermo-Lag 330–1 fire barriers may not be meeting regulatory requirements. During the 1992 to 1994 timeframe, the NRC staff issued Generic Letter (GL) 92–08, ''Thermo-Lag 330–1 Fire Barriers'' and subsequent requests for additional information that requested licensees to submit plans and schedules for resolving the Thermo-Lag issue. The NRC staff has obtained and reviewed all licensees' corrective plans and schedules. The staff is concerned that some licensees may not be making adequate progress toward resolving the plant-specific issues, and that some implementation schedules may be either too tenuous or too protracted. For example, several licensees informed the NRC staff that their completion dates had slipped by 6 months to as much as 3 years. For SNPS, Units 1 and 2, which had corrective action scheduled beyond 1997, the NRC reviewed with VEPCO the schedule of Thermo-Lag corrective actions described in the VEPCO submittal to the NRC dated December 18, 1997. Based on the information submitted by VEPCO, the NRC staff has concluded that the schedules presented are reasonable. This conclusion is based on the need to perform certain plant modifications during outages as opposed to those that can be performed while the plant is at power. In order to remove compensatory measures such as fire watches, it has been determined that resolution of the Thermo-Lag corrective actions by VEPCO must be completed in accordance with current VEPCO schedules. By letter dated May 14, 1998, the NRC staff notified VEPCO of its plan to incorporate VEPCO's schedule commitment into a requirement by issuance of an Order and requested consent from the Licensee. By letter dated May 22, 1998, VEPCO provided its consent to issuance of a Confirmatory Order.

III

The Licensee's commitment as set forth in its letter of December 18, 1997, is acceptable and is necessary for the NRC to conclude that public health and safety are reasonably assured. To preclude any schedule slippage and to assure public health and safety, the NRC staff has determined that the Licensee's commitment in its December 18, 1997, letter be confirmed by this Order. The Licensee has agreed to this action. Based on the above, and the Licensee's consent, this Order is immediately effective upon issuance.

IV

Accordingly, pursuant to sections 103, 161b, 161i, 161o, 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR Part 50, *It is hereby ordered*, effective immediately, that:

Virginia Electric and Power Company shall complete final implementation of Thermo-Lag 330–1 radiant energy shields corrective actions at Surry Units 1 and 2, described in the VEPCO submittal to the NRC dated December 18, 1997, by the completion of the next refueling outage scheduled to begin in October 1998 for Unit 1, and scheduled to begin in April 1999 for Unit 2.

The Director, Office of Nuclear Reactor Regulation, may relax or rescind, in writing, any provisions of this Confirmatory Order upon a showing by the Licensee of good cause.

V

Any person adversely affected by this Confirmatory Order, other than the Licensee, may request a hearing within 20 days of its issuance. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension. Any request for a hearing shall be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Attention: Chief, Rulemakings and Adjudications Staff, Washington, DC 20555. Copies of the hearing request shall also be sent to the Director, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555, to the Deputy Assistant General Counsel for Enforcement at the same address, to the Regional Administrator, NRC Region II, Atlanta Federal Center, 61 Forsyth Street, SW., Suite 23T85, Atlanta, Georgia 30303, and to the Licensee. If such a person requests a hearing, that person shall set forth with particularity the manner in which his/her interest is adversely affected by this Order and shall address criteria set forth in 10 CFR 2.714(d).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an Order designating the time and place of any such hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this Confirmatory Order should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section IV above shall be final 20 days from the date of this Order without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section IV shall be final when the extension expires if a hearing request has not been received. An answer or a request for hearing shall not stay the immediate effectiveness of this Order.

Dated at Rockville, Maryland this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18835 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–280 and 50–281]

Virginia Electric and Power Company; Surry Power Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of a revised exemption from certain requirements of its regulations for Facility Operating License No. DPR–32 and Facility Operating License No. DPR–37, issued to Virginia Electric and Power Company (the licensee), for operation of the Surry Power Station, Units 1 and 2, located in Surry County, Virginia.

Environmental Assessment

Identification of Proposed Action

The proposed action would revise the exemption granted on August 21, 1997, to Virginia Electric and Power Company from the requirements of Title 10 of the Code of Federal Regulations (10 CFR), Part 70.24(a), which requires, in each area in which special nuclear material is handled, used, or stored, a monitoring system that will energize clear audible alarms if accidental criticality occurs. The proposed action would also exempt the licensee from the requirements to maintain emergency procedures for each area in which this licensed special nuclear material is handled, used, or stored to ensure that all personnel withdraw to an area of safety upon the sounding of the alarm, to familiarize personnel with the evacuation plan, and to designate responsible individuals for determining the cause of the alarm, and to place radiation survey instruments in accessible locations for use in such an emergency.

The proposed action is in accordance with the licensee's application for a revised exemption dated January 14, 1998.

The Need for the Proposed Action

The purpose of 10 CFR 70.24 is to ensure that if a criticality were to occur during the handling of special nuclear material, personnel would be alerted to that fact and would take appropriate action. At a commercial nuclear power plant the inadvertent criticality with which 10 CFR 70.24 is concerned could occur during fuel handling operations. The special nuclear material that could be assembled into a critical mass at a commercial nuclear power plant is in the form of nuclear fuel; the quantity of other forms of special nuclear material that is stored on site is small enough to preclude achieving a critical mass. Because the fuel is not enriched beyond 5.0 weight percent Uranium-235 and because commercial nuclear plant licensees have procedures and features designed to prevent inadvertent criticality, the staff has determined that inadvertent criticality is not likely to occur due to the handling of special nuclear material at a commercial power reactor. The requirements of 10 CFR 70.24(a), therefore, are not necessary to ensure the safety of personnel during the handling of special nuclear materials at commercial power reactors.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that there is no significant environmental impact if the revised exemption is granted. Inadvertent or accidental criticality will be precluded through compliance with the Surry Power Station Technical Specifications (TS), the design of the fuel storage racks providing geometric spacing of fuel assemblies in their storage locations, and administrative controls imposed on fuel handling procedures. TS requirements specify reactivity limits for the fuel storage racks and minimum spacing between the fuel assemblies in the storage racks.

Appendix A of 10 CFR Part 50, ''General Design Criteria for Nuclear Power Plants,'' Criterion 62, requires that criticality in the fuel storage and handling system shall be prevented by physical systems or processes, preferably by use of geometrically safe configurations. This is met at Surry Units 1 and 2, as identified in the TS.

Surry TS Section 5.4, Fuel Storage, states that the new fuel assemblies are stored vertically in an array with a distance of 21 inches between assemblies to assure that the effective neutron multiplication factor, K_{eff}, will remain less than or equal to 0.95 if fully flooded with unborated water, and to assure K_{eff} less than or equal to 0.98 under conditions of low-density optimum moderation. The spent fuel assemblies are stored vertically in an array with a distance of 14 inches between assemblies to assure K_{eff} less than or equal to 0.95 if fully flooded with unborated water.

The proposed revised exemption would not result in any significant radiological environmental impacts. The proposed revised exemption would not affect radiological plant effluents or cause any significant occupational exposures since the TS, design controls, including geometric spacing of fuel assembly storage spaces, and administrative controls preclude inadvertent criticality. The amount of radioactive waste would not be changed by the proposed revised exemption.

The proposed revised exemption would not result in any significant nonradiological environmental impacts. The proposed revised exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other nonradiological environmental impact.

Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded that there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. As an alternative to the proposed revised exemption, the staff considered denial of the requested exemption revision. Denial of the request would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement for the Surry Power Station.''

Agencies and Persons Consulted

In accordance with its stated policy, the NRC staff consulted with Mr. Foldesi of the Virginia Department of Health on April 22, 1998, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated January 14, 1998, which is available for public inspection at the Commission's Public Document Room, which is located at The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Swem Library, College of William and Mary, Williamsburg, Virginia.

Dated at Rockville, Maryland, this 9th day of July 1998.

For the Nuclear Regulatory Commission.

Pao-Tsin Kuo,

Acting Director, Project Directorate II–1, Division of Reactor Projects I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18834 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Biweekly Notice; Applications and Amendments to Facility Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Pub. L. 97–415, the U.S. Nuclear Regulatory Commission (the Commission or NRC staff) is publishing this regular biweekly notice. Pub. L. 97–415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from June 22, 1998, through July 2, 1998. The last biweekly notice was published on July 1, 1998 (63 FR 35986).

Notice of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administration Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D22, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for a hearing and petitions for leave to intervene is discussed below.

By August 14, 1998, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC and at the local public document room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for a hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Commonwealth Edison Company, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Unit Nos. 1 and 2, Will County, Illinois

Date of amendment request: May 29, 1998.

Description of amendment request: The proposed amendment would revise the technical specifications to credit the automatic function of the pressurizer power operated relief valves (PORVs) to provide mitigation for inadvertent safety injection at power accident. The limiting condition for operation and surveillance requirements for the PORVs would also be revised.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The changes to the Technical Specification (TS) Limiting Condition for Operation (LCO), Surveillance Requirements, and Bases do not involve an increase in the probability or consequences of the Inadvertent Operation of Emergency Core Cooling System (Spurious SI) at Power transient. Crediting the PORVs in the maximum pressurizer overfill case for this transient does not increase the probability of the occurrence of the transient since the automatic function of the PORVs for Reactor Coolant System (RCS) pressure control is not an initiator for the Spurious SI at Power transient. This change allows for the NRC Standard Review Plan (NUREG–0800) acceptance criteria to be met for the Spurious SI at Power transient, ensuring that the consequences of this transient remain within acceptable levels.

As documented in various Safety Evaluation Reports (SERs) from the NRC, the overpressure protection function of the PORVs was not originally considered to be a safety related function. In response to Generic Issue 70, the NRC performed a regulatory analysis related to PORV and block valve reliability in Pressurized Water Reactor (PWR) plants. This regulatory analysis is documented in NUREG–1316, ''Technical Findings and Regulatory Analysis Related to Generic Issue 70, Evaluation of Power-Operated Relief Valve and Block Valve Reliability in PWR Nuclear Power Plants,'' where the NRC staff concluded that it was not cost effective to backfit non-safety related PORVs to upgrade them to safety related status to perform safety related functions. The safety related functions were those detailed in Section 2.1 of NUREG–1316 and any other safety related function identified in the future. As an example, the PORVs are credited for the cold overpressure protection function of the reactor pressure vessel during low temperature operations. The analysis documented in this License Amendment request demonstrates that the PORVs provide an acceptable level of quality and performance to allow them to be credited to mitigate the consequences of the Spurious SI at Power transient documented in Byron and Braidwood Updated Final Safety Analysis Report (UFSAR) Section 15.5.1. The PORVs are equipped with safety related actuators and safety related accumulator tanks which maintain valve function during a loss of instrument air. The position indication and control switches in the Main Control Room (MCR) are safety related. All pressurizer PORV open/close functions and circuitry are supplied with uninterruptible Class 1E power supplies. The automatic portion of the PORV circuitry which processes the high pressurizer and high RCS pressure at low temperature is designated non-safety related and is isolated from the safety related portions of the circuitry by safety related interposing relays which actuate on a faulted condition. However, both Byron and Braidwood Stations have implemented modifications for both Units 1 and 2, which ensure that automatic control of both PORVs is available during loss of offsite power conditions. In addition, the PORV function is monitored within the scope of the Maintenance Rule Program and the postulated failure of the PORV automatic function does not result in unacceptable risk.

The probability of a Spurious SI at Power transient is not affected by this proposed change and the above analysis demonstrates that the PORVs will adequately function in automatic mode to mitigate the consequences of the transient. As such, there are no changes in the type or amount of any effluent released offsite as a result of this change. Therefore, based on this evaluation, this proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

This proposed change does not create the possibility of a new or different accident from any accident previously evaluated. This change would specifically allow for the PORV automatic function to be credited in Modes 1, 2, and 3 for the Spurious SI at Power transient only. This change allows for added assurance that the acceptance criteria as documented in the NRC Standard Review Plan (NUREG–0800) for ANS Condition II transients will be met. The acceptance criteria of concern is that a Condition II transient must not lead to an event (Condition III or IV) of more significant consequences without additional failures occurring. The PORV automatic function is to be credited with mitigating the maximum pressurizer overfill case for the Spurious SI at Power transient. This case has the acceptance criteria that the pressurizer must not go water solid prior to RCS pressure reaching the setpoint of the pressurizer safety relief valves (PSRVs). This conservative acceptance criteria is based on the fact that the PSRVs are not qualified to pass subcooled water and reseat, thereby creating a concern for an uncontrolled release path from the RCS. This proposed change helps ensure that the acceptance criteria for this accident are met. There is a small probability that the PORV function, either automatic or manual, would not successfully mitigate this transient due to the failure of one or both PORVs. However, the low likelihood of a total failure of the PORV function during the Spurious SI at Power transient does not create a new accident because a similar scenario is already addressed by UFSAR Section 15.6.1, ''Inadvertent Opening of a Pressurizer Safety or Relief Valve.'' The UFSAR analysis for the Section 15.6.1 ANS Condition II transient indicates that the radiological consequences of this transient are significantly less than that of a LOCA and are therefore, acceptable. The same arguments for radiological consequences apply to the Spurious SI at Power transient in the event the PORV automatic function fails and water relief occurs through the PSRVs.

The proposed change to the LCO requirements in TS Section 3/4.4.4 would allow for the PORV block valve to be closed but remain energized in the event a PORV was considered inoperable due to the automatic actuation circuitry. Currently, the PORV block valve is closed but remains energized only if a PORV is considered inoperable due to excessive seat leakage. The proposed change would extend the allowance to include the circumstance where the PORV was inoperable due to the automatic actuation circuitry. This allows a PORV to remain functional in the manual mode for other safety related functions consistent with the discussion contained in NRC NUREG–1316. However, this revised LCO requirement would not represent a new failure mode or accident over what has been previously evaluated.

In summary, the proposed changes documented in this TS amendment to credit the automatic PORV function and to revise the TS LCO requirements for PORV inoperability do not create the potential for any new or different accidents from what was previously evaluated.

3. The change does not involve a significant reduction in a margin of safety.

The current TS bases do not credit the function of the pressurizer PORVs for any Mode 1, 2, or 3 transients. This change would allow for the PORV automatic function to be credited for the Spurious SI at Power transient only. This does not represent a significant reduction in the margin of safety. This change would allow for the conservative acceptance criteria for the current UFSAR design analysis to be met. The PORVs are reliable and are maintained in a manner consistent with their proposed safety related function to mitigate the Spurious SI at Power transient. This proposed change would not result in a significant increase in risk or consequences, and therefore, does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Local Public Document Room location: For Byron, the Byron Public Library District, 109 N. Franklin, P.O. Box 434, Byron, Illinois 61010; for Braidwood, the Wilmington Public Library, 201 S. Kankakee Street, Wilmington, Illinois 60481.

Attorney for licensee: Michael I. Miller, Esquire; Sidley and Austin, One First National Plaza, Chicago, Illinois 60603.

NRC Project Director: Stuart A. Richards.

Florida Power Corporation, et al., Docket No. 50–302, Crystal River Nuclear Generating Plant, Unit No. 3, Citrus County, Florida

Date of amendment request: May 28,1998.

Description of amendment request: The proposed amendment proposes changes to the Final Safety Analysis Report (FSAR) to include a description of the use of Generic Letter (GL) 87–11, ''Relaxation in Arbitrary Intermediate Pipe Rupture Requirements,'' and NUREG/CR–2913, ''Two-Phase Jet Loads,'' as a part of the approved licensing basis and design basis for Crystal River Unit 3. GL 87–11 will be used to determine where high energy line breaks (HELB) are postulated to occur for high energy lines located inside the Reactor Building (RB) and analyzed in accordance with the guidelines described in USAS B31.1.0–1967, ''USA Standard Code for Pressure Piping, Power Piping.'' NUREG/CR–2913 will be used to determine the effects of the resultant jet impingement from postulated Reactor Coolant System (RCS) piping ruptures on safety-related systems, structures, and components (SSCs).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below.

1. Involve a significant increase in the probability or consequences of an accident previously evaluated?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that previously analyzed ruptures would now be more likely to occur. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, protection of SSCs required for accident mitigation is assured. Protection of SSCs required for accident mitigation will continue to be assured by use of these well-defined design methodologies if modifications to those SSCs are implemented in the future. Therefore, there will be no reduction in the capability of those SSCs in limiting the consequences of previously evaluated accidents, and the proposed amendment does not significantly increase the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from previously evaluated accidents?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that previously unanalyzed ruptures would now occur. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, the current design of RCS piping and other high energy lines located inside containment can be shown to include sufficient design margin to prevent unanalyzed ruptures from occurring. Therefore, use of these design methodologies instead of the previous licensing basis requirements cannot create the possibility of a new or different kind of accident.

3. Involve a significant reduction in a margin of safety?

The use of new design methodologies for determining postulated break locations of RCS piping and other high energy lines located inside containment, and the dynamic effects of postulated ruptures of RCS piping on SSCs required for safe shutdown or accident mitigation, does not impact the design of these high energy lines such that unanalyzed ruptures would now occur, and cannot create a reduction in the margin of safety for those ruptures of high energy lines previously analyzed. The approval of the license amendment will not result in an actual modification to RCS piping or other high energy lines which would reduce their design capabilities to maintain pressure boundary integrity during normal operating and accident conditions. By using these new design methodologies, protection of SSCs required for accident mitigation is assured. Protection of SSCs required for accident mitigation will continue to be assured by use of these well-defined design methodologies if modifications to those SSCs are implemented in the future. Therefore, the capability of those SSCs to limit the consequences of previously evaluated accidents at levels below the approved acceptance limits will continue to be assured. As a result, use of these design methodologies instead of the previous licensing basis and design basis requirements cannot significantly reduce the existing margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Coastal Region Library, 8619 W. Crystal Street, Crystal River, Florida 34428.

Attorney for licensee: R. Alexander Glenn, General Counsel, Florida Power Corporation, MAC—A5A, P. O. Box 14042, St. Petersburg, Florida 33733–4042.

NRC Project Director: Frederick J. Hebdon.

GPU Nuclear, Inc. et al., Docket No. 50–219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: May 28, 1998.

Description of amendment request: Revision of Technical Specification (TS) 4.5.A.1 such that the first Type A test required by the primary containment leakage rate testing program be performed during refueling outage 18 rather than refueling outage 17.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. *The proposed TS change does not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed changes does not alter the design, function or manner of operation of any structures, systems or components. As a result, the proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents.

NUREG–1493 found that the effect of containment leakage on overall accident risk is small since risk is dominated by accident sequences that result in failure or bypass of the containment. The major contributor to the total identified leakage from Primary Containment comes from Type B and C tested components. Only a small portion of the total leakage is detectable soley through Type A testing. The leaks that have been found by Type A tests have been only marginally above existing requirements. In addition, Oyster Creek has two means (monitoring nitrogen use and performing torus to drywell vacuum breaker leak tests) of detecting gross containment leakage. The proposed change does not alter the requirements to perform Type B and C testing in accordance with the Primary Containment Leakage Rate Testing Program and does not affect the ability of the facility to mitigate the consequences of an accident.

Therefore, the proposed TS change does not involve an significant increase in the probability or consequences of an accident previously evaluated.

2. *The proposed TS change does not create the possibility of a new or different kind of accident from any previously evaluated.*

Deferring the Type A test for an operating cycle does not alter the design, function or manner of operation of any structures, systems or components. The proposed change does not affect any of the parameters or conditions that could contribute to initiation of any accidents nor does it introduce any new mechanisms which could contribute to the creation of a new or different kind of accident than previously evaluated.

3. *The proposed TS changes do not involve a significant reduction in a margin of safety.*

The proposed change does not alter the design, function or manner of operation of any structures, systems or components. The proposed change does not impact the primary containment system's ability to provide a barrier against the uncontrolled release of fission products in the event of a break in the reactor coolant system nor does the proposed change impact the primary containment accident leak rate. In addition, NUREG–1493's Summary of Technical Findings states ''Reducing the frequency of Type A tests (ILRTs) from the current three per 10 years to one per 20 years was found to lead to an imperceptible increase in risk. The estimated increase in risk is very small because ILRTs identify only a few potential containment leakage paths that cannot be identified by Type B and C testing, and the leaks that have been found by Type A tests have been only marginally above existing requirements.'' Therefore, the proposed TS change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Ocean County Library,

Reference Department, 101 Washington Street, Toms River, NJ 08753.

Attorney for licensee: Ernest L. Blake, Jr., Esquire. Shaw, Pitman, Poets & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cecil O. Thomas.

Northeast Nuclear Energy Company (NNECO), et al., Docket No. 50–423, Millstone Nuclear Power Station, Unit No. 3, New London County, Connecticut

Date of amendment request: June 10, 1998.

Description of amendment request: The proposed revision to the Millstone Unit 3 licensing basis would address post-accident mitigation activities, vital area access travel routes, and time. NNECO determined that the Final Safety Analysis Report (FSAR) description of post-accident vital area routing was out of date because the radiological control area boundary fence created an access problem on the designated routes to the hydrogen recombiner and fuel building. The FSAR change would revise the routes to accommodate the fence location and allow for the time to unlock gates.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

NNECO has reviewed the proposed revision in accordance with 10 CFR 50.92 and has concluded that the revision does not involve a significant hazards consideration (SHC). The basis for this conclusion is that the three criteria of 10 CFR 50.92(c) are not satisfied. The proposed revision does not involve an SHC because the revision would not:

1. Involve a significant increase in the probability or consequence of an accident previously evaluated.

Final Safety Analysis Report (FSAR) Section 12.3.1.3.2, Post-accident access to vital areas, and its associated Figures and Tables are being updated. The current FSAR descriptions are out of date and as such do not include all required post-accident actions. Therefore, this FSAR change adds actions to those listed in the FSAR as well as incorporating the recalculation of the doses associated with the required post-accident actions. The dose calculations utilize the appropriate post-accident source terms, area access requirements and stay times, including the appropriate routes to the areas. The calculations show that for all design basis required post-accident actions the calculated dose to the Operators/Emergency workers performing those actions remains below the 5 rem criterion of General Design Criteria (GDC) 19. The revision to the FSAR provides the required post-accident required operator actions. Changing the FSAR to include the current post-accident vital access requirements and associated information for the supporting dose calculations [cannot] cause an accident. In addition, the calculated dose to the Operators/Emergency workers for all design basis required actions is below the GDC 19 limit of 5 rem.

Therefore, the proposed revision does not involve a significant increase in the probability or consequence of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The change is to the calculated post-accident vital access dose analyses and the FSAR description of that analyses. No new procedural Operator/Emergency worker actions are associated with the change.

However, since the information in the FSAR was outdated, there are Operator/Emergency actions being added to the FSAR. Dose calculations associated with those actions have been performed utilizing the appropriate assumptions with respect to source terms, vital area access travel routes and stay times, and times when the post-accident actions would be performed. The analyses confirmed that the calculated doses associated with all required post-accident actions are less than the 5 rem limit of GDC 19. There are no changes to the Emergency Operating Procedures associated with this change.

Therefore, the proposed revision does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

The dose calculations confirm that the calculated dose associated with all design basis post-accident Operator/Emergency worker actions is below the limit of 5 rem of GDC 19. There is one action, initiation of hydrogen purge, for which the calculated dose to the Operator/Emergency worker exceeds 5 rem. This action is a backup means of limiting the hydrogen concentration inside containment post-accident. This action would only be performed for multiple failures which would disable both trains of the safety-grade hydrogen recombiner system. As such this action is not a required design basis action and does not need to meet the 5 rem limit. The calculated dose for this action is below the 25 rem limit that is specified in the Station Emergency Plan for severe accident mitigation actions.

Therefore, the proposed revision does not involve a significant reduction in a margin of safety.

In conclusion, based on the information provided, it is determined that the proposed revision does not involve an SHC.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Attorney for licensee: Lillian M. Cuoco, Esq., Senior Nuclear Counsel, Northeast Utilities Service Company, P.O. Box 270, Hartford, Connecticut.

NRC Deputy Director: Phillip F. McKee.

PECO Energy Company, Public Service Electric and Gas Company, Demarva Power and Light Company, and Atlantic City Electric Company, Dockets Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units Nos. 2 and 3, York County, Pennsylvania

Date of application for amendments: February 4, 1998.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TS) Surveillance Requirement (SR) concerning Secondary Containment doors at Peach Bottom Atomic Power Station, Units 2 and 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. The proposed TS changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

TS SR 3.6.4.1.2 will be revised to require either all inner or outer secondary containment access doors to be closed in each air lock. This revision will not adversely affect the ability of the Secondary Containment to mitigate the radiological consequences of a Loss-of-Coolant Accident or fuel handling accident, and does not involve a

significant increase in the probability or consequences of an accident previously evaluated. During those times that one or more inner (or outer) doors are open, the closed outer (or inner) doors will serve as the Secondary Containment boundary.

Allowing certain inner or outer Secondary Containment access doors in an air lock to be open does not compromise the design of the Secondary Containment. No commitment is made in the UFSAR to consider the single failure of passive structural components such as Secondary Containment doors. As discussed in Section 1.5 of the UFSAR, ''* * * Essential safety actions shall be carried out by equipment of sufficient redundance and independence that no single failure of *active* components can prevent the required actions''. The same UFSAR section goes on to state that, ''For systems or components to which IEEE–279 (1968) is applicable, single failures of *passive electrical components* are considered, as well as single failures of active components, in recognition of the higher anticipated failure rates of passive electrical components relative to passive mechanical components.'' Therefore, based on this UFSAR discussion, it is concluded that failure of outer (inner) secondary containment doors need not be postulated with the inner (outer) door being open.

The performance of the Secondary Containment and the Standby Gas Treatment System is unaffected by this activity. Surveillance testing will prove the capability to maintain Secondary Containment with only inner or only outer doors closed. This change will not result in greater or more frequent loading of Secondary Containment doors, and does not result in changes that impact the reliability of the Secondary Containment and the Standby Gas Treatment System.

2. The proposed TS changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The Secondary Containment, in conjunction with the Standby Gas Treatment System, provides the means for mitigating the radiological consequences of an accident. The configuration of the Secondary Containment has no effect on accident initiators which lead to a new or different kind of accident. This change will not involve any changes to plant systems, structures, or components which could act as new accident initiators. The design, function, and reliability of Secondary Containment and the Standby Gas Treatment System are also not impacted by this change. Therefore, this change will not create the possibility of a new or different kind of accident from any previously evaluated.

3. The proposed TS changes do not involve a significant reduction in a margin of safety.

No margins of safety are reduced as a result of this change to the TS. No safety limits will be changed as a result of this TS change. The Secondary Containment will continue to perform its intended safety function of limiting the ground level release of airborne radioactive materials and to provide a means for controlled elevated release of the building atmosphere so that off-site doses from the postulated design basis accidents are below the limits of 10 CFR 100. The design and reliability of the Secondary Containment are also not impacted as a result of this change.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, (REGIONAL DEPOSITORY) Education Building, Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Attorney for Licensee: J. W. Durham, Sr., Esquire, Sr. V.P. and General Counsel, PECO Energy Company, 2301 Market Street, Philadelphia, PA 19101.

NRC Project Director: Robert A. Capra.

Power Authority of the State of New York, Docket No. 50–286, Indian Point Nuclear Generating Unit No. 3, Westchester County, New York

Date of amendment request: November 13, 1997.

Description of amendment request: The proposed amendment will reduce the maximum test interval from 1 year to 6 months for the test frequency of the main turbine stop and control valves (TS & CVs) in Table 4.1–3 and add a footnote.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response

The proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change increases the frequency of testing of the TS & CVs by reducing the maximum allowable test interval. The maximum test interval is reduced from one year to six months. Thus, the proposed change will make the maximum test interval more conservative. Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed change does not involve the addition of any new or different type of equipment, nor does it involve the operation of equipment required for safe operation of the facility in a manner different from those addressed in the Final Safety Analysis Report.

(3) Does the proposed license amendment involve a significant reduction in a margin of safety?

Response

The proposed license amendment does not involve a significant reduction in a margin of safety. The proposed change does not adversely affect performance of any safety related system or component, instrument operation, or safety system setpoints and does not result in increased severity of any accidents considered in the safety analysis. The proposed change does not reduce the frequency of testing of these valves but updates the methodology for determination of the test frequency and reduces the maximum test interval from one year to six months. It establishes a more conservative acceptance criteria of 5.0×10^{-6} per year than the NRC acceptance criteria of 1.0×10^{-5} for a turbine missile event. Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York 10601.

Attorney for licensee: Mr. David E. Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa, Director.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: June 16, 1998.

Description of amendment request: The proposed amendment would relocate the Safety Review Committee review, audit and related record keeping requirements from the Technical Specifications (TSs) to Chapter 17 of the Final Safety Analysis Report (FSAR) (i.e., Quality Assurance Program).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously analyzed?

Response

This amendment application does not involve a significant increase in the probability or consequences of an accident previously analyzed. The relocation of the SRC [Safety Review Committee] review, audit, and related record keeping requirements from the TS to the FSAR does not alter the performance or frequency of these activities. Future changes to the QA [Qualify Assurance] program, located in Chapter 17 of the FSAR, which constitute a reduction in commitments, are governed by 10 CFR 50.54(a). Therefore, sufficient controls for these requirements exist and these changes do not involve a significant increase in the probability or consequences of an accident previously analyzed.

(2) Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response

This amendment application does not create the possibility of a new or different kind of accident from any accident previously evaluated. The proposed changes involve the relocation of SRC requirements from the TS to the FSAR. Relocation of these requirements does not affect plant equipment or the way the plant operates. The reviews, audits, and record keeping will continue to be performed in the identical manner as they are currently being performed. Therefore, the proposed revisions cannot create a new or different kind of accident.

(3) Does the proposed amendment involve a significant reduction in a margin of safety?

Response

This amendment application does not involve a significant reduction in a margin of safety. The requested Technical Specification revisions relocate SRC review, audit and related record keeping requirements from the TS to the FSAR. These requirements are not being altered by this relocation. The reviews, audits, and record keeping will continue to be performed in the identical manner as they are currently being performed. Any changes to these requirements which constitute a reduction in commitments will be processed in accordance with 10 CFR 50.54(a). Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Attorney for licensee: Mr. David Blabey, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: S. Singh Bajwa.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: April 30, 1998 (TS 98–01).

Brief description of amendments: The amendments would change the Sequoyah (SQN) Technical Specifications (TSs) to allow surveillance testing of the reactor coolant system (RCS) pressurizer power-operated relief valves (PORVs) in Modes 3, 4, and 5.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TSs, does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The possibility of occurrence or the consequences for an accident or malfunction of equipment is not increased as the test conditions for the PORVs in Mode 5 are representative conditions based on a steam bubble being present, and testing in this mode is more conservative, if RCS pressure is less, since there is less fluid force to aid the solenoid force in opening the valve. Testing in Modes 3 and 4 was the initial request of GL [Generic Letter] 90–06. No changes are proposed to operation of the PORV block valves. Offsite dose consequences are unchanged by this request.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

A possibility for an accident or malfunction of a different type than any evaluated previously in SQN's Final Safety Analysis Report is not created; nor is the possibility for an accident or malfunction of a different type. A new test method is not required. No new failure modes are introduced.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The margin of safety has not been reduced for testing in Mode 5 since the proposed test conditions are equal to or more conservative, if RCS pressure is less, than those currently in use with existing SRs [surveillance requirements]. Testing in Modes 3 and 4 was the initial request of GL 90–06. The results of the accident analysis remain unchanged by this request.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 26, 1998 (TS 98–02).

Brief description of amendments: The amendments would change the Sequoyah Nuclear Plant (SQN) Technical Specifications (TS) and their Bases to lower the specific activity of the primary coolant from 1.0 microcurie/gram dose equivalent iodine-131 to 0.35 microcurie/gram, as provided for in NRC Generic Letter 95–05, ''Voltage-Based Repair Criteria for Westinghouse Steam Generator Tubes Affected by Outside Diameter Stress Corrosion Cracking.'' This change allows a proportional increase in main steam line break induced primary-to-secondary leakage when implementing the alternate steam generator tube repair criteria, which the NRC has already approved for Units 1 and 2.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the Tennessee Valley Authority (TVA), the licensee, has provided its analysis of the issue of no significant hazards consideration, which is presented below:

TVA has concluded that operation of SQN Units 1 and 2, in accordance with the proposed change to the TS [or operating license(s)], does not involve a significant hazards consideration. TVA's conclusion is based on its evaluation, in accordance with 10 CFR 50.91(a)(1), of the three standards set forth in 10 CFR 50.92(c).

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed TS change lowers the [maximum allowable] reactor coolant specific activity, which allows an increase in the leakage quantity that would be postulated to occur during a MSLB accident. This in turn allows a larger quantity of tubes with axial ODSCC to remain in service. The methodology for identifying and defining the ODSCC and for developing the leakage quantity remains unchanged. Therefore, the proposed change does not result in a significant increase in the probability of an accident.

An increase in the consequences of an accident would not occur because the proportional decrease in reactor coolant specific activity, while proportionally increasing the primary-to-secondary leakage during a postulated MSLB accident, has been evaluated to confirm the amount of activity released to the environment remains unchanged. The evaluation uses the same methodology used to establish the original primary-to-secondary leak limits in [Westinghouse Topical Report] WCAP–13990.

The control room dose, the low population zone dose, and the dose at the exclusion area boundary remains bounded by the acceptance criteria of NUREG–0800 and continue to satisfy an appropriate fraction of the 10 CFR 100 dose limits and GDC [General Design Criterion] 19. Therefore, the proposed TS change does not result in a significant increase in the consequences of an accident previously analyzed.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed TS change does not alter the configuration of the plant. The changes do not directly affect plant operation. The change will not result in the installation of any new equipment or systems or the modification of any existing equipment or systems. No new operating procedures, conditions or modes will be created by this proposed change. SG [steam generator] tube structural integrity, as defined in draft Regulatory Guide 1.121, remains unchanged.

Therefore the possibility of a new or different kind of accident from any accident previously evaluated is not created.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

Lowering the reactor coolant specific activity, while allowing the proportional increase in the primary-to-secondary leakage during a postulated MSLB accident, keeps the amount—of activity released to the environment unchanged. Design basis and offsite dose calculation assumptions remain satisfied. Therefore, the proposed change does not result in a significant reduction in the margin of safety.

The NRC has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Attorney for licensee: General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET 10H, Knoxville, Tennessee 37902.

NRC Project Director: Frederick J. Hebdon.

TU Electric Company, Docket Nos. 50–445 and 50–446, Comanche Peak Steam Electric Station, Units 1 and 2, Somervell County, Texas

Date of amendment request: February 27, 1998 (TXX–98033), June 10, 1998 (TXX 98145).

Brief description of amendments: The proposed amendment would increase the RWST Low-Low level setpoint from ''greater than or equal to 40%'' to ''greater than or equal to 45%'' of span for CPSES, Units 1 and 2. The change raises the RWST Low-Low level setpoint in order to increase the volume available to complete containment spray switchover without turning off the containment spray pumps.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Do the proposed changes involve a significant increase in the probability or consequences of an accident previously evaluated?

The changes in the License Amendment Request proposes more restrictive setpoint Allowable Values for the RWST Low-Low setpoint. This more restrictive value assures that all applicable safety analysis limits are being met. Changing an RWST Low-Low setpoint from greater than or equal to 40% to greater than or equal to 45% in the Technical Specifications has no impact on the probability of occurrence of any accident previously evaluated. None of the accident analyses were affected, therefore, the consequences of all previously evaluated accidents remain unchanged.

2. Do the proposed changes create the possibility of a new or different kind of accident from any accident previously evaluated?

The proposed changes involve the use of a more conservative value for the RWST Low-Low setpoint. As such, none of the changes effect plant hardware or the operation of plant systems in a way that could initiate an accident. Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

There were no changes made to any of the accident analyses or safety analysis limits as a result of this proposed change. Further, the proposed

change does not affect the acceptance criteria for any analyzed event. ECCS, Containment spray, and the RWST will remain capable of performing their safety function, and the new requirement will continue to provide adequate assurance of that capability. Raising the RWST Low-Low setpoint from 40% to 45% has no impact on the assumptions used in the safety analysis as discussed in Chapter 15 of the FSAR. The margin of safety established by the Limiting Conditions for Operation also remains unchanged. Thus there is no effect on the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92 are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: University of Texas at Arlington Library, Government Publications/Maps, 702 College, P.O. Box 19497, Arlington, TX 76019.

Attorney for licensee: George L. Edgar, Esq., Morgan, Lewis and Bockius, 1800 M Street, N.W., Washington, DC 20036.

NRC Project Director: John N. Hannon.

Virginia Electric and Power Company, Docket Nos. 50–280 and 50–281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of amendment request: June 19, 1998. This amendment request supersedes the November 5, 1997, submittal in its entirety (63 FR 19981).

Description of amendment request: The proposed Operating License change and changes to the technical specifications (TS) would permit the use of a temporary alternate supply line (jumper) to provide service water (SW) to the component cooling heat exchangers. The temporary jumper will permit maintenance to be performed on the existing supply line.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

Virginia Electric and Power Company has reviewed the proposed changes against the criteria of 10 CFR 50.92 and has concluded that the changes do not pose a significant safety hazards consideration as defined therein. The proposed Operating License and Technical Specifications and Bases changes are necessary to allow the use of a temporary, seismic, non-missile protected jumper to provide service water (SW) to the Component Cooling Heat Exchangers (CCHXs) while maintenance work is performed on the existing SW supply line to the CCHXs. Since there is only one SW supply line to the CCHXs, an alternate SW supply must be provided whenever the line is removed from service. The temporary jumper provides this function. The jumper will only be used for a 35-day period during each of two Unit 1 refueling outages.

The use of the temporary jumper has been thoroughly evaluated, and appropriate constraints and compensatory measures (including a Contingency Action Plan) have been developed to ensure that the temporary jumper is reliable, safe, and suitable for its intended purpose. A complete and immediate loss of SW supply to the operating CCHXs is not considered credible, given the project constraints and the unlikely probability of a generated missile or heavy load drop. Existing station abnormal procedures already address a loss of component cooling, and the use of alternate cooling for a loss of decay heat removal, in the unlikely event that they are required. Furthermore, appropriate mitigative measures have been identified to address potential flooding concerns. The minor administrative changes merely correct a table format inconsistency and update Basis section references.

Consequently, the operation of Surry Power Station with the proposed amendment and license condition will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated.

The SW and CC Systems will function as designed under the Unit operating constraints specified by this project (i.e., Unit 2 in operation and Unit 1 in a refueling outage), and the potential for a loss of component cooling is already addressed by Station Abnormal Procedures. Therefore, there is no increase in the probability of an accident previously evaluated. The possibility of flooding due to failure of the temporary SW supply jumper in the Turbine Building basement has been evaluated and dispositioned by the implementation of appropriate precautions and compensatory measures to preclude damage to the temporary jumper and to respond to a postulated flooding event. A flood watch will be present around-the-clock with authority and procedural guidance to isolate the jumper, if required. Furthermore, the CCHXs serve no design basis accident mitigating function. Therefore, the consequences of an accident previously evaluated are not increased.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated.

The SW and CC Systems' design functions and basic configurations are not being altered as a result of using a temporary SW supply jumper. The temporary jumper is designed to be safety-related and seismic with all of the design attributes of the normal SW supply line, except for the automatic isolation function and complete missile and heavy load drop protection. The design functions of the SW and CC systems are unchanged as a result of the proposed changes due to (1) required plant conditions, (2) compensatory measures, (3) a Contingency Action Plan for restoration of the normal SW supply if required, and (4) strict administrative control of the temporary SW isolation valve to preclude flooding or to isolate non-essential SW within the design basis assumed time limits. Unit 1 will be in a plant condition which will provide adequate time to restore the normal SW supply, if required. Therefore, since the SW and CC systems will basically function as designed and will be operated in their basic configuration, the possibility of a new or different type of accident than previously evaluated in the UFSAR [Updated Final Safety Analysis Report] is not created.

3. Involve a significant reduction in a margin of safety.

The margin of safety as defined in the Technical Specifications is not reduced since an operable SW flowpath to the required number of CCHXs is provided, and Unit operating constraints, compensatory measures and contingencies will be implemented as required to ensure the integrity and the capability of the SW flowpath. The use of the temporary jumper will be limited to the time period when missile producing weather is not expected, and Unit 1 meets specified unit conditions. Therefore, the temporary SW jumper, under the imposed project constraints and compensatory measures, provides the same reliability as the normal SW supply line. Furthermore, the Probabilistic Safety Assessment for Surry Power Station has been reviewed relative to the use of the temporary SW jumper. It has been determined that due to the SW restoration project's compensatory and contingency measures, as well as the configuration restrictions that will be imposed by the Maintenance Rule online risk matrix, the impact on core damage frequency is negligible.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, Riverfront Plaza, East Tower, 951 E. Byrd Street, Richmond, Virginia 23219.

NRC Project Director: P. T. Kuo, Acting.

Westinghouse Electric Corporation (Licensee), Westinghouse Test Reactor, Waltz Mill Site, Westmoreland, Pennsylvania, Docket No. 50–22, License No. TR–2

Date of amendment request: December 22, 1997, supplemented on June 15, 1998.

Description of amendment request: In 1959, the Westinghouse Electric Corporation was granted a license for the Westinghouse Test Reactor (WTR) at Waltz Mill. On December 22, 1997, the licensee informed the Nuclear Regulatory Commission it had changed its name to CBS Corporation, and requested the license to be amended to reflect the name change.

On June 15, 1998, the CBS Corporation agreed that the name of the WTR licensee, as reflected on the license, can be revised to ''CBS Corporation acting through its Westinghouse Electric Company Division.'' Therefore, the purpose of this amendment is to change the name of the licensee as indicated on the WTR license from Westinghouse Electric Corporation to CBS Corporation acting through its Westinghouse Electric Company Division.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The staff agrees with the licensee's no significant hazards consideration determination submitted on June 15, 1998 for the following reason.

This corporate name change does not involve any change in the management, organization, location, facilities equipment, or procedures related to or personnel responsible for the licensed activities of the WTR license. All existing commitments, obligations and representations remain in effect.

Based on a review of the licensee's analysis, and on the staff's analysis detailed above, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for license: Lisa A. Campagna, Assistant General Counsel, Law Department, CBS Corporation, P.O. Box 355, Pittsburgh, Pennsylvania 15230.

NRC Project Director: Seymour H. Weiss.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: February 26, 1998 (TSCR 204).

Description of amendment request: The proposed changes would modify Technical Specifications (TS) and bases to reflect a lower containment leakage limit, a revised program for control of primary coolant sources outside containment, a revised control room emergency filtration design, and the addition of the primary auxiliary building exhaust filtration system.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of this facility under the proposed Technical Specifications will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents previously evaluated for Point Beach include: Control rod withdrawal and drop, CVCS [chemical volume control system] malfunction (Boron Dilution), startup of an inactive reactor coolant loop, reduction in feedwater enthalpy, excessive load increase, losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, loss of all AC [alternating current] power to the auxiliaries, turbine overspeed, fuel handling accidents, accidental releases of waste liquid or gas, steam generator tube rupture, steam pipe rupture, control rod ejection, and primary coolant system ruptures.

This license amendment request proposes to change the limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for the Point Beach Nuclear Plant [PBNP] Technical Specifications associated with the maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment. These proposed changes do not cause an increase in the probabilities of any accidents previously evaluated because these changes will not cause an increase in the probability of any initiating events for accidents previously evaluated. In particular, these changes affect accident mitigation systems and equipment which do not cause accidents.

The consequences of the accidents previously evaluated in the PBNP FSAR [Final Safety Analysis Report] are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment.

The proposed changes affect components that are required to ensure the proper operation of accident mitigation systems and equipment. The proposed changes do not increase the probability of failure of this equipment or its ability to operate as required for the accidents previously evaluated in the PBNP FSAR.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR, because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of this facility under the proposed Technical Specifications change will not create the possibility of

a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout. The changes proposed by this license amendment request do not create any new or different accident initiators or sequences because these changes to limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment will not cause failures of equipment or accident sequences different than the accidents previously evaluated. Therefore, these proposed Technical Specifications changes do not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of this facility under the proposed Technical Specifications change will not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection.

The changes proposed by this license amendment request provide the appropriate limiting conditions for operation, action statements, allowable outage times, and surveillance requirements for maximum permissible containment leak rate, control room emergency filtration, primary auxiliary building exhaust filtration, and primary coolant sources outside containment. This ensures that the safety systems that protect the reactor and containment will operate as required. The design and operation of the reactor and containment are not affected by these proposed changes. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed and the safety systems and limiting conditions of operation for these safety systems that provide their protection that are being changed will continue to meet the requirements for accident mitigation for Point Beach Nuclear Plant.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Wisconsin Electric Power Company, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: May 28, 1998 (TSCR 203).

Description of amendment request: The proposed amendments would revise Technical Specifications (TS) to provide a specific numerical setting for reactor trip, reactor coolant pump trip, and auxiliary feedwater initiation on a loss of power to the 4 kilovolt (kV) buses. Changes to the bases for the affected TS sections are also being made.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration which is presented below:

1. Operation of the Point Beach Nuclear Plant [PBNP] in accordance with the proposed amendments will not create a significant increase in the probability or consequences of an accident previously evaluated.

The probabilities of accidents previously evaluated are based on the probability of initiating events for these accidents. Initiating events for accidents potentially affected by the proposed amendments previously evaluated for Point Beach include losses of reactor coolant flow, loss of external electrical load, loss of normal feedwater, and loss of all AC [alternating current] power to the auxiliaries.

This license amendment request proposes to clarify the setting limit for the undervoltage reactor trip, auxiliary feedwater initiation and reactor coolant pump trip by providing an actual numerical value in place of the word ''Normal'' thereby eliminating any confusion as to the actual value used in the setting limit for this protection function.

This proposed change does not cause an increase in the probabilities of any accidents previously evaluated because the change will not cause an increase in the probability of any initiating events for accidents previously evaluated. In particular, the proposed change more clearly defines the actual setting limit for the 4 KV undervoltage protection function taking into account the effects of voltage decay and response times. This is a protection function for mitigation of these events. Appropriate delay times are implemented in this function to ensure momentary voltage transients do not initiate these events while ensuring appropriate protection for these loss of power events. Therefore, there is no significant increase in the probability or consequences of any event previously analyzed.

The consequences of the accidents previously evaluated in the PBNP FSAR [Final Safety Analysis Report] are determined by the results of analyses that are based on initial conditions of the plant, the type of accident, transient response of the plant, and the operation and failure of equipment and systems. The changes proposed in this license amendment request provide appropriate limiting conditions for the setting limits for the Point Beach Nuclear Plant Technical Specifications for the 4 KV undervoltage protection function. Thus the analyses of the events remain valid and demonstrate that there are no radiological consequences from these events.

Therefore, this proposed license amendment does not affect the consequences of any accident previously evaluated in the Point Beach Nuclear Plant FSAR, because the factors that are used to determine the consequences of accidents are not being changed.

2. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments will not create the possibility of a new or different kind of accident from any accident previously evaluated.

New or different kinds of accidents can only be created by new or different accident initiators or sequences. New and different types of accidents (different from those that were originally analyzed for Point Beach) have been evaluated and incorporated into the licensing basis for Point Beach Nuclear Plant. Examples of different accidents that have been incorporated into the Point Beach Licensing basis include anticipated transients without scram and station blackout.

The change proposed by the amendments to provide specific undervoltage setting limits does not create any new or different accident initiators or sequences because the change to the 4 KV undervoltage protection function will not cause failures of equipment or accident sequences different than the accidents previously evaluated. Therefore, the proposed Technical Specification change does not create the possibility of an accident of a different type than any previously evaluated in the Point Beach FSAR.

3. Operation of the Point Beach Nuclear Plant in accordance with the proposed amendments [will] not create a significant reduction in a margin of safety.

The margins of safety for Point Beach are based on the design and operation of the reactor and containment and the safety systems that provide their protection.

The change proposed by this license amendment request provides the appropriate setting limit for the 4 KV undervoltage protection function. This ensures that the safety systems that protect the reactor and containment will operate as required. The design and operation of the reactor and containment are not affected by these proposed changes. Therefore, the margins of safety for Point Beach are not being reduced because the design and operation of the reactor and containment are not being changed.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Local Public Document Room location: The Lester Public Library, 1001 Adams Street, Two Rivers, Wisconsin 54241.

Attorney for licensee: John H. O'Neill, Jr., Shaw, Pittman, Potts, and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: Cynthia A. Carpenter.

Previously Published Notices of Consideration of Issuance of Amendments to Facility Operating Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Consumers Energy Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: June 17, 1998, as supplemented June 23, 1998.

Brief description of amendment request: The proposed amendment would revise Section 3.1.1c of the Technical Specifications (TS), Appendix A of the Operating License for the Palisades Nuclear Plant, to change the minimum required primary coolant system flow. The currently specified value is 140.7×10^{6} lb/hr [pounds per hour] or greater, when corrected to 532 °F. The licensee proposed to revise the TS to specify a value of greater than or equal to 352,000 gpm [gallons per minute], which is equivalent to approximately 135×10^{6} lb/hr, when corrected to 532 °F.

Date of publication of individual notice in **Federal Register**: July 2, 1998 (63 FR 36271)

Expiration date of individual notice: August 3, 1998.

Local Public Document Room location: Van Wylen Library, Hope College, Holland, Michigan 49423–3698.

Detroit Edison Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: June 26, 1998 (NRC–98–0040).

Brief description of amendment request: The proposed amendment would provide a one-time extension of the interval for a number of technical specification (TS) surveillance requirements that will be performed in the sixth refueling outage. TS 4.0.2 and Index page xxii would be revised and TS tables 4.0.2–1 and 4.0.2–2 would be replaced to reflect the extensions.

Date of publication of individual notice in **Federal Register**: July 2, 1998 (63 FR 36273).

Expiration date of individual notice: August 3, 1998.

Local Public Document Room location: Monroe County Library System, Ellis Reference and Information Center, 3700 South Custer Road, Monroe, Michigan 48161.

Duquesne Light Company, et al., Docket Nos. 50–334 and 50–412, Beaver Valley Power Station, Unit Nos. 1 and 2, Shippingport, Pennsylvania

Date of amendment request: June 19, 1998.

Brief description of amendment request: This amendment revises the Beaver Valley Power Station, Units 1 and 2 (BVPS–1 and BVPS–2), Technical Specifications (TS) definition of a channel calibration to add two sentences stating that (1) the calibration of instrument channels with resistance temperature detector or thermocouple sensors may consist of an inplace qualitative assessment of sensor behavior and normal calibration of the remaining adjustable devices in the channel and (2) whenever a sensing element is replaced, the next required channel calibration shall include an inplace cross calibration that compares the other sensing elements with the recently installed sensing element. This proposed change would make the BVPS–1 and BVPS–2 TS definition of channel calibration consistent with the definition of a channel calibration contained in the NRC's improved Standard Technical Specifications for Westinghouse Plants (NUREG–1431, Revision 1).

Date of publication of individual notice in **Federal Register**: June 26, 1998.

Expiration date of individual notice: July 27, 1998 (63 FR 34939).

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Pennsylvania Power and Light Company, Docket No. 50–388, Susquehanna Steam Electric Station, Unit 2, Luzerne County, Pennsylvania

Date of amendment request: June 17, 1998.

Brief description of amendment request: This amendment revises the applicability requirement in TS Sections 3.4.2, ''Safety/Relief Valves'' (Action c); 4.4.2; 3.3.7.5, ''Accident Monitoring Instrumentation'' (TS Table 3.3.7.5–1, Action 80 and 4.3.7.5, ''Surveillance Requirements,'' Table 4.3.7.5–1 ''Accident Monitoring Instrumentation Surveillance Requirements''). The change to the referenced TSs adds the following applicability footnote:

> Compliance with these requirements for the ''J'' SRV acoustic monitor is not required for the period beginning June 15, 1998, until the next unit shutdown of sufficient duration to allow for containment entry, not to exceed the 9th refueling and inspection outage.

Date of publication of individual notice in **Federal Register**: June 23, 1998 (63 FR 34200).

Expiration date of individual notice: July 23, 1998.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Notice of Issuance of Amendments to Facility Operating Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for A Hearing in connection with these actions was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved.

Commonwealth Edison Company, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Date of application for amendments: May 27, 1997, as supplemented on August 1, 1997, and March 24, 1998.

Brief description of amendments: The amendments revise Technical Specification Section 6, ''Administrative Controls,'' to incorporate revised organizational titles and delete Unit 1 Facility Operating License Condition 2.C.(30)(a). In addition, the amendments change the submittal frequency of the Radiological Effluent Release Report from semiannually to annually and make several administrative and editorial changes.

Date of issuance: June 26, 1998.

Effective date: Immediately, to be implemented within 90 days.

Amendment Nos.: 128 and 113.

Facility Operating License Nos. NPF–11 and NPF–18: The amendments revised the Unit 1 Facility Operating License and the Technical Specifications.

Date of initial notice in **Federal Register**: July 30 ,1997. The August 1, 1997, submittal provided clarifying information that did not change the initial proposed no significant hazards consideration determination. The March 24, 1998, submittal changed the scope of the initial **Federal Register** notice. The proposed amendments were renoticed on May 20, 1998 (63 FR 27759).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 26, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348.

Commonwealth Edison Company, Docket No. 50–373, LaSalle County Station, Unit 1, LaSalle County, Illinois

Date of application for amendment: November 24, 1997, as supplemented April 16, 1998.

Brief description of amendment: The amendment revises Technical Specification 3/4 3.2, ''Isolation Actuation Instrumentation'' to add/revise various isolation setpoints for leak detection instrumentation. These changes are necessary due to modifications to the Reactor Water Cleanup (RWCU) system to restore ''hot'' suction to the RWCU pumps and due to a re-evaluation of the high energy line break analysis. In addition, the amendment eliminates isolation actuation trip functions for the Residual Heat Removal system steam condensing mode and shutdown cooling mode.

Date of issuance: July 6, 1998.

Effective date: Immediately, to be implemented prior to restart from L1F35

Amendment No.: 129.

Facility Operating License No. NPF–11: The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 14, 1998 (63 FR 2278). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 6, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Jacobs Memorial Library, Illinois Valley Community College, Oglesby, Illinois 61348

Connecticut Yankee Atomic Power Company, Docket No. 50–213, Haddam Neck Plant, Middlesex County, Connecticut

Date of application of amendments: May 30, 1997, as supplemented May 7, 1998 and June 18, 1998.

Brief description of amendments: The amendments revise the Facility Operating License and Technical Specifications to reflect the permanently shut down and defueled status of the reactor.

Date of issuance: June 30, 1998.

Effective date: As of the date of issuance (June 30, 1998) and shall be implemented within 90 days.

Amendment No.: 193.

Facility Operating License No. DPR–61: The amendments revised the Operating License and the Technical Specifications.

Date of initial notice in **Federal Register**: July 16, 1997 (62 FR 38132 and 62 FR 38133). The May 7, 1998, supplement relocated the provisions of Technical Specification 3/4.9.15. The June 18, 1998, supplement consisted of supporting technical information. The supplements did not change the staff's initial proposed no significant hazards consideration determination or expand the scope of the original notice. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

No significant hazards consideration received: No.

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457.

Detroit Edison Company, Docket No. 50–16, Enrico Fermi Atomic Power Plant, Unit 1, Monroe County, Michigan

Date of amendment request: January 27, 1998 (Reference NRC–98–0023).

Brief description of amendment: This amendment revises the Fermi 1 License to allow Detroit Edison to receive, acquire, possess, use, and transfer byproduct material without restriction to chemical form for sample analysis, instrument calibration, or associated

with radioactive apparatus, hardware, tools, and equipment, provided the cumulative radioactive material quantity of the byproduct material does not exceed the criteria contained in Section 30.72, Schedule C, Quantities of Radioactive Materials Requiring Consideration of the Need for an Emergency Plan for Responding to a Release.

Date of issuance: June 22, 1998.

Effective date: Within 60 calendar days from the date of issuance of this amendment.

Amendment No.: 12.

Facility Operating License No. DPR–9: Amendment revised License by adding a subpart 3 to Part 2.B.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17223).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Energy Corporation, Docket Nos. 50–269 and 50–287, Oconee Nuclear Station, Units 1 and 3, Seneca, South Carolina

Date of application of amendments: June 4, 1998.

Brief description of amendments: The amendments revise Technical Specification 4.17.2 to allow continued operation with certain steam generator tubes that exceed their repair limit as a result of tube end anomalies. This action temporarily exempts these tubes from the requirement for sleeving, rerolling, or removal from service until they are repaired during or before the next scheduled refueling outages for the respective unit. This action supersedes the Notice of Enforcement Discretion that was issued by the staff on June 4, 1998.

Date of Issuance: July 1, 1998.

Effective date: As of the date of issuance to be implemented within 30 days.

Amendment Nos.: Unit 1—230; Unit 2—227.

Facility Operating License Nos. DPR–38 and DPR–55: The amendments revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: Yes. (63 FR 33097 dated June 17, 1998). The notice provided an opportunity to submit comments on the Commission's proposed no significant hazards consideration determination. No comments have been received. The notice also provided for an opportunity to request a hearing by July 16, 1998, but indicated that if the Commission makes a final no significant hazards consideration determination, any such hearing would take place after issuance of the amendments.

The Commission's related evaluation of the amendments, finding of exigent circumstances, and a final no significant hazards consideration determination are contained in a Safety Evaluation dated July 1, 1998.

Local Public Document Room location: Oconee County Library, 501 West South Broad Street, Walhalla, South Carolina.

Entergy Operations, Inc., Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: June 3, 1997, as supplemented by letter dated May 1, 1998.

Brief description of amendment: The amendment changed the Appendix A Technical Specifications (TSs) by changing the action requirements for TS 3/4.3.2 for the Safety Injection System Sump Recirculation Actuation Signal (RAS). It revised the allowed outage time for a channel of RAS to be in the tripped condition from ''prior to entry into the applicable MODE(S) following the next COLD SHUTDOWN'' to the more restrictive time limit of 48 hours, and added a shutdown requirement. Additionally, the TS 3.0.4 exemption was removed from the action for the tripped condition. A change to TS Bases Section 3/4.3.2 was also included.

Date of issuance: July 2, 1998.

Effective date: July 2, 1998, to be implemented within 60 days.

Amendment No.: 143.

Facility Operating License No. NPF–38: Amendment revised the Technical Specifications. *Date of initial notice in* **Federal Register**: June 18, 1997 (62 FR 33124).

The additional information contained in the supplemental letter dated May 1, 1998, was clarifying in nature and thus, it was within the scope of the initial notice and did not affect the staff's proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 2, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, LA 70122.

North Atlantic Energy Service Corporation, et al., Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Date of amendment request: March 2, 1998, as supplemented by letter dated April 21, 1998.

Description of amendment request: The amendment revised Technical Specification 4.5.2.b.1 for the emergency core cooling system subsystems to delete the requirement to vent the operating chemical volume and control system centrifugal pump casing.

Date of issuance: June 24, 1998.

Effective date: As of its date of issuance, to be implemented within 60 days.

Amendment No.: 58.

Facility Operating License No. NPF–86. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 8, 1998 (63 FR 17225).

The supplemental letter provided clarifying information that did not change the staff's proposed no significant hazards determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Exeter Public Library, Founders Park, Exeter, NH 03833.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: April 13, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by adding a new TS 3.5.5, ''Emergency Core Cooling Systems—Trisodium Phosphate (TSP).'' The TSP surveillance requirements in TSs 4.5.2.c.3 and 4.5.2.c.4 are relocated to new TS 3.5.5 as TS 4.5.5.1 and TS 4.5.5.2, respectively. Also, the amount of TSP is increased, the surveillance requirements are modified, a new limiting condition of operation is included, and the applicable TS Index pages and Bases sections are updated to reflect the changes.

Date of issuance: June 22, 1998.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 217.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25114).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 22, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station, Unit No. 2, New London County, Connecticut

Date of application for amendment: November 13, 1997, as supplemented on December 29, 1997, and April 8, 1998.

Brief description of amendment: The amendment changes the Technical Specifications (TSs) by modifying TS 3.1.2.1, ''Flow Paths—Shutdown;'' TS 3.1.2.2, ''Flow Paths—Operating;'' TS 3.1.2.3, ''Charging Pump—Shutdown;'' TS 3.1.2.4, ''Charging Pumps—Operating;'' TS 3.1.2.5, ''Boric Acid Pumps—Shutdown;'' TS 3.1.2.6, ''Boric Acid Pumps—Operating;'' TS 3.1.2.8, ''Borated Water Sources—Operating;'' TS 3.4.1.3, ''Coolant Loops and Coolant Circulation—Shutdown;'' TS 3.4.3, ''Relief Valves;'' TS 3.4.9.1, ''Reactor Coolant System;'' TS 3.4.9.2, ''Pressurizer;'' TS 3.4.9.3, ''Overpressure Protection Systems;'' TS 3.5.3, ''ECCS Subsystems—T_{avg} < 300 °F;'' and TS 3.10.3, ''Pressure/Temperature Limitation—Reactor Criticality,'' and their associated Bases in the areas that are affected by the modified Low Temperature Overpressure Protection system, the updated reactor coolant system pressure and temperature curves and heatup and cooldown limits. Additionally, minor changes are made to correct various items, such as, updating of redundant or outdated TSs.

Date of issuance: July 1, 1998.

Effective date: As of the date of issuance to be implemented within 60 days.

Amendment No.: 218.

Facility Operating License No. DPR–65: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4315).

The December 29, 1997, and April 8, 1998, letters provided clarifying information that did not change the scope of the November 13, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut, and the Waterford Library, ATTN: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: February 27, 1997, as supplemented by letter dated December 4, 1997.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant, (DCPP) Unit Nos. 1 and 2 to change Technical Specification (TS) 3/4.8.1.1, ''A.C. Sources—Operating,'' to clarify that emergency diesel generator (EDG) testing is initiated from standby conditions rather than ''ambient'' conditions. The associated TS Bases were revised to discuss the temperature range that satisfies EDG standby conditions. TS 3/4.3.2, ''Instrumentation—Engineering Safety Features Actuation System Instrumentation'' was also changed. This revision clarified that when one or both of the first level load shed relays, or one or both of the second level undervoltage relays are inoperable, the associated EDG for that bus shall be declared inoperable.

Date of issuance: June 5, 1998.

Effective date: June 5, 1998, to be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1—127; Unit 2—125

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 9, 1997 (62 FR 17240).

The December 4, 1997, supplemental letter provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 5, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: April 10, 1998, as supplemented by letter dated May 1, 1998.

Brief description of amendments: The amendments revised the combined Technical Specifications (TS) for the Diablo Canyon Power Plant (DCPP) Units 1 and 2 to revise TS 6.2.2.g and TS 6.3 to change the name of the Operations Manager to Operations Director, to add the position of Operations Middle Manager, and to change the requirement for the Operations Director to hold a senior reactor operator (SRO) license.

Date of issuance: June 11, 1998.

Effective date: June 11, 1998.

Amendment Nos.: Unit 1–128; Unit 2–126.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: May 6, 1998 (63 FR 25116).

The May 1, 1998, supplemental letter provided additional clarifying information and did not change the staff's initial no significant hazards consideration determination. The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 11, 1998.

No significant hazards consideration comments received: Yes.

The Commission received one letter with comments which did not change its finding and conclusion as discussed in the safety evaluation.

Local Public Document Room location: California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket Nos. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of application for amendments: May 12, 1998

Brief description of amendments: These amendments relocate certain requirements related to fire protection from the TSs to the Updated Final Safety Analysis Report. The TS sections to be relocated are: 3/4.3.7.9, Fire Detection Instrumentation; 3/4.7.6, Fire Suppression Systems; 3/4.7.7, Fire

Rated Assemblies; and 6.2.2e, Fire Brigade Staffing. The amendments also replace License Condition 2.C.(6) for Unit 1 and License Condition 2.C.(3) for Unit 2. These amendments are consistent with the guidance of NRC Generic Letter (GL) 86–10, ''Implementation of Fire Protection Requirements,'' and GL 88–12, ''Removal of Fire Protection Requirements from Technical Specifications.''

Date of issuance: June 24, 1998.

Effective date: Both units, as of date of issuance, to be implemented within 30 days.

Amendment Nos.: 177 and 150.

Facility Operating License Nos. NPF–14 and NPF–22: The amendments revised the Technical Specifications and Licenses.

Date of initial notice in **Federal Register**: May 21, 1998 (63 FR 28010).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 24, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, PA 18701.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: November 26, 1997, as supplemented April 17, 1998.

Brief description of amendment: The amendment relocates snubber operability, surveillance, and records requirements from the Technical Specifications to plant controlled documents. A condition is added to the license to require that the relocated requirements be described in the Final Safety Analysis Report such that 10 CFR 50.59 will apply to future changes to those requirements.

Date of issuance: June 30, 1998.

Effective date: As of the date of issuance to be implemented within 90 days.

Amendment No.: 243.

Facility Operating License No. DPR–59: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 29, 1997 (62 FR 4352).

The April 17, 1998, supplemental letter provided clarifying information that did not change the initial proposed no significant hazards consideration.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Reference and Documents Department, Penfield Library, State University of New York, Oswego, New York 13126.

Southern California Edison Company, et al., Docket Nos. 50–361 and 50–362, San Onofre Nuclear Generating Station, Unit Nos. 2 and 3, San Diego County, California

Date of application for amendments: November 6, 1995, as supplemented by letters dated January 9, 1998, and February 3, 1998, for the safety injection tanks (SITs), and November 8, 1995, as supplemented by letters dated January 9, 1998, and February 3, 1998, for the low pressure safety injection (LPSI).

Brief description of amendments: The amendments modify the technical specifications (TSs) to extend the allowed outage times (AOTs) for a single inoperable SIT from one hour to 24 hours, and for a single inoperable SIT specifically due to malfunctioning SIT water level or nitrogen cover pressure instrumentation inoperability from one hour to 72 hours. In addition, the amendments extend the AOT for a single inoperable LPSI train from 72 hours to 7 days. The amendments also add a Configuration Risk Management Program to the TSs that puts a proceduralized probabilistic risk assessment-informed process in place that ensures the licensee assesses the overall impact of plant maintenance on plant risk.

Date of issuance: June 19, 1998.

Effective date: June 19, 1998, to be implemented within 30 days from the date of issuance.

Amendment Nos.: Unit 2—139; Unit 3—131.

Facility Operating License Nos. NPF–10 and NPF–15: The amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 10, 1996 (61 FR 15995) and February 11, 1998 (63 FR 6991).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 19, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Main Library, University of California, P. O. Box 19557, Irvine, California 92713.

Southern Nuclear Power Company, Inc., et al., Docket Nos. 50–424 and 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of application for amendments: September 4, 1997, as supplemented by letters dated November 20, 1997, May 19 and June 12, 1998.

Brief description of amendments: The changes to the common Technical Specifications allow an increase in the Unit 1 spent fuel storage capacity from 288 to 1476 fuel assemblies.

Date of issuance: June 29, 1998.

Effective date: As of the date of issuance to be implemented on a schedule consistent with the receipt and storage of new fuel in the fall of 1998 for the spring 1999 refueling outage of Unit 1.

Amendment Nos.: Unit 1—102; Unit 2—80.

Facility Operating License Nos. NPF–68 and NPF–81: Amendments revised the Technical Specifications, Operating Licenses, and Appendix D.

Date of initial notice in **Federal Register**: December 31, 1997 (62 FR 68317); and renoticed on May 11, 1998 (63 FR 25883).

The supplements dated May 19 and June 12, 1998, provided clarifying information that did not change the scope of the September 4, 1997, application and the initial proposed no significant hazards consideration determination.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 29, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: Burke County Library, 412 Fourth Street, Waynesboro, Georgia.

Tennessee Valley Authority, Docket Nos. 50–327 and 50–328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: June 7, 1996, as supplemented on September 26, 1997, January 21, 1998, May 28, 1998, and June 29, 1998 (TS 95–19).

Brief description of amendments: The amendments change the Technical Specifications (TS) by relocating portions of Section 6, ''Administrative Controls,'' to the Sequoyah Nuclear Quality Assurance Plan. This Change is consistent with NUREG–1431, ''Standard Technical Specifications—Westinghouse Plants.''

Date of issuance: July 1, 1998.

Effective date: July 1, 1998.

Amendment Nos.: 233 and 223.

Facility Operating License Nos. DPR–77 and DPR–79: Amendments revise the TS.

Date of initial notice in **Federal Register**: July 17, 1996 (61 FR 37302).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 1998.

No significant hazards consideration comments received: None.

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company, Centerior Service Company, and The Cleveland Electric Illuminating Company, Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit 1, Ottawa County, Ohio

Date of application for amendment: December 23, 1997, as supplemented by letter dated June 11, 1998.

Brief description of amendment: This amendment revises Technical Specification (TS) Section 1.0, ''Definitions,'' to clarify the meaning of core alteration; relocates TS Section 3/4.9.5, ''Refueling Operations—Communications,'' and the associated bases to the Technical Requirements Manual; and adds TS Section 3.0.6 and associated bases to address the return to service of inoperable equipment.

Date of issuance: June 30, 1998.

Effective date: June 30, 1998.

Amendment No.: 224.

Facility Operating License No. NPF–3: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register**: January 28, 1998 (63 FR 4327).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 1998.

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No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo, William Carlson Library, Government Documents Collection, 2801 West Bancroft Avenue, Toledo, OH 43606.

Virginia Electric and Power Company, et al., Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of application for amendments: March 25, 1998.

Brief description of amendments: The amendments revise the Technical Specifications (TS) Sections 6.1.1; 6.2.1.b; 6.5.1.1; 6.5.1.6.a,d,h, and m; 6.5.1.7.c; 6.5.1.8; 6.14.1.2; 6.15.b; 6.2.3.5; 6.5.1.2; 6.5.1.7.a for Unit 1 and 6.1.1; 6.2.1.b; 6.5.1.1; 6.5.1.6.a,d,h, and m; 6.5.1.7.c; 6.5.1.8; 6.13.b; 6.14.b; 6.2.3.5; 6.5.1.2; and 6.5.1.7.a for Unit 2, changing the title of Station Manager to Site Vice President, and the titles of the Assistant Station Managers to Manager-Station Operation and Maintenance and Manager-Station Safety and Licensing.

Date of issuance: June 23, 1998.

Effective date: June 23, 1998.

Amendment Nos.: 212 and 193.

Facility Operating License Nos. NPF–4 and NPF–7: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register**: April 22, 1998 (63 FR 19980).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated June 23, 1998.

No significant hazards consideration comments received: No.

Local Public Document Room location: The Alderman Library, Special Collections Department, University of Virginia, Charlottesville, Virginia 22903–2498.

Dated at Rockville, Maryland, this 8th day of July 1998.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Acting Director, Division of Reactor Projects—III/IV, Office of Nuclear Reactor Regulation.

[FR Doc. 98–18684 Filed 7–14–98; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Interest Assumption for Determining Variable-Rate Premium; Interest on Late Premium Payments; Interest on Underpayments and Overpayments of Single-Employer Plan Termination Liability and Multiemployer Withdrawal Liability; Interest Assumptions for Multiemployer Plan Valuations Following Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of interest rates and assumptions.

SUMMARY: This notice informs the public of the interest rates and assumptions to be used under certain Pension Benefit Guaranty Corporation regulations. These rates and assumptions are published elsewhere (or are derivable from rates published elsewhere), but are collected and published in this notice for the convenience of the public. Interest rates are also published on the PBGC's web site (http://www.pbgc.gov).

DATES: The interest rate for determining the variable-rate premium under part 4006 applies to premium payment years beginning in July 1998. The interest assumptions for performing multiemployer plan valuations following mass withdrawal under part 4281 apply to valuation dates occurring in August 1998. The interest rates for late premium payments under part 4007 and for underpayments and overpayments of single-employer plan termination liability under part 4062 and multiemployer withdrawal liability under part 4219 apply to interest accruing during the third quarter (July through September) of 1998.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street, NW., Washington, DC 20005, 202–326–4024. (For TTY/TDD users, call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION:

Variable-Rate Premiums

Section 4006(a)(3)(E)(iii)(II) of the Employee Retirement Income Security Act of 1974 (ERISA) and § 4006.4(b)(1) of the PBGC's regulation on Premium Rates (29 CFR part 4006) prescribe use of an assumed interest rate in determining a single-employer plan's variable-rate premium. The rate is the ''applicable percentage'' (described in the statute and the regulation) of the annual yield on 30-year Treasury securities for the month preceding the beginning of the plan year for which premiums are being paid (the ''premium payment year''). The yield figure is reported in Federal Reserve Statistical Releases G.13 and H.15.

For plan years beginning before July 1, 1997, the applicable percentage of the 30-year Treasury yield was 80 percent. The Retirement Protection Act of 1994 (RPA) amended ERISA section 4006(a)(3)(E)(iii)(II) to change the applicable percentage to 85 percent, effective for plan years beginning on or after July 1, 1997. (The amendment also provides for a further increase in the applicable percentage '' to 100 percent '' when the Internal Revenue Service adopts new mortality tables for determining current liability.)

The assumed interest rate to be used in determining variable-rate premiums for premium payment years beginning in July 1998 is 4.85 percent (*i.e.*, 85 percent of the 5.70 percent yield figure for June 1998).

(Under section 774(c) of the RPA, the amendment to the applicable percentage was deferred for certain regulated public utility (RPU) plans for as long as six months. The applicable percentage for RPU plans has therefore remained 80 percent for plan years beginning before January 1, 1998. For ''partial'' RPU plans, the assumed interest rates to be used in determining variable-rate premiums can be computed by applying the rules in § 4006.5(g) of the premium rates regulation. The PBGC's 1997 premium payment instruction booklet also describes these rules and provides a worksheet for computing the assumed rate.)

The following table lists the assumed interest rates to be used in determining variable-rate premiums for premium

payment years beginning between August 1997 and July 1998. The rates for August through December 1997 in the table (which reflect an applicable percentage of 85 percent) apply only to non-RPU plans. However, the rates for months after December 1997 apply to RPU (and ''partial'' RPU) plans as well as to non-RPU plans.

For premium payment years beginning in	The assumed interest rate is
August 1997	5.53
September 1997	5.59
October 1997	5.53
November 1997	5.38
December 1997	5.19
January 1998	5.09
February 1998	4.94
March 1998	5.01
April 1998	5.06
May 1998	5.03
June 1998	5.04
July 1998	4.85

Late Premium Payments; Underpayments and Overpayments of Single-Employer Plan Termination Liability

Section 4007(b) of ERISA and § 4007.7(a) of the PBGC's regulation on Payment of Premiums (29 CFR part 4007) require the payment of interest on late premium payments at the rate established under section 6601 of the Internal Revenue Code. Similarly, § 4062.7 of the PBGC's regulation on Liability for Termination of Single-employer Plans (29 CFR part 4062) requires that interest be charged or credited at the section 6601 rate on underpayments and overpayments of employer liability under section 4062 of ERISA. The section 6601 rate is established periodically (currently quarterly) by the Internal Revenue Service. The rate applicable to the third quarter (July through September) of 1998, as announced by the IRS, is 8 percent.

The following table lists the late payment interest rates for premiums and employer liability for the specified time periods:

From	Through	Interest rate (percent)
4/1/92	9/30/92	8
10/1/92	6/30/94	7
7/1/94	9/30/94	8
10/1/94	3/31/95	9
4/1/95	6/30/95	10
7/1/95	3/31/96	9
4/1/96	6/30/96	8
7/1/96	12/31/96	9
1/1/97	3/31/97	9
4/1/97	6/30/97	9
7/1/97	9/30/97	9
10/1/97	12/31/97	9
1/1/98	3/31/98	9
4/1/98	6/30/98	8
7/1/98	9/30/98	8

Underpayments and Overpayments of Multiemployer Withdrawal Liability

Section 4219.32(b) of the PBGC's regulation on Notice, Collection, and Redetermination of Withdrawal Liability (29 CFR part 4219) specifies the rate at which a multiemployer plan is to charge or credit interest on underpayments and overpayments of withdrawal liability under section 4219 of ERISA unless an applicable plan provision provides otherwise. For interest accruing during any calendar quarter, the specified rate is the average quoted prime rate on short-term commercial loans for the fifteenth day (or the next business day if the fifteenth day is not a business day) of the month preceding the beginning of the quarter, as reported by the Board of Governors of the Federal Reserve System in Statistical Release H.15 (''Selected Interest Rates''). The rate for the third quarter (July through September) of 1998 (*i.e.*, the rate reported for June 15, 1998) is 8.50 percent.

The following table lists the withdrawal liability underpayment and overpayment interest rates for the specified time periods:

From	Through	Rate (percent)
4/1/92	9/30/92	6.50
10/1/92	6/30/94	6.00
7/1/94	9/30/94	7.25
10/1/94	12/31/94	7.75
1/1/95	3/31/95	8.50
4/1/95	9/30/95	9.00
10/1/95	3/31/96	8.75
4/1/96	12/31/96	8.25
1/1/97	3/31/97	8.25
4/1/97	6/30/97	8.25
7/1/97	9/30/97	8.50
10/1/97	12/31/97	8.50
1/1/98	3/31/98	8.50
4/1/98	6/30/98	8.50
7/1/98	9/30/98	8.50

Multiemployer Plan Valuations Following Mass Withdrawal

The PBGC's regulation on Duties of Plan Sponsor Following Mass Withdrawal (29 CFR part 4281) prescribes the use of interest assumptions under the PBGC's regulation on Allocation of Assets in Single-employer Plans (29 CFR part 4044). The interest assumptions applicable to valuation dates in August 1998 under part 4044 are contained in an amendment to part 4044 published elsewhere in today's **Federal Register**. Tables showing the assumptions applicable to prior periods are codified in appendix B to 29 CFR part 4044.

Issued in Washington, DC, on this 6th day of July 1998.

David M. Strauss,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 98–18681 Filed 7–14–98; 8:45 am]

BILLING CODE 7708–01–P

Postal Rate Commission

Sunshine Act Meetings

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 63 FR 33420, June 18, 1998.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:30 a.m., July 23, 1998.

CHANGES IN THE MEETING: The meeting will begin at 9:30 a.m. instead of 10:30 a.m.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–0001, (202) 789–6820.

Dated: July 13, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–18996 Filed 7–13–98; 2:22 pm]

BILLING CODE 7710–FW–M

POSTAL RATE COMMISSION

Announcement of Visit

SUMMARY: Representatives of E-Stamp Corporation will visit the Commission to present a briefing on a system for electronic generation of postage indicia.

DATES: The date of the visit is Thursday, July 16, 1998, beginning at 2:30 p.m.

ADDRESSES: Postal Rate Commission (Conference Room), 1333 H Street, NW, Suite 300, Washington, DC 20268–0001.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street, NW, Washington, DC 20268–001, (202) 789–6820.

SUPPLEMENTARY INFORMATION: During this visit, representatives of E-Stamp Corporation will brief the Commission on a system for electronic generation of postage indicia.

Dated: July 10, 1998.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 98–18844 Filed 7–14–98; 8:45 am]

BILLING CODE 7710–FN–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

Sunshine Act Meeting

Governors Vote to Close Meeting

In person and by telephone vote on May 12, 1998, a majority of the Governors contacted and voting, the Governors voted to close to public observation a meeting held in Washington, D.C. The Governors determined that prior public notice was not possible.

Item Considered: 1. Appointment and Compensation of the Postmaster General.

General Counsel Certification: The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

Contact Person for More Information: Requests for information about the meeting should be addressed to the Secretary of the Board, Thomas J. Koerber, at (202) 268–4800.

Thomas J. Koerber,

Secretary.

[FR Doc. 98–18914 Filed 7–14–98; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 11Ac1–4, SEC File No. 270–405, OMB Control No. 3235–0462

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. § 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

Rule 11Ac1–4 (17 CFR § 240.11Ac1–4) under the Securities Exchange Act of 1934 requires specialists and market makers to publicly display a customer limit order when that limit order is priced superior to the quote that is currently being displayed by the specialist or market maker. Customer limit orders that match the bid or offer being displayed by the specialist or market maker must also be displayed if the limit order price matches the national best bid or offer. It is estimated that approximately 580 broker and dealer respondents incur an average burden of 5,684 hours per year to comply with this rule.

Rule 11Ac1–4 does not contain record retention requirements. Compliance with the rule is mandatory. Responses are not confidential. 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.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: July 7, 1998.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18761 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23306; 812–10578]

Calvert Social Investment Fund, et al.; Notice of Application

July 8, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act and under section 17(d) of the Act and rule 17d–1 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain registered investment companies to invest up to a specified percentage of their assets in an affiliated non-profit social and community development foundation.

APPLICANTS: Calvert Social Investment Fund (''CSIF''), The Calvert Fund, Calvert World Values Fund, Inc. and any existing or future registered investment company, advised by Calvert Asset Management Company, Inc. (''CAMCO'') and whose investment policies permit investment in the Calvert Social Investment Foundation (''Funds'').[1]

FILING DATES: The application was filed on March 17, 1997, and amended on September 2, 1997, May 18, 1998, and June 11, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, 4550 Montgomery Avenue, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT: Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicant's Representations

1. Each Fund is registered under the Act as an open-end management investment company. CSIF and The Calvert Fund are organized as Massachusetts business trusts. The Calvert World Values Fund, Inc. is organized as a Maryland corporation.

[1] All existing Funds that currently intend to rely on the order have been named as applicants. Any other existing Funds and any future Funds will rely on the order only in accordance with its terms and conditions.

The Funds' investment adviser is CAMCO, an investment adviser registered under the Investment Advisers Act of 1940.

2. Each Fund's investment policy permits it to invest a specified percentage of its assets in high social impact investments (''HSII'') that offer a rate of return below the prevailing market rate and that present attractive opportunities for furthering the Fund's social criteria.[2] HSII are typically illiquid and unrated and generally considered non-investment grade debt securities which involve a greater risk of default or price decline than investment-grade securities. Each Funds' investments in HSII were approved by the Fund's shareholders.

3. The Funds currently invest directly in community organizations and other HSII. Applicants propose to invest assets, allocated for investment in HSII, in the Calvert Social Investment Foundation (''Foundation''). The Foundation will then place the assets in the community.

4. The Foundation is a non-profit organization that seeks to use community development opportunities to assist the poor, correct social injustices, and improve society in a pro-active way. The Foundation's securities are exempt from registration under section 3(a)(4) of the Securities Act of 1933. The Foundation is exempt from registration as an investment company under section 3(c)(10)(A) of the Act. The Foundation has nine directors, eight of whom are members of CSIF's board of trustees, four of whom are members of The Calvert Fund's board of trustees, and four of whom are members of the Calvert World Values Fund, Inc.'s board of directors.

5. The Foundation receives grants and loans from various foundations and Acacia Mutual Life Insurance Company (''Acacia''), the parent company of the Funds' investment adviser. The Foundation also receives funding from individual investors, through a program called Calvert Community Investments (''CI''). Investments in the Foundation are evidenced by Calvert Community Investments notes (''CI Notes''). Investors in CI Notes are allowed to choose the interest rate (ranging from 0% to 4%) that they would like to receive on their investment. The average interest rate currently for CI Notes is 3%. The Foundation generally realizes a basis point spread on each investment to cover administrative and overhead costs. The basis point spread is the difference between the interest rate that purchasers of the CI Notes receive and the average interest rate at which the Foundation makes investments in community development organizations.

6. Under the proposed arrangement, each Fund will receive a CI Note evidencing its investment in the Foundation. The Funds' boards of trustees/directors (''Boards'') will determine the interest rate and the maturity of the CI Notes that the Funds receive from the Foundation. The Funds' assets invested in the Foundation will be pooled with the Foundation's other assets and will be used by the Foundation to make investments in community development organizations. The Foundation's investments are evidenced by promissory notes at below market rates in amounts between $50,000 and $500,000 each and for terms of one, three, or five years, with interest rate currently ranging from 4.5% to 8.8%. Applicants expect that a Fund will invest in the CI Notes quarterly.

7. Each Fund will invest its HSII assets in the CI Notes only in accordance with its investment objectives, policies and restrictions. Each Fund's Board will monitor this proposed arrangement to ensure that it is consistent with the Fund's investment objectives, policies and restrictions. Each Fund's Board also will periodically review the adequacy of the Fund's disclosure of the proposed arrangement and of the possible risks of loss to the Fund and its shareholders. The percentage of each Fund's assets which may be invested in HSII will not be increased without shareholder approval. Any future Fund relying on the requested relief will obtain prior shareholder approval to invest in the Foundation.

8. Neither the Funds, CAMCO, nor the Funds' subadvisers will invest directly in the organizations in which the Foundation invests or plans to invest. Neither Acacia, CAMCO, nor the Funds' subadvisers will invest in the Foundation by purchasing CI Notes. Further, neither CAMCO nor any subadviser will receive any compensation for the Funds' investment in CI Notes.

Applicants' Legal Analysis

A. Section 17(a)

1. Section 17(a) of the Act makes it unlawful for any affiliated person of a registered investment company, acting as principal, to sell or purchase any security to or from the company. Section 2(a)(3) of the Act defines an affiliated person of an investment company as any person directly or indirectly controlling, controlled by, or under common control with such investment company, and any officer, director, partner, copartner, or employee of the investment company. Section 2(a)(36) defines a security to include, among other things, any note, stock treasury stock, or evidence of indebtedness. Applicants believe that the Foundation may be considered to be an affiliated person of the Funds due to common directors/trustees that serve on the boards of the Funds and the Foundation. Thus, investment by the Funds in the CI Notes may be prohibited by section 17(a).

2. Section 17(b) of the Act authorities the SEC to exempt a transaction from section 17(a) if the terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each investment company concerned and the general purposes of the Act. Section 6(c) authorizes the Commission to exempt transactions from the provisions of the Act to the extent that such exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act.

3. Applicants believe that the Funds' proposed investment in the Foundation meets the standards of section 17(b) and 6(c). Applicants state that the Fund's investment in the Foundation will be consistent with each Fund's investment objectives, policies and restrictions and that investment in HSII has been approved by each Fund's shareholders. Applicants assert that each Fund will likely recognize certain economies of scale by having the Foundation undertake analysis, placing and processing of prospective investments in HSII. Each Fund's investments in HSII through the Foundation will be on the same terms and in the same amounts as currently made directly, with comparable rates of interest.

B. Section 17(d) and Rule 17d–1

1. Section 17(d) of the Act and rule 17d–1 prohibit an affiliated person of a

[2] CSIF's investment policy permits investment of less than 1% of its assets in HSII. The policies of the Calvert International Equity Fund (a series of the Calvert World Values Fund, Inc.) and the Calvert New Vision Small Cap Fund (a series of The Calvert Fund) permit investment up to 1% and 3%, respectively, of their assets in HSII. The policy of the Calvert Capital Accumulation Fund (a series of Calvert World Values Fund, Inc.) permits investment of up to 3% of its assets in HSII when its assets reach $100 million.

registered investment company, acting as principal, from participating in any joint arrangement with the investment company unless the SEC has issued an order authorizing the arrangement. Applicants believe that each Fund may be deemed to be participating in a joint transaction with each other Fund through the pooling of assets in the Foundation, and that the Funds could be deemed to be participating in a joint transaction with the Foundation through their investments in HSII.

2. In determining whether to grant an exemption under rule 17d–1, the SEC considers whether the investment company's participation in the joint enterprises in consistent with the provisions, policies and purposes of the Act, and the extend to which such participation is on a basis different from or less advantageous than that of other participants. Applicants assert that all investors in the Foundation will participate on the same basis.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18760 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCAHNGE COMMISSION

[Rel. No. IC–23308; 812–10008]

Corporate Income Fund, et al.; Notice of Application

July 9, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for exemption under the Investment Company Act of 1940 (''Act'').

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Investment Company Act of 1940 to permit certain unit investment trusts to invest up to 10.5% of their assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities.

APPLICANTS: Corporate Income Fund, Equity Income Fund, International Bond Fund, and Defined Asset Funds, each on behalf of its component unit investment trust (each a ''Trust'').

FILING DATES: The application was filed on February 22, 1996, and amended on July 10, 1996, January 13, 1997, and January 23, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, DC 20549. Applicants, c/o Merrill Lynch, Pierce, Fenner & Smith Inc., P.O. Box 9051, Princeton, N.J. 08543–9051, Attention: Teresa Koncick, Esq.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, (202) 942–0553, or Nadya B. Roytblat, Assistant Director, (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation) .

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth St. N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each applicant is a unit investment trust registered under the Act and composed of one or more separate Trusts. The depositors of the Trusts are Merrill Lynch, Pierce, Fenner & Smith Inc., PaineWebber Inc., Smith Barney Inc., and Dean Witter Reynolds Inc. (collectively, the ''Sponsors'').

2. Each Trust pursues its investment objective by investing over its life in a fixed portfolio of securities. Following the initial deposit of securities in a Trust, the Sponsors may, in response to investor demand for units, deposit additional securities. Subsequent deposits of securities into the Trust must generally maintain the original proportionate relationship among the securities comprising the Trust's portfolio.

3. Disposition of a Trust's portfolio securities is generally limited to sales made in response to redemptions of units and at the termination of the Trust. Other than these specific instances, the Sponsors' discretion to sell a Trust's portfolio securities is limited to narrow circumstances, principally: a default in payment by an issuer; the institution of certain legal proceedings; a default under certain documents adversely affecting the future declaration of dividends or payment of amounts due by an issuer; to maintain a Trust's qualification under the federal tax laws; to remain consistent with a Trust's investment objectives; or the occurrence of certain other market or credit factors that, in the opinion of the Sponsors, would make the retention of certain securities in a Trust detrimental to the interest of the unitholders.

4. Applicants would like the flexibility to invest up to 10.5% of a Trust's assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities (as defined below). No Trust will invest in securities issued by any of the Sponsors or other underwriters for the Trusts.

Applicants' Legal Analysis

1. Section 12(d)(3) of the Act generally prohibits a registered investment company from acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting (collectively, ''securities-related activities''). Rule 12d3–1 under the Act, in relevant part, exempts from the prohibition of section 12(d)(3) purchases of securities of an issuer that derives more than 15% of its gross revenues from securities-related activities if certain conditions are met. One of these conditions, set forth in rule 12d3–1(b)(3), requires that, immediately after the acquisition, the investment company has invested not more than 5% of the value of its total assets in securities of the issuer.

2. Applicants request an exemption from rule 12d3–1(b)(3) to permit a Trust to invest up to 10.5% of its assets in securities of an issuer that derives more than 15% of its gross revenues from securities-related activities. Applicants will comply with all other requirements of rule 12d3–1.

3. Section 6(c) of the Act provides that the SEC may exempt any person, security, or transaction from any provision of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicants state that section 12(d)(3) was designed to prevent certain potential conflicts of interest and to eliminate certain reciprocal practices between investment companies and securities-related businesses. One potential abusive practice is that an

investment company may purchase shares of a broker-dealer firm to reward it for selling shares of the investment company.

Applicants assert that their proposal does not raise this concern because units of the Trusts are sold almost exclusively by the Sponsors and the Trusts will not purchase shares of the Sponsors or other underwriters for the Trusts. The Sponsors estimate that, over the past year, both in the primary and secondary markets, over 99% of all unit sales for the Trusts were made by the Sponsors. Applicants also state that the balance of sales generally are made by a few regional brokerage firms as dealers, that these firms are not members of the underwriting group and that no special incentives are paid to these dealers to induce sales of Trust units.

5. Another concern underlying section 12(d)(3) was that an investment company may direct brokerage to a broker-dealer in which it has invested to enhance the broker-dealers' profitability or assist it during financial difficulty, although the broker-dealer may not offer the best price and execution. Applicants assert that their proposal does not raise this concern because, as a condition to the requested relief, the Trusts will not rely on the order to purchase securities of any issuer that executes portfolio transactions for the Trusts. Applicants also note that the Trusts, as unmanaged vehicles, do not engage in portfolio transactions with the same frequency or purpose as managed investment companies.

6. Section 12(d)(3) also was designed to prevent the practice of a broker-dealer giving advice to its customers regarding which investment company to invest in based on whether the investment company has invested in the broker-dealer; thus using the investment company's assets to boost the price of the broker-dealer's securities. Applicants assert that the concern about purchases by a Trust affecting the price of the issuer's securities is not present in the proposed arrangement because a Trust does not actively trade its portfolio securities.

Applicants' Conditions

Applicants agree that the order shall be subject to the following conditions:

1. The debt obligations and non-voting preferred stocks held by a Trust relying on the order will be rated investment grade by a nationally recognized statistical rating organization or be of comparable quality at the time of their initial deposit.

2. The common stocks held by a Trust relying on the order will be listed on a nationally or internationally recognized securities exchange or market at the time of their initial deposit.

3. No company whose securities constitute more than 5% of the total assets of the portfolio of a Trust relying on the order nor any affiliate thereof will act as broker for any purchase or sale of any portfolio security for any Trust relying on the order.

4. No Trust relying on the order will invest more than 5% of its total assets as of its initial date of deposit in the securities of any company that, to the knowledge of the Sponsors, has sold, or whose affiliate has sold, units of any other Trust within one year preceding such initial date of deposit.

5. No company whose securities constitute more than 5% of the total assets of the portfolio of a Trust relying on the order nor any affiliate thereof will, for a period of at least one year after the date of the last deposit into the Trust, act as an underwriter of the units of any other Trust or be permitted to acquire any such units directly from a Sponsor.

6. With respect to any securities acquired in reliance on the order, such securities will be acquired only in the secondary market and not as part of any offering by the issuers thereof.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18842 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23307; 812–11122]

EuroPacific Growth Fund, et al.; Notice of Application

July 9, 1998.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for relief from section 2(a)(19) of the Act.

SUMMARY OF APPLICATION: Applicants request an order under section 6(c) of the Act declaring that a director on the boards of certain registered investment companies who also is an outside director for the parent company of a registered broker-dealer, will not be deemed an ''interested person'' of the registered investment companies.

APPLICANTS: EuroPacific Growth Fund (''EUPAC''), the New Economy Fund (''NEF''), New Perspective Fund, Inc. (''NPF''), SMALLCAP World Fund, Inc. (''SCWF''), The Investment Company of America (''ICA'') (collectively, the ''Fund''); Capital Research and Management Company (''Capital Research''); and American Funds Distributors, Inc. (''AFD'').

FILING DATES: The application was filed on April 29, 1998.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 3, 1998, and should be accompanied by proof of service on applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants: 333 South Hope Street, Los Angeles, CA 90071–1447.

FOR FURTHER INFORMATION CONTACT: Mary T. Geffroy, Senior Counsel, at (202) 942–0553, or Mary Kay Frech, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549 (tel. (202) 942–8090).

Applicant's Representations

1. Each of the Funds is an open-end management investment company registered under the Act. EUPAC and NEF are Massachusetts business trusts. NPF and SCWF are Maryland corporations. ICA is a Delaware corporation.

2. Capital Research, an investment adviser registered under the Investment Advisers Act of 1940, serves as investment adviser to the Funds and certain other registered investment companies. The Funds and these investment companies, together with any future registered investment company advised by Capital Research, are referred to as the ''American Funds.'' AFD, a wholly-owned

subsidiary of Capital Research, is the principal underwriter of the Funds.

3. Each Fund has a board of directors (''Board''), a majority of whom are not ''interested persons'' within the meaning of section 2(a)(19) of the Act. ICA and NPF also have advisory boards, as defined in section 2(a)(1) of the Act, whose members consult with Capital Research and the Funds' Boards.

4. William H. Kling serves as a director of NEF, SCWF, NPF and EUPAC, and as an advisory board member of ICA. Mr. Kling's principal occupation is as President of Minnesota Public Radio. Mr. Kling also is a non-employee director of Irwin Financial Corporation (''Irwin Financial'').[1] Irwin Financial is a bank holding company that is primarily engaged in the mortgage banking business. One of Irwin Financial's indirect wholly-owned subsidiaries is Irwin Securities, a broker-dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act''). Approximately 0.4% of Irwin Financial's net revenues comes from Irwin Securities.[2]

5. Irwin Securities is a small firm. It does not execute any portfolio transactions for the Funds. Irwin Securities provides *de minimis* distribution services to the Funds. The gross sales by Irwin Securities of Fund shares during the period 1991 through 1996 was approximately $3.55 million, or 0.003% of the total gross sales of Fund shares by all broker-dealers for the same period. The fees received by Irwin Securities from the sale of Fund shares for the past five years represented approximately 0.017% of Irwin Financial's total net revenues. The Funds have adopted plans pursuant to rule 12b–1 under the Act and make payments to their distributors, including Irwin Securities, pursuant to those plans.

[1] In 1996, Mr. Kling's aggregate compensation from Irwin Financial was approximately $16,000. As a non-employee director, Mr. Kling also participates in Irwin Financial's mandatory and non-mandatory stock options plans. In April 1997, Mr. Kling was granted 400 stock options, 100 of which are currently vested. The exercise price of the options is $23.375 per share. The market value of Irwin Financial's common stock as of the close of trading on February 26, 1998 was $47.25 per share. In addition, as of March 11, 1997, Mr. Kling beneficially owned 3,404 shares, or approximately 0.03%, of Irwin Financial's common stock, with market value on February 26, 1998 of approximately $160,839. The applicants represent that Mr. Kling's ownership of Irwin Financial's common stock is not material to Mr. Kling since it does not represent a material portion of his financial holdings generally.

[2] This figure is based on Irwin Financial's net revenues in 1996.

Applicants' Legal Analysis

1. Section 2(a)(19)(A)(v) of the Act defines an ''interested person'' of a registered investment company to include any broker-dealer registered under the 1934 Act or any affiliated person of the broker-dealer. Applicants state that Mr. Kling may be deemed an affiliated person of Irwin Securities by virtue of his position as a director of Irwin Financial, an entity that controls Irwin Securities within the meaning of section 2(a)(9) of the Act. Because Mr. Kling may be deemed an affiliated person of Irwin Securities, Mr. Kling currently is considered an interested person of the Funds.

2. Rule 2a19–1 under the Act provides, in relevant part, that a director of a registered investment company will not be considered an interested person solely because the director is an affiliated person of a registered broker-dealer, provided that: (1) the broker-dealer does not execute any portfolio transactions for the ''company complex,'' as that term is defined in the rule, engaged in any principal transactions with the company complex, or distribute shares of the company complex, for at least six months prior to the time the director is to be considered independent and for the period during which the director continues to be considered independent; (2) the company's board of directors finds that the company and its shareholders will not be adversely affected if the broker-dealer does not engage in transactions for or with the company complex; and (3) no more than a minority of the company's independent directors are affiliated with broker-dealers. Applicants state that they may not rely on rule 2a–19 in determining Mr. Kling's status because Irwin Securities provides *de minimis* services to the Funds.

3. Applicants believes that, because Mr. Kling's affiliation with Irwin Securities is solely the result of his position as a non-employee director of Irwin Financial, and because Irwin Securities provides only *de minimis* distribution services to the Funds, it would be more appropriate to treat Mr. Kling as an independent director. Applicants thus request an order under section 6(c) of the Act declaring that Mr. Kling will not be deemed an interested person under section 2(a)(19) of the Act.[3]

[3] Applicants are not requesting relief from the provisions of rule 12b–1(b)(2) that require a rule 12b–1 plan to be approved by the directors of an investment company ''who are not interested persons of the company and have no direct or indirect financial interest in the operation of the plan or in any agreements related to the plan.'' Applicants state that they intend to treat Mr. Kling as a director who meets these requirements, based on Mr. Kling's lack of material business or professional relationship with Irwin Financial and applicants' belief that Mr. Kling's ownership of Irwin Financial's common stock is not a material portion of Mr. Kling's financial holding generally. Applicants represent that, should Mr. Kling develop a direct or indirect financial interest in the operation of the American Funds' rule 12b–1 plans, he will no longer be treated as meeting the above requirements of rule 12b–1.

4. Section 6(c) of the Act provides, in part, that the Commission may exempt any person from any provision of the Act or any rule under the Act if and to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that their request for relief from interested person status for Mr. Kling meets this standard because Mr. Kling's relationship with Irwin Securities is attenuated and poses no real or potential conflict of interest and because Irwin Securities' only business relationship with the Funds involves a *de minimis* amount of distribution services for the Funds.

5. Applicants state that, in his position as a non-employee director of Irwin Financial, Mr. Kling has no authority or responsibility for the operations of Irwin Securities and does not control or influence the day-to-day management of Irwin Securities. Applicants also represent that Mr. Kling has no material business or professional relationship with Irwin Financial, Irwin Securities, American Funds, Capital Research, AFD or any affiliated person of these entities.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. All of the requirements of rule 2a19–1 will be met, except that Irwin Securities will be permitted to provide limited distribution services to the American Funds;

2. No more than 1% of Irwin Financial's gross revenues will come from the distribution of any one American Fund's shares; and no more than 5% of Irwin Financial's gross revenues will come from the distribution of all of the American Funds' shares;

3. No more than 1% of any one of the American Fund's shares, and no more than 5% of all of the American Funds' shares, will be distributed by Irwin Securities; and

4. Irwin Securities will not serve as a ''regular broker or dealer,'' as that term

is defined in rule 10b–1 under the Act, for any American Fund.

By the Commission.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18762 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application to Withdraw From Listing and Registration; (Financial Federal Corporation, Common Stock, $.50 Par Value) File No 1–14237

July 9, 1998.

Financial Federal 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 security (''Security'') from listing and registration on the American Stock Exchange, Inc. (''Amex'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company submitted an application to list the Security on the New York Exchange, Inc. (''NYSE'') and the NYSE approved such application. The Company believes that listing the Security on the NYSE will create better visibility for the Company and its securities, thus enhancing shareholder value.

The Company has complied with Amex Rule 18 by filing with the Amex a certified copy of the resolutions adopted by the Board of Directors of the Company authorizing the withdrawal of the Security from listing and registration on the Amex and a statement from the Company setting forth in detail the reasons and facts supporting such proposed withdrawal.

By letter dated June 12, 1998, the Amex raised no objection to the Company's filing its application with the Commission to remove the Security from listing on the Amex.

Any interested person may, on or before July 30, 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. 98–18841 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: [63 FR 37608, July 13, 1998].

STATUS: Closed Meeting.

PLACE: 450 Fifth Street, N.W., Washington, D.C.

DATE PREVIOUSLY ANNOUNCED: July 13, 1998.

CHANGE IN MEETING: Cancellation of Meeting.

The closed meeting scheduled for Thursday, July 16, 1998, at 11:00 a.m., has been cancelled.

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 (202) 942–7070.

Dated: July 13, 1998.

Jonathan G. Katz,

Secretary.

[FR Doc. 98–19047 Filed 7–13–98; 4:00 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40179; File Nos. SR–DTC–98–09, SR–NSCC–98–05]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to Direct Clearing Services and New York Window Services

July 8, 1998.

On May 13, 1998, The Depository Trust Company (''DTC'') and the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') proposed rule changes (File Nos. SR–DTC–98–09 and SR–NSCC–98–05) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] Notice of the proposals was published in the **Federal Register** on June 4, 1998.[2] No comment letters were received. For the reasons discussed below, the Commission is approving the proposed rule changes.

I. Description

Under the rule changes, NSCC will discontinue its Direct Clearing Services (''Direct Clearing'') and New York Window Services (''Window''). DTC will offer its participants most of the services currently offered by NSCC through Direct Clearing and the Window through a new service called the New York Window Services.

Direct Clearing is a physical securities processing service which NSCC provides to its participants that do not have offices in New York City. The principal services of Direct Clearing include (i) processing over-the-window receives and deliveries, (ii) processing transfers of physical securities certificates, and (iii) processing deliveries to designated agents in connection with reorganizations and other corporate actions. In the course of providing these and other Direct Clearing services, NSCC may have custody of participants' physical securities certificates including overnight custody for one or more days.[3] The principal services of NSCC's Window are similar to those of Direct Clearing, but they initially were provided to NSCC participants located in New York City. NSCC has decided to discontinue providing Direct Clearing and the Window in order to focus its resources on its core businesses.

Under the rule changes, DTC is adopting new procedures for the operation of its New York Window Services. DTC's procedures for its New York Window Services are substantially the same as NSCC's Rule 31[4] except that DTC's new procedures do not include provisions similar to section 4 of NSCC Rule 31, which relates to money settlement through the Window. Currently, it is anticipated that NSCC will discontinue providing Direct Clearing and the Window and that DTC

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 40045 (May 29, 1998), 63 FR 30543.

[3] For a more complete description of Direct Clearing, refer to Securities Exchange Act Release No. 32221 (April 26, 1993) 58 FR 26570 [File No. SR–NSCC–93–03]

[4] The current version of NSCC Rule 31 was approved by the Commission in 1996. Securities Exchange Act Release No. 37631 (September 3, 1996), 61 FR 47534 [File No. SR–NSCC–96–08].

will begin offering its New York Window Services on July 13, 1998.[5]

II. Discussion

Section 17A(b)(3)(F) of the Act[6] requires that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible. The Commission believes that the proposed rule changes are consistent with DTC's and NSCC's obligations under Section 17A(b)(3)(F). The Commission believes that the arrangements between DTC and NSCC should ensure that securities transactions that are currently processed through Direct Clearing and the Window will be processed efficiently through DTC's New York Window Services. In addition, the Commission believes that DTC's procedures for its New York Window services, which are similar to those the Commission previously approved for NSCC, should assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposals are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes (File Nos. SR–DTC–98–09 and SR–NSCC–98–05) be and hereby are approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18764 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

[5] Conversation between Jeffrey T. Waddle, Associate Counsel, DTC, and Theodore R. Lazo, Attorney-Adviser, Division of Market Regulation, Commission (June 17, 1998).

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40182; File No. SR–PCX–98–12]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Order Approving Proposed Rule Change Relating to the Treatment of PMP Orders Generated Through the Matching of Profiles by the PCX Application of the OptiMark System

July 9, 1998.

I. Introduction

On March 2, 1998, the Pacific Exchange (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'')[1] and Rule 19b–4 thereunder,[2] to amend its interpretation of Rule 5.32(a) ''PMP-Only'' of its Rules of Board of Governors so that it will clarify how PMP orders will be treated when generated from the matching of Profiles through the PCX Application of the OptiMark System (''PCX Application'').[3]

Notice of the proposed rule change was published in the **Federal Register**.[4] The Commission received no comment letters in response to the notice of the proposed rule change.

II. Description of the Proposal

PCX has proposed to amend its interpretation of Rule 5.32(a) ''PMP-Only'' of its Rules of Board of Governors so that it will clarify how PMP orders will be treated when generated from the matching of Profiles through the PCX Application. A new commentary has been added to Rule 5.32(a).

PCX will modify the interpretation of its Rule 5.32(a) so that executions resulting from the operation of the PCX Application would be considered as a part of the ''primary market'' for the purposes of execution of orders marked ''PMP.'' The purpose of the proposed interpretation of the rule is to respond to the SEC staff's request to clarify the meaning of Rule 5.32(a) ''PMP Only.'' Through the addition of proposed Commentary .01, Rule 5.32(a) would be interpreted as meaning that during regular ''primary'' market trading hours, an order specifically marked ''PMP'' would receive primary market protection, which would include not only the traditional primary markets (*e.g.*, New York markets) but also matches resulting from the PCX Application. Accordingly, executions resulting from the PCX Application may trigger the execution of an order marked ''PMP Only,'' even if the primary markets have not traded at that price. Similarly, a PMP order reflected *into* the PCX Application as a Profile, which is matched in the PCX Application and results in an execution, would require that such PMP limit order be filled, even if the price is out of range from an otherwise existing ''primary'' market, however defined. This would then be consistent with the overall premise that under no circumstance can a specialist accept an execution arising out of orders generated from a cycle of the PCX Application, without also executing any eligible booked orders that were put in the book before the cycle began.

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b–4 (1991).

[3] For a description of the PCX Application of the OptiMark System, *see* Securities Exchange Act Release No. 39086 (Sept. 17, 1997), 62 FR 50036 (Sept. 24, 1997) (Commission order granting approval for the PCX Application).

[4] Securities Exchange Act Release No. 39818 (Mar. 30, 1998), 63 FR 17252 (Apr. 8, 1998).

III. Discussion

The Commission believes that proposed rule change is consistent with the provisions of Section 6(b)(5) of the Exchange Act, which provides, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade and to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers or dealers. The Commission believes that by including PMP orders in the PCX Application, and giving those orders not only traditional primary market protection, but also the potentially improved pricing that may result from inclusion in the PCX Application, the PCX is seeking to protect the interests of investors and to promote just and equitable principles of trade, while striving to prevent unfair discrimination between customers, brokers, and dealers. This effort should also help to remove impediments to, and perfect the mechanism of, a free and open market, consistent with the purpose of Section 6(b)(5) of the Act.

In addition, the Commission believes that the proposed rule change is consistent with the provisions of Section 11A(a)(1)(B) of the Exchange Act, which states that new data processing and communications techniques create the opportunity for more efficient and effective market operations. By employing the facility of the PCX Application, an advanced data processing and communications system, to process PMP orders and to give potentially improved pricing to those orders or otherwise to fill more

expeditiously PMP limit orders, the PCX is furthering the purposes of Section 11A(a)(1)(B) of the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[5] that the proposed rule change (SR–PCX–98–12) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18843 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–40180; File No. SR–Phlx–98–22]

July 8, 1998.

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc., and Amendment No. 1 Thereto Relating to Amendments to Phlx Rule 931 Regarding Approved Lessors

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 18, 1998, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Phlx. On June 8, 1998, the Phlx filed an amendment to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx seeks to amend Phlx Rule 931, ''Approved Lessor.'' The text of the proposed rule change is available at the Office of the Secretary, the Phlx, and at the Commission.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the Phlx included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx 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

The Phlx proposes to amend Phlx Rule 931 to substitute the word ''Exchange'' for the word ''Corporation'' throughout the rule and to require disclosure on an initial and periodic (quarterly) basis of lists of limited partners, limited liability organization members and shareholders of corporate entities of approved lessors. Phlx Rule 931(d), as amended, will require a lessor who is a natural person to file with the Exchange an attestation in a form prescribed by the Exchange as to the source of funds used to purchase the membership in addition to a completed Form U–4. For a lessor who is not a natural person, Phlx Rule 931(d) will require that a statement of assets, liabilities and net work and (1) if a partnership, an executed partnership agreement along with executed Form U–4 for all partners who are natural persons; (2) if a limited liability entity other than a corporation, an executed copy of the operating agreement along with accompanying Form U–4 for all such members who are natural persons; or (3) if a corporation, the corporate articles of incorporation, corporate by-laws, a listing of all officers, directors and shareholders along with accompanying Form U–4s. For a lessor who is not a natural person, Phlx Rule 931(e) will require periodic reports to be submitted to the Exchange within seventeen business days after the conclusion of the reporting period, in a form prescribed by the Exchange, including but not limited to the following information: (i) As of the last business day of each calendar quarter, a list of all limited partners if the lessor is a limited partnership, a membership list if the lessor is a limited liability entity other than a corporation along with any new subscription agreements and shareholder list if the lessor is a corporation, and (ii) any material change in the corporate or organizations structure within ten days of the change in the structure.

According to the Phlx, the proposed amended rule codifies existing practices of the Exchange's Office of the Secretary and Examinations Department respecting processing of applications for approval as an approved lessor of the Phlx. The proposal will allow the Exchange to monitor any changes in the ownership interest respecting the membership or memberships held by approved lessors. The proposal will also allow the Exchange to monitor for any potential statutory disqualifications respecting shareholders, partners and members of limited liability entities by requiring the filing of Form U–4 and amendments to Form U–4 for natural persons as well as various corporate, organizational agreements or partnership interest disclosures for other entities.

The Phlx believes that the proposed rule change is consistent with Section 6 of the Act,[4] in general, and Section 6(b)(5),[5] in particular, in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden Competition

The Phlx does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulation Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

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[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Murray L. Ross, Esq., Vice President and Secretary, Phlx, to Michael Walinskas, Esq., Deputy Associate Director, Division of Market Regulation, Commission, dated June 6,1998 (''Amendment No. 1''). In Amendment No. 1, the Phlx consents to have the proposed rule change published for notice and comment and treated pursuant to Section 19(b)(2) of the Act. In addition, in Amendment No. 1 the Phlx proposes to adopt Commentary .01 to Phlx Rule 931 which will require approved lessors to update Form U–4, submitted pursuant to Phlx Rule 931(d), within thirty days of learning that the information contained in Form U–4 has become incomplete or inaccurate. Where an amendment to Form U–4 involves a statutory disqualification as defined in Sections 3(a)(39) and 15(b)(4) of the Act, Commentary .01 will require that the amended Form U–4 be submitted not later than ten (10) days after the statutory disqualification occurs.

[4] 15 U.S.C. 78f.

[5] 15 U.S.C. 78f(b)(5).

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 the Phlx 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 Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, 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 file with the Commission, and all communications relating to the 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, NW, Washington, DC 20549. Copies of such filing will also be available for imspection and copying at the principal office of the Phlx. All submissions should refer to File SR–Phlx–98–22 and should be submitted within 21 days after the date of this publication.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 98–18763 Filed 7–14–98; 8:45 am]

BILLING CODE 8010–01–M

[6] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Environmental Impact Statement: Cincinnati/Northern Kentucky International Airport; Covington, Kentucky

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent.

SUMMARY: The Federal Aviation Administration announces that it will prepare an Environmental Impact Statement (EIS) for implementation of projects proposed in the Master Plan for Cincinnati/Northern Kentucky International Airport.

FOR FURTHER INFORMATION CONTACT: Peggy S. Kelley, Federal Aviation Administration, Airports District Office, 3385 Airways Blvd, Suite 302, Memphis, Tennessee 38116–3841; Telephone 901–544–3495, Ext. 19.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration will prepare and consider an EIS for implementation of proposed projects in the Master Plan Update for Cincinnati/Northern Kentucky International Airport.

The Kenton Country Airport Board completed its Master Plan Update in 1996. The Master Plan was accepted by FAA June 7, 1996. The Airport Layout Plan was conditionally approved June 7, 1996, subject to environmental analysis. Major airfield improvements proposed in the Master Plan and to be assessed in the EIS are a third parallel north/south runway, 8000 feet long, located approximately 4300 feet west of the existing Runway 18R–36L; an extension of Runway 9–27, 2000 feet to the west; and construction of additional taxiways or taxiway extensions. Other improvements include proposed terminal expansion; proposed aviation related development; associated road relocation and construction; and parking improvements.

The Kenton County Airport Board conducted numerous workshops and a public hearing during the development of the Master Plan Study. To ensure that the full range of issues related to the proposed projects are addressed and that all significant issues are identified, FAA intends to consult and coordinate with Federal, State and local agencies which have jurisdiction by law or have specific expertise with respect to any environmental impacts associated with the proposed projects. The meeting for public agencies will be held at Cincinnati/Northern Kentucky International Airport Board Room, located on the second level of Terminal One at the Airport, at 1:00 p.m., Tuesday, August 18, 1998. FAA will also solicit input from the public with two meetings. The first public scoping meeting will be Tuesday, August 18, 1998, from 5:00 to 8:00 p.m. at Oak Hills High School, 3200 Ebenezer Road, Cincinnati, Ohio, and the second public scoping meeting will be Wednesday, August 19, 1998, from 5:00 to 8:00 p.m. at Conner Middle School, 3300 Cougar Path, Hebron, Kentucky. In addition to providing input at the public scoping meetings, the public may submit written comments on the scope of the environmental study to the address identified in **FOR FURTHER INFORMATION CONTACT**. Comments should be submitted within 30 days of the publication of this Notice.

Issued on July 9, 1998 in Memphis, Tennessee.

Charles L. Harris,

Assistant Manager, Memphis Airports District Office.

[FR Doc. 98–18858 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice to Prepare an Environmental Impact Statement and Conduct Scoping for a Terminal Radar Approach Control (TRACON) Facility and Associated Air Traffic Control (ATC) Procedural Changes in and Near the Baltimore-Washington Metropolitan Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to prepare an Environmental Impact Statement and conduct Scoping meetings.

SUMMARY: The Federal Aviation Administration is issuing this notice to advise the public that an Environmental Impact Statement (EIS) will be prepared and considered for the consolidation and construction of a new Terminal Radar Approach Control (TRACON) facility in the Baltimore/Washington area. There are four stand-alone TRACONs within the study area located at Baltimore—Washington International Airport, Ronald Reagan Washington National Airport, and Washington Dulles International Airport; and the FAA operated TRACON located at Andrews Air Force Base, Maryland. The Federal Aviation Administration intends to prepare a tiered Environmental Impact Statement. The first tier will address the physical

consolidation of the four TRACONs as well as building siting and construction. All reasonable building alternatives, including a no build option, will be considered. This first tier will also evaluate, at a programmatic level, potential airspace changes that could result from a decision to consolidate; however, it will not address specific changes to aircraft routes. A subsequent tier, or tiers, will be prepared and considered at a later date to assess the potential impacts resulting from air traffic control procedural changes associated with the proposed consolidation of these facilities as these issues become ripe for decision. All reasonable alternatives will be considered including the no-change option. The airspace tier (2nd tier) will evaluate alternatives to air traffic control routes and procedures beyond the immediate airport area. Changes to existing take-off and/or landing noise abatement procedures are not being considered. In order to ensure that all significant issues pertaining to the proposed action are identified, public scoping meetings will be held.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, Suite 400, 8201 Corporate Drive, Landover, Maryland 20785 (800) 762–9531. Email: joe.champley@faa.dot.gov.

SUPPLEMENTARY INFORMATION: A TRACON facility provides radar air traffic control services to aircraft operating on Instrument Flight Rules (IFR) and Visual Flight Rules (VFR) procedures beyond 5 miles and generally within 50 miles of the host airport at altitudes from the surface to approximately 17,000 feet. These distances and altitudes may vary depending on local conditions and infrastructural constraints such as adequate radar and radio frequency coverage. The primary function of the TRACON is to provide a variety of air traffic control services to arrival, departure, and transient aircraft within its assigned airspace. These services include aircraft separation, in flight traffic advisories and navigational assistance. The four existing TRACON facilities provide terminal radar air traffic control services to the four major airports and a number of small reliever airports located within the study area.

Current technologies exist that allow for the siting of TRACON facilities away from an airport environment. This capability also allows for the consolidation of facilities when it makes economic and environmental sense. Three of the four facilities that are the subject of this study are at or approaching their designed life-cycle and are not able to accommodate expected increases in air traffic demand or planned equipment modernization. The FAA recently performed a cost to benefit analysis and found that the consolidation of these four TRACONs was economically advantageous to the government and users of their services.

In addition to the proposed infrastructural improvements, the FAA will conduct an in depth analysis of the air traffic control operational environment. The purpose is to determine what, if any, new ATC procedures can be implemented that will take advantage of facility consolidation, improved aircraft performance, and new and emerging ATC technologies. These items will be addressed in the second tier of the EIS.

The project study area is generally within a 75 miles radius of the Georgetown Non-Directional Radio Beacon, a radio navigational aid located new the Chain Bridge.

Public Scoping Meetings: To facilitate the receipt of comments on the first tier, five public scoping meetings will be held. The meetings will be held from 2 to 4 p.m. and 7 to 10 p.m. at the following locations:

August 3, 1998 at Hillcrest Elementary School, 1500 Frederick Road, Baltimore (Catonsville), MD 21228 (At the intersection of S. Rolling Road (I–195 away from BWI) and Frederick Road)

August 4, 1998 at the Holiday Inn Capitol, 550 C St SW, Washington, DC 20024 (Between National Air and Space Museum and Dept. of Transportation (intersection of C and 5th or 6th Street) near L'Enfant Plaza Metro Station)

August 6, 1998 at Chantilly High School, 4201 Stringfellow Road, Chantilly, VA 22033 (Off Stringfellow Road, Between Route 50 and Route 29)

August 10, 1998 at the Westpark (Holiday Inn) Hotel, 1900 North Fort Myer Drive, Arlington, VA 22209 (Adjacent to Key Bridge in Arlington)

August 12, 1998 at the Colony South, 7401 Surratts Road, Clinton, MD 20748 (Near Andrews AFB, off Route 5 in Clinton, MD)

A separate meeting will be held from 1 to 4 p.m. for Federal, State, and local agency staff in accordance with NEPA coordination requirements:

August 5, 1998 at the Holiday Inn Capitol, 550 C St SW, Washington, DC 20024 (Between National Air and Space Museum and Dept. of Transportation (intersection of C and 5th or 6th Street) near L'Enfant Plaza Metro Station)

The scoping period for this project formally begins with this announcement. Scoping will conclude forty-five days after the date of this announcement.

To ensure that the full range of issues related to this proposed project are addressed and all significant issues identified, comments and suggestions on the scope are invited from Federal, State, and local agencies, and other interested parties.

Comments and suggestions may be sent to: FAA Potomac TRACON Project, c/o Mr. Fred Bankert, PRC Inc., 12005 Sunrise Valley Drive, Reston, VA 20191–3423. EMAIL: fred.bankert@faa.dot.gov

Dated: July 9, 1998.

Walter Kwiatek,

Acting Potomac Program Director.

[FR Doc. 98–18859 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance/ RST–97–3

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak) a request for waiver of compliance with certain requirements of 49 CFR Part 213: TRACK SAFETY STANDARDS.

The purpose of Amtrak's petition is to secure approval from FRA to operate equipment known as express cars at up to four inches of cant deficiency in passenger trains that are now permitted to operate at four inches of cant deficiency.

Amtrak is presently taking delivery of its first order of express cars. Amtrak states that this equipment will be used on trains primarily for time-sensitive and perishable express items. Amtrak also states that the growth of its express business is a critical component to its plan to recover all of its operating costs by 2002.

For several years, Amtrak has operated passenger trains with a variety of equipment at four inches of cant deficiency (underbalance) on tracks either owned by Amtrak or by other railroads such as the former Union Pacific, Burlington Northern, and the Southern Pacific railroads.

Currently, 49 CFR 213.57(b) permits a maximum of three inches to be used as

the underbalance term (cant deficiency) in the formulation of curve/speed tables by track maintenance engineers defining train speeds for curved track superelevations for any route between two points. The waivers granted Amtrak and the other railroads to permit the substitution of four inches in the Vmax formula in § 213.57.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number RST–97–3) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on July 6, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–18820 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance/ Docket No. H–98–2

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) received from the National Railroad Passenger Corporation (Amtrak) a request for waiver of compliance with certain requirements of 49 CFR Part 213: TRACK SAFETY STANDARDS.

The purpose of Amtrak's petition is to secure approval from FRA to conduct testing and demonstrations of the Talgo trainset at operating speeds up to 125 mph and four inches of cant deficiency on Amtrak's Northeast Corridor. Amtrak anticipates the testing will be completed within three days after commencement. Following the successful completion of the testing, Amtrak seeks to conduct three ''VIP'' demonstration trips between Washington, D.C., and Philadelphia, Pennsylvania.

Amtrak and the State of Washington jointly purchased a total of three Talgo trainsets which are currently in production in Seattle, Washington. The Amtrak and Washington State contracts require Talgo to demonstrate lateral stability at speeds up to 125 mph before the cars can be accepted. Amtrak states that this testing can only be accomplished on the Northeast Corridor.

In order to conduct the testing and demonstrations, Amtrak requests a waiver from 49 CFR 213.9, Classes of track, which currently limits the maximum train speed to 110 mph, and Section 213.57(b), Curves; Elevations and Speed Limitations, which currently permits a maximum of three inches to be used as the underbalance term (cant deficiency) in the determination of the maximum speed on a curve based on superelevation and degree of curvature.

Amtrak states that Talgo trainsets routinely operate at up to 125 mph and seven inches of cant deficiency in Spain. In addition, the Talgo was tested in 1997 at up to eight inches of cant deficiency in the Pacific Northwest.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number H–98–2) and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, FRA, Nassif Building, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590. Communications received within 45 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9:00 a.m.–5:00 p.m.) at FRA's temporary docket room located at 1120 Vermont Avenue, N.W., Room 7051, Washington, D.C. 20005.

Issued in Washington, D.C. on July 6, 1998.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 98–18821 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–99–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–99–91 (TD 8490), Limitations on Corporate Net Operating Loss (§ 1.382–3).

DATES: Written comments should be received on or before September 14, 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 should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss.

OMB Number: 1545–1345.

Regulation Project Number: CO–99–91.

Abstract: This regulation modifies the application of the segregation rules under Internal Revenue Code section 382 in the case of certain issuances of stock by a loss corporation. The regulation provides exceptions to the segregation rules for certain small issuances of stock and for certain other issuances of stock for cash. The regulation also provides that taxpayers

may make an irrevocable election to apply the exceptions retroactively.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 10.

Estimated Time Per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 10.

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: July 7, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18747 Filed 7–14–98; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33595]

Delaware and Hudson Railway Company, Inc.—Acquisition and Operation Exemption—Consolidated Rail Corporation

AGENCY: Surface Transportation Board.

ACTION: Notice of Exemption.

SUMMARY: The Board exempts from the prior approval requirements of 49 U.S.C. 10902 the acquisition and operation by Delaware and Hudson Railway Company, Inc. (D&H) of 1.7 miles of rail line in Lackawanna County, PA. D&H will acquire Consolidated Rail Corporation's (Conrail) Taylor Yard Industrial Track between milepost 135.84 and milepost 136.7. Included in this is the D&H segment of Conrail's Keyser Wye track between milepost 135.84 and milepost 136.37, which is parallel and adjacent to the subject portion of the Conrail Keyser Industrial Track.

DATES: This exemption will be effective on August 14, 1998. Petitions to stay must be filed by July 30, 1998. Petitions to reopen must be filed by August 10, 1998.

ADDRESSES: An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33595, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of all pleadings must be served on petitioner's representative, Larry D. Starns, Esq., Leonard, Street & Deinard, 150 South Fifth Street, Suite 2300, Minneapolis, MN 55402.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. [Assistance for the hearing impaired is available through TDD services at (202) 565–1695.]

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: June 29, 1998.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18047 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33608]

Rock & Rail, Inc.—Lease and Operation Exemption—Royal Gorge Express, LLC

Rock & Rail, Inc., a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Royal Gorge Express, LLC, and to operate, approximately 11.75 miles of rail line in Freemont County, CO, between milepost 171.90, at Parkdale, and milepost 160.15, at Canon City.[1]

The transaction was scheduled to be consummated on or after July 6, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33608, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW, Suite 750, Washington, DC 20005–3934.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 8, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18851 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33622]

Royal Gorge Express—LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company

Royal Gorge Express, LLC, a noncarrier, has filed a verified notice of

[1] The lease of the line is subject to a permanent, irrevocable overhead trackage rights easement retained by the Union Pacific Railroad Company. *See Royal Gorge Express, LLC—Acquisition and Operation Exemption—Union Pacific Railroad Company,* STB Finance Docket No. 33622 (STB served July 15, 1998).

exemption under 49 CFR 1150.31 to acquire from Union Pacific Railroad Company (UP) and to operate approximately 11.75 miles of UP's Tennessee Pass railroad line in Freemont County, CO, between milepost 171.90, at Parkdale, and milepost 160.15, at Canon City.[1]

The transaction was scheduled to be consummated on or after July 6, 1998.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33622, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Fritz R. Kahn, Esq., 1100 New York Avenue, NW., Suite 750, Washington, DC 20005–3934.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 8, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18852 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

[1] UP will retain permanent, irrevocable overhead trackage rights so as to preserve the integrity of the Tennessee Pass through route.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33618]

Timber Rock Railroad, Inc.—Acquisition and Operation Exemption—Lines of The Burlington Northern and Santa Fe Railway Company

Timber Rock Railroad, Inc. (TRRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from The Burlington Northern and Santa Fe Railway Company (BNSF) and operate approximately 38.4 miles of rail line located in Texas and Louisiana, between milepost 0.96 near Kirbyville, TX, and milepost 39.36 at DeRidder, LA. TRRR will also acquire incidental overhead trackage rights over BNSF's 20.04 mile rail line between milepost 0.96 near Kirbyville and milepost 21.0 at Silsbee, TX.

The transaction was scheduled to be consummated on or shortly after June 23, 1998.

This transaction is related to STB Finance Docket No. 33623, *Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Timber Rock Railroad, Inc.*, where Richard B. Webb and Susan K. Lundy will continue in control of TRRR, upon its becoming a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33618, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, BALL JANIK LLP, 1455 F. Street, N.W., Suite 225d, Washington, DC 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: July 9, 1998.

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18848 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33623]

Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Timber Rock Railroad, Inc.

Richard B. Webb and Susan K. Lundy (Applicants), have filed a verified notice of exemption to continue in control of Timber Rock Railroad, Inc. (TRRR), upon TRRR becoming a Class III railroad.

The transaction was scheduled to be consummated on or shortly after June 23, 1998.

This transaction is related to STB Finance Docket No. 33618, *Timber Rock Railroad, Inc.—Acquisition and Operation Exemption—Lines of the Burlington Northern and Santa Fe Railway Company*, wherein Applicants seek to acquire and operate a rail line from BNSF.

In addition to TRRR,[1] Applicants controls two existing Class III railroads: South Kansas and Oklahoma Railroad Company (SKO), operating in Kansas and Oklahoma; and Palouse River & Coulee City Railroad, Inc. (PRCC), operating in Washington and Idaho.[2]

Applicants state that: (i) the rail lines operated by SKO and PRCC do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect TRRR's line with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not impose labor protective conditions for this transaction.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33623, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Of Counsel, BALL JANIK LLP, 1455 F Street, NW., Suite 225, Washington, D.C. 20005.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

[1] TRRR is a noncarrier corporation formed for the purpose of acquiring the rail line from BNSF and operating the 38.4 miles of rail line.

[2] On May 15, 1998, applicants filed a petition for exemption seeking Board approval to indirectly control the Blue Mountain Railroad, Inc., and the Southeast Kansas Railroad Company in STB Finance Docket No. 33603, *Richard B. Webb and Susan K. Lundy—Control Exemption—Blue Mountain Railroad, Inc. and Southeast Kansas Railroad Company*. This proceedings is currently pending. Also on June 16, 1998, Applicants filed a notice of exemption seeking to continue in control of Stillwater Central Railroad, Inc. in SBT Finance Docket No. 33619, *Richard B. Webb and Susan K. Lundy—Continuance in Control Exemption—Stillwater Central Railroad, Inc.*, which is also pending before the Board.

Decided:

By the Board, Joseph H. Dettmar, Acting Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 98–18847 Filed 7–14–98; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–100–88]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–100–88 (TD 8540), Valuation Tables (§§ 1.7520–1 through 1.7520–4, 20.7520–1 through 20.7520–4, and 25.7520–1 through 25.7520–4).

DATES: Written comments should be received on or before September 14, 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 should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Valuation Tables.

OMB Number: 1545–1343.

Regulation Project Number: PS–100–88.

Abstract: Internal Revenue Code section 7520 provides rules for determining the valuation of an annuity, an interest for life or a term of years, or a remainder or reversionary interest. Code section 7520(a) allows a respondent to make an election to value an interest that qualifies, in whole or in part, for a charitable deduction, by use of a different interest rate component that is more favorable to the respondent. This regulation requires individuals or fiduciaries making the election to file a statement with their estate or gift tax return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of OMB approval.

Affected Public: Individuals or households.

Estimated Number of Respondents: 6,000.

Estimated Time Per Respondent: 45 minutes.

Estimated Total Annual Burden Hours: 4,500.

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: July 8, 1998.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 98–18748 Filed 7–14–98; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 63, No. 135

Wednesday, July 15, 1998

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40094; File No. SR-NYSE-97-36]

Self-Regulatory Organizations; New York Stock Exchange,Inc.; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 2 Thereto to Revise Exchange Policy for Entry of MOC/LOC Orders and Publication of Imbalances

Correction

In notice document 98–16510 beginning on page 33975, in the issue of Monday, June 22, 1998, make the following correction:

On page 33975, in the third column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-40123; File No. SR-AMEX-98-10]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 1. to Proposed Rule Change Relating to Market-at-the-Close and Limit-at-the-Close Order Handling Requirements

Correction

In notice document 98–17561 beginning on page 36280, in the issue of Thursday, July 2, 1998, make the following correction:

On page 36280, in the third column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

federal register

Wednesday
July 15, 1998

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 93

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park; Proposed Rule

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28770; Notice No. 96–15]

RIN 2120–AG34

Noise Limitations for Aircraft Operations in the Vicinity of Grand Canyon National Park

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental amendment to proposed rule.

SUMMARY: This supplemental amendment amends the notice of proposed rulemaking published (NPRM) on December 31, 1996 (61 FR 69334), which proposed to establish noise limitations for certain aircraft operating in the vicinity of Grand Canyon National Park (GCNP). Specifically, the FAA is removing two sections from the NPRM that proposed to establish a corridor in the Torroweap/Shinumo Flight-free Zone through the National Canyon area as an incentive route for quiet technology aircraft. The FAA, in consultation with the National Park Service (NPS), is removing these two sections from the NPRM because the agencies have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. This supplemental amendment does not affect any other provisions contained in the NPRM. The FAA will address all substantive comments filed in response to the National Canyon proposed in this NPRM is the near future.

FOR FURTHER INFORMATION CONTACT: Thomas Connor, Manager Technology Division, AEE–100, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267–8933.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1996, the FAA published in the **Federal Register** three concurrent actions, an NPRM (61 FR 69334), a Notice of Availability of Proposed Commercial Air Tour Routes (61 FR 69356), and a Final Rule (61 FR 69302). These actions were part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91.

The NPRM proposed to establish noise limitations for certain aircraft operations within the vicinity of GCNP, including the National Canyon corridor that was to be used by quiet technology aircraft. Based on comments received during comment period for the Notice of Availability of Proposed Commercial Routes, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Furthermore, the comments submitted on the National Canyon corridor, as proposed in the NPRM, from the air tour operators, the environmentalists, and the Native Americans led the FAA to conclude that this proposed route was not a viable option.

As a result of the comments submitted on both notices, the FAA issued a new proposed route structure concurrent with the issuance of a second NPRM (Notice No. 97–6) (62 FR 26902; May 15, 1997). Notice 97–6 proposed to amend two Flight-free Zones by establishing two corridors; a revised National Canyon corridor through the Toroweap/Shinumo Flight-free Zone and a corridor through the Bright Angel Flight-Free Zone.

The revised National Canyon route was designed to provide a viable air tour route through the center of the canyon while at the same time providing mitigation of the effects of noise over Havasupai cultural and sacred sites. Because it was designed to be used only by the quietest technology aircraft for westbound traffic after December 31, 2001, the National Canyon route was found to provide noise mitigation. The proposed Bright Angel Corridor for use by the quietest technology aircraft was crafted as an incentive for operators to convert to quiet technology.

The FAA, in consultation with the NPS, has determined not to proceed with the proposed that would establish an air tour route through the National Canyon area at this time. The agencies are presently considering alternatives to the National Canyon area for air tour routes. The FAA recognizes its responsibility to address the comments filed in response to the proposed National Canyon corridor and will do so in the near future. However, in order to facilitate the development of the air tour route structure, the FAA is removing the sections that propose the National Canyon corridor now and will dispose of the comments in a separate document. In a companion document to this supplement amendment published elsewhere in this issue of the **Federal Register**, the FAA has withdrawn Notice 97–6, the NPRM that proposed a revised National Canyon route and superseded the National Canyon route proposed in this NPRM. Consequently, the FAA formally removes the National Canyon corridor from this NPRM. The FAA notes that all other provisions of this NPRM was not affected by this supplement amendment. The FAA will dispose of all substantive comments with respect to the National Canyon corridor in this NPRM in the near future.

Environmental Review

The effects of the National Canyon provisions in Notice 96–15 were evaluated in the December 1996 Final Environmental Assessment/Finding of No Significant Impact (1996 Final EA/FONSI) for the Special Flight Rules in the Vicinity of Grand Canyon National Park and subsequent evaluations. The FAA determined that the conclusions in the 1996 Final EA/FONSI were still substantially valid. Once the air tour route structure is determined, the FAA will conduct the appropriate environmental review and provide for notice and public comment.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air), Reporting and recordkeeping requirements.

The Proposed Amendment

For the reasons set forth above, the Federal Aviation Administration proposes to amend 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

1. The authority citation for part 93 continues to read follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40109, 40113, 44502, 44514, 44701, 44719, 46301.

§ 93.305 [Amended]

2. The amendments to § 93.305(c), as proposed at 61 FR 69353, are removed.

§ 93.306 [Amended]

3. Section 93.306, as proposed to be added at 61 FR 69353, is removed.

Issued is Washington, DC on July 10, 1998.

James D. Erickson,

Director, Office of Environment and Energy.

[FR Doc. 98–18832 Filed 7–10–98; 12:52 pm]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. 28902; Notice No. 97–6]

RIN 2120–AG38

Establishment of Corridors in the Grand Canyon National Park Special Flight Rules Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); withdrawal.

SUMMARY: The FAA is withdrawing an NPRM that was published on May 15, 1997 (62 FR 26902), which proposed to amend two of the Flight-Free Zones within the Grand Canyon National Park (GCNP) by establishing two corridors through the Flight-free Zones (Notice No. 97–6). The first corridor through the Bright Angel Flight-free Zone would have been an incentive corridor to be used only by the most noise efficient aircraft. The second corridor in the Torroweap/Shinumo Flight-free Zone through the National Canyon area would create a viable air tour route in the central section of the Park while addressing some concerns of the Native Americans. The FAA, in consultation with the National Park Service (NPS), is withdrawing this NPRM because the agencies have determined not to proceed with an air tour route in the vicinity of National Canyon and are presently considering alternatives to this route. The FAA will addres all substantive comments filed in response to Notice 97–6 in the near future.

DATES: The proposed rule at 62 FR 26902 is withdrawn July 10, 1998.

FOR FURTHER INFORMATION CONTACT: Dave Metzbower, Office of Flight Standards, Air Transporation Division (AFS–200), 800 Independence Avenue, S.W., Washington, DC 20591, telephone (202) 267–3724.

SUPPLEMENTARY INFORMATION:

Background

On December 31, 1996, the FAA published in the **Federal Register** three concurrent actions a Notice of Proposed Rulemaking (61 FR 69334), a Notice of Availability of Proposed Commercial Air Tour Routes (61 FR 69356), and a Final Rule (61 FR 69302). These actions were part of an overall strategy to reduce further the impact of aircraft noise on the park environment and to assist the NPS in achieving the statutory mandate imposed by Public Law 100–91.

Based on comments received during the comment period for the Notice of Availability of Proposed Commercial Routes, the FAA received valuable information from commenters, as well as suggestions for alterations and refinements of the route structure from officials of the GCNP and NPS that could potentially produce noise reduction benefits. Furthermore, comments submitted by the air tour operators, the environmentalists, and the Native Americans on the National Canyon corridor in the NPRM led the FAA to conclude that the Natioal Canyon air tour routes was not a viable option.

As a result of teh comments received on both notices, the FAA issued a new proposed route structure concurrent with the issuance of a second NPRM (Notice No. 97–6) (62 FR 26902; May 15, 1997), which included a revised National Canyon corridor.

The revised National Canyon route proposed in Notice 97–6 was designed to provide a viable air tour route through the center of the canyon while at the same time providing mitigation of the effects of noise over Havasupai cultural and sacred sites. Because it was designed to be used only by the quietest technology aircraft for westbound traffic after December 31, 2001, the Natioal Canyon route was found to provide noise mitigation. The proposed Bright Angel Corridor for use by quietest technology aircraft was crafted as an incentive for operators to convert to quiet technology. The comment period for Notice No. 97–6 closed June 16, 1997, and approximaely 142 comments were received.

The FAA, in consultation with the NPS, has determined not to proceed with the proposals set forth in Notice No. 97–6 at this time. The agencies are presently considering alternatives to the National Canyon area for air tour routes. Once the air tour route structure for GCNP has been determined, the FAA will issue a Notice of Availability of Proposed Routes and provide for notice and public comment on any associated rulemaking. The FAA recogizes its responsibility to address the comments filed in response to Notice 97–6 and will do so in the near future. However, in order to faciliate the development of the air tour route structure, the FAA is withdrawing the NPRM now and will dispose of the comments in a separate document. In a companion document to this NPRM withdrawal published elsewhere in this issue of the **Federal Register**, the FAA has amended the proposed rule, Notice No. 96–15, to remove the two sections that first proposed a National Canyon corridor.

Environmental Review

In conjunction with Notice 97–6, the FAA reevaluated the December 1996 Final Environmental Assessment/Finding of No Significant Impact (1996 Final EA/FONSI) for the Special Flight Rules in the Vicinity of Grand Canyon National Park to determine whether the proposed changes in NPRM 97–6 of the second Notice of Availability of Proposed Routes, published concurrently, were substantial so as to warrant preparation of additional environemntal documentation. The FAA determined that the conclusions in the 1996 Final EA/FONSI were still substantially valid. Once the air tour route structure is determined, the FAA will conduct the appropriate environmental review and provide for notice and public comment.

Witdrawal of Proposed Rule

Accodingly, Notice No. 97–6 published in the **Federal Register** on May 15, 1997 (62 FR 26902) is withdrawn.

Issued in Washington, DC on July 10, 1998.

Richard O. Gordon,

Director, Flight Standards Service.

[FR Doc. 98–18833 Filed 7–10–98; 12:52 pm]

BILLING CODE 4910–13–M

federal register

Wednesday
July 15, 1998

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Proposed Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 29279 Notice No. 98–7]

RIN 2120–AG61

Proposed Airspace and Flight Operations Requirements for the Kodak Albuquerque International Balloon Fiesta; Albuquerque, NM

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes a Special Federal Aviation Regulation (SFAR), applicable for the period of October 3 through October 11, 1998, to establish a temporary flight restriction (TFR) area for the upcoming Kodak Albuquerque International Balloon Fiesta (KAIBF). The FAA is proposing this action to manage aircraft operating in the vicinity of the KAIBF, and to prevent any unsafe congestion of sightseeing and other aircraft over and around the Balloon Fiesta launch site.

DATES: Comments must be received on or before August 31, 1998.

ADDRESSES: Comments on this NPRM may be delivered or mailed in triplicate to the Federal Aviation Administration, Office of the Chief Counsel, Attn.: Rules Docket (AGC–200), Docket No. [29279], Room 915G, 800 Independence Avenue, SW., Washington, DC 20591. Comments submitted must be marked ''Docket No. [29279].'' Comments may also be sent electronically to the following Internet address: 9-nprm-cmts@faa.dot.gov. Comments may be examined in room 915G, weekdays, between 8:30 a.m. and 5:00 p.m., except Federal holidays.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of this proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments must identify the regulatory docket or notice number and be submitted in triplicate to the Rules Docket address specified above.

All comments received, as well as a report summarizing each substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection before and after the comment closing date.

All comments received on or before the closing date will be considered by the Administrator before taking action on this proposed rulemaking. Late-filed comments will be considered to the extent practicable. The proposals contained in this notice may be changed in light of the comments received.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard with those comments on which the following statement is made: ''Comments to Docket No. [29279]'' The postcard will be date stamped and mailed to the commenter.

Availability of NPRM

An electronic copy of this document may be downloaded, using a modem and suitable communications software, from the FAA regulations section of the Fedworld electronic bulletin board service (telephone: 703–321–3339), the **Federal Register's** electronic bulletin board service (telephone: 202–512–1661), or the FAA's Aviation Rulemaking Advisory Committee Bulletin Board service (telephone: (800) 322–2722 or (202) 267–5948).

Internet users may reach the FAA's web page at http://www.faa.gov/avr/arm/nprm/nprm.htm or the **Federal Register's** web page at http://www.access.gpo.gov/su__docs/aces/aces140.html for access to recently published rulemaking documents.

Any person may obtain a copy of this NPRM by submitting a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–9680. Communications must identify the notice number of docket number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, that describes the application procedure.

Comment Period Justification

The FAA is requesting a comment period of 45 days to allow for the consideration and incorporation of comments to this proposal, and to expedite publication of the SFAR for those aircraft planning operations in the vicinity of the KAIBF.

The early publication of this action would reduce the potential confusion of pilots since the proposed SFAR restrictions could change normal operating procedures of the affected area. Further, early publication of the SFAR would result in a safe operation and the prevention of any unsafe congestion of sightseeing and other aircraft over the Balloon Fiesta launch site.

Background

The KAIBF will be held on October 3 through October 11, 1998, at a site 9 miles north of Albuquerque International Sunport, in Albuquerque, NM.

This proposed SFAR would establish a TFR area to provide for the safety of persons and property in the air and on the ground during the KAIBF. The proposed TFR area would restrict aircraft operations in a specified location; however, access to this area may be allowed with the appropriate air traffic control (ATC) authorization from the Albuquerque International Sunport Airport Traffic Control Tower (ATCT). ATC would retain the ability to manage aircraft through the TFR area in accordance with established ATC procedures.

Specifically, the proposed TFR area would be 9 miles north of the Albuquerque International Sunport ATCT and just west of Interstate Highway 25 (I–25). The TFR area would be centered on the Albuquerque Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC) 038° radial 14 distance measuring equipment (DME) fix. The area would encompass a 4 nautical mile (NM) radius, extending from the surface up to but not including 8,000 feet mean sea level (MSL). The TFR area would be in effect between the hours of 0530 Mountain Daylight Time (MDT) and 1200 MDT, and from 1600 MDT until 2200 MDT on October 3 through October 11, 1998. Unauthorized aircraft would be required to remain clear of this area during these times.

The location, dimensions, and effective times of the proposed TFR area would be published and disseminated via the Notice to Airmen (NOTAM) system.

Exceptions

The proposed SFAR would contain provisions to provide flexible, efficient management and control of air traffic. ATC would have the authority to give

priority to, or exclude from the requirements of the special regulation, flight operations dealing with or containing essential military, medical emergency, rescue, law enforcement, Presidential, and heads of state.

Notice to Airmen Information

Time-critical aeronautical information that is of a temporary nature, or is not sufficiently known in advance to permit publication on aeronautical charts or in other operational publications, receives immediate dissemination via the NOTAM system. All domestic operators planning flight to the KAIBF would need to pay particular attention to NOTAM D and Flight Data Center (FDC) NOTAM information.

NOTAM D contains information on airports, runways, navigational aids, radar services, and other information essential to flight. An FDC NOTAM contains information which is regulatory in nature, such as amendments to aeronautical charts and restrictions to flight. FDC NOTAM and NOTAM D information would also be provided to international operators in the form of International NOTAMs. NOTAMs are distributed through the National Communications Center in Kansas City, MO, for transmission to all air traffic facilities having telecommunications access.

Pilots and operators would need to consult the monthly NOTAM Domestic/International publication. This publication contains NOTAM FDC and D NOTAMs. Special information, including graphics, would be published in the biweekly publication several weeks in advance of the Balloon Fiesta. For more detailed information concerning the NOTAM system, refer to the Aeronautical Information Manual ''Preflight'' section would need to be made.

Other U.S. Laws and Regulations

Aircraft operators should clearly understand that the proposed SFAR is in addition to other laws and regulations of the U.S. The SFAR would not waive or supersede any U.S. statute or obligation. When operating within the jurisdictional limits of the U.S., operators of foreign aircraft must conform with all applicable requirements of U.S. Federal, State, and local governments. In particular, aircraft operators planning flights into the U.S. must be aware of and conform to the rules and regulations established by the:

1. U.S. Department of Transportation regarding flights entering the U.S.;
2. U.S. Customs Service, Immigration and other authorities regarding customs, immigrations, health, firearms, and imports/exports;
3. U.S. FAA regarding flight in or into U.S. airspace. This includes compliance with Parts 91, 121 and 135 of Title 14 of the Code of Federal Regulations regarding operations into or within the U.S. through air defense identification zones, and compliance with general flight rules; and
4. Airport management authorities regarding use of airports and airport facilities.

Environmental Effects

This proposed action would establish a TFR area for safety purposes and would curtail or limit certain aircraft operations within a designated area on defined dates and times. Additionally, this proposed action would be temporary in nature and effective only for the dates and times necessary to provide for the management of air traffic operations and the protection of participants and spectators on the ground. ATC would retain the ability to direct aircraft through the restricted area in accordance with normal traffic flows. The FAA believes the proposed establishment of a TFR area would have minimal impact on ATC operations.

Further, this action would reduce aircraft activity in the vicinity of the Balloon Fiesta by restricting aircraft operations. There would be fewer aircraft operations in the vicinity of the Balloon Fiesta than would occur if the TFR area were not in place, and noise levels associated with that greater aircraft activity would also be reduced. Additionally, aircraft avoiding the TFR area would not be routed over any particular area. This action would not, therefore, result in any long-term action which would routinely route aircraft over noise-sensitive areas. For the reasons stated above, the FAA concludes that this proposed rule would not significantly affect the quality of the human environment.

International Compatibility

The FAA has reviewed corresponding International Civil Aviation organization international standards and recommended practices and Joint Aviation Authorities regulations, where they exist, and has identified no differences in these proposed amendments and the foreign regulations.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), there are no requirements for information collection associated with this proposed regulation.

Regulatory Evaluation Summary

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 directs that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 requires agencies to analyze the economic effect of regulatory changes on small entities. Third, the Office of Management and Budget directs agencies to assess the effect of regulatory changes on international trade. In conducting these analyses, the FAA has determined that this proposed rule is not ''a significant regulatory action'' as defined in the Executive Order and the Department of Transportation Regulatory Policies and Procedures. This proposed rule would not have a significant impact on a substantial number of small entities and would not constitute a barrier to international trade. The FAA invites the public to provide comments, and supporting data, on the assumptions made in this evaluation. All comments received will be considered in the final regulatory evaluation.

This regulatory evaluation examined the costs and benefits of the proposed SFAR applicable for the period October 3 through October 11, 1998. The SFAR proposes to establish a TFR area for the upcoming KAIBF to be held in Albuquerque, NM. Since the impacts of the proposed change are relatively minor, this economic summary constitutes the analysis and no regulatory evaluation will be placed in the docket.

The major economic impact, in this case, would be the inconvenience of circumnavigation to operators who may want to operate in the area of the TFR. An aircraft operator could avoid the restricted airspace by flying over it or by circumnavigating the restricted airspace. Because the possibility of such occurrences is for a limited time and the restricted areas are limited in size, the FAA believes that any circumnavigation costs would be negligible.

The benefits of the proposed TFR airspace would primarily be a lowered risk of midair collisions between aircraft and balloons due to increased positive control of TFR airspace. While benefits cannot be quantified, the FAA believes the benefits are commensurate with the small costs attributed to the temporary inconvenience of the flight restrictions for operators near the TFR area.

Initial Regulatory Flexibility Act Determination

The Regulatory Flexibility Act of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the business, organizations, and governmental jurisdictions subject to regulation.'' To achieve that principle, the Act requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The Act covers a wide range of small entities, including small businesses, not-for-profit organizations and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the agency must prepare a regulatory flexibility analysis (RFA) as described in the Act.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the 1980 Act provides that the head of the agency may so certify and an RFA is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

The FAA conducted the required review of this proposal and determined that it would not have a significant economic impact on a substantial number of small entities. Accordingly, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FAA certifies that this rule will not have a significant impact on a substantial number of small entities. The FAA solicits comments from affected entities with respect to this finding and determination.

International Trade Impact Analysis

The provisions of this proposed rule would have little or no impact on trade for both U.S. firms during business in foreign countries and foreign firms doing business in the U.S.

Federalism Implications

The regulation 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 proposed regulation would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This rule does not contain a Federal intergovernmental or private sector mandate that exceeds $100 million a year.

List of Subjects in 14 CFR Part 91

Air traffic control, Aircraft, Airports, Aviation safety.

The Proposed Special Federal Aviation Regulation (SFAR)

In consideration of the foregoing, the Federal Aviation Administration proposes to amend part 91 of Title 14, Code of Federal Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. 106(g), 1155, 40103, 40113, 40120, 44101, 44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46504, 46506–46507, 47122, 47508, 47528–47531, articles 12 and 29 of the Convention on International Civil Aviation (61 stat. 1180).

2. Amend part 91 by adding Special Federal Aviation Regulation No. XX to read as follows:

SFAR NO. XX AIRSPACE AND FLIGHT OPERATIONS REQUIREMENTS FOR THE 1998 KODAK ALBUQUERQUE INTERNATIONAL BALLOON FIESTA, ALBUQUERQUE, NM

1. *General.* (a) Each person shall be familiar with all NOTAMs issued pursuant to this SFAR and all other available information concerning that operation before conducting any operation into or out of an airport or area specified in this SFAR or in NOTAMs pursuant to this SFAR. In addition, each person operating an international flight that will enter the U.S. shall be familiar with any international NOTAMs issued pursuant to this SFAR. NOTAMs are available for inspection at operating FAA air traffic facilities and regional air traffic division offices.

(b) Notwithstanding any provision of Title 14, Code of Federal Regulations, no person may operate an aircraft contrary to any restriction procedure specified in this SFAR or by the Administrator, or through a NOTAM issued pursuant to this SFAR.

(c) As conditions warrant, the Administrator is authorized to—

(1) Restrict, prohibit, or permit IFR/VFR operations in the temporary flight restricted area designated in this SFAR or in a NOTAM issued pursuant to this SFAR;

(2) Give priority to or exclude the following flights from provisions of this SFAR and NOTAMs issued pursuant to this SFAR:

(i) Essential military.

(ii) Medical and rescue.

(iii) Presidential and Vice Presidential.

(iv) Flights carrying visiting heads of state.

(v) Law enforcement and security.

(vi) Flights authorized by the Director, Air Traffic Service.

(d) For security purposes, the Administrator may issue NOTAMs during the effective period of this SFAR to cancel or modify provisions of this SFAR and NOTAMs issued pursuant to this SFAR if such action is consistent with the safe and efficient use of airspace and the safety and security of persons and property on the ground as affected by air traffic.

2. *Temporary Flight Restriction.* At the following location, flight is restricted during the indicated dates and times: That airspace within a 4 NM radius centered on the Albuquerque VORTAC 038 radial 14 DME fix from the surface up to but not including 8,000 feet MSL unless otherwise authorized by Albuquerque ATCT.

3. *Dates and Times of Designation.* (a) October 3 through October 11, 1998, and from 0530 MDT until 1200 MDT.

(b) October 3 through October 11, 1998, and from 1600 MDT until 2200 MDT.

4. *Expiration.* This Special Federal Aviation Regulation expires on October 12, 1998.

Issued in Washington, DC, on July 8, 1998.

John S. Walker,

Program Director for Air Traffic Airspace Management.

[FR Doc. 98–18652 Filed 7–14–98; 8:45 am]

BILLING CODE 4910–13–M

federal register

Wednesday
July 15, 1998

Part IV

Department of Education

Privacy Act of 1974; System of Records; Notice

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records

AGENCY: Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended, the Department of Education (the Department) publishes this notice of a new system of records for the Receivables Management System, as authorized by the Federal Claims Collection Act of 1966, Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996. This system contains a data base of accounts receivable for claims for payment of debts due the Department. This system contains records of activities relative to the collection of those debts.. The Department seeks comments on the proposed routine uses of this system of records.

DATES: Comments on proposed routine uses for this system of records must be received on or before July 17, 1998. The Department filed a report of the new system of records with the Chairman of the Committee on Governmental Affairs of the Senate, the Chairman of the Committee on Government Reform and Oversight Operations of the House of Representatives, and the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB) on July 10, 1998. This system of records will become effective after the 30-day period for OMB review of the system expires on August 10, 1998, unless OMB gives specific notice within the 30 days that the system is not approved for implementation or requests an additional 10 days for its review. The Department will publish any changes to the routine uses that are a result of the comments.

ADDRESSES: Comments on the proposed routine uses should be addressed to the Privacy Act Officer, Information Management Group, Office of the Chief Financial and Chief Information Officer, U.S. Department of Education, 600 Independence Avenue SW., Room 5624, General Services Administration (GSA), Regional Office Building #3, Washington, DC 20202–4651. Comments may also be sent through the Internet to: comments@ed.gov

You must include the term ''Receivables Management System'' in the subject line of your electronic message.

FOR FURTHER INFORMATION CONTACT: Philip A. Maestri, Director, Financial Improvement and Receivables Group, Office of the Chief Financial Officer, U. S. Department of Education, 600 Independence Avenue, SW., Room 3117, Washington, DC 20202–4330. Telephone number: (202) 205–3511. 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.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotapes, 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 proposed routine uses of this system.

All comments submitted in response to the proposed routine uses will be available for public inspection, during and after the comment period, in Room 5624, GSA Regional Office Building #3, 7th and D Streets, SW., between the hours of 8 a.m. and 4:30 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for this notice. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Background

The Privacy Act of 1974 (5 U.S.C. 552a(e)(4)) requires the Department to publish in the **Federal Register** this notice of a new system of records. The Department's regulations implementing the Privacy Act of 1974 are contained in the Code of Federal Regulations (CFR) in 34 CFR part 5b.

This system of records is being developed to comply with the Federal Claims Collection Act of 1966, Debt Collection Act of 1982, and the Debt Collection Improvement Act of 1996. The information collected in the Receivables Management System is to aid in the collection of funds due to the Department. Information in the system includes the name of debtor, address, Social Security Number, loan or case number or other debt identifier, telephone number, account history and supporting documents. The Department intends to use the information to notify a debtor of his or her liability to the Government and to take other actions to service the debt. The debt servicing staff of the Financial Improvement and Receivables Group, Office of the Chief Financial Officer, and its private contractors will have access to the information collected. Direct access is restricted to authorized agency and contractor staff in the performance of their official duties. The information will be kept in metal file drawers and computers in a secured building. All physical access to the sites of the contractor and the Department of Education where this system of records is maintained, is controlled and monitored by security personnel who check each individual entering the building for an employee's or a visitor's badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to the Department and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID with a personal identifier. All interactions by individual users with the system are recorded.

Electronic Access to this Document

Anyone may view this document, as well as all other Department documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites:

http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the 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) 291–1411 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**.

Dated: July 10, 1998.

Donald Rappaport,

Chief Financial Officer.

(Catalog of Federal Domestic Assistance Number does not apply.)

The Chief Financial Officer publishes notice of a new system of records to read as follows.

18–11–0028

SYSTEM NAME:

Receivables Management System.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

U.S. Department of Education, Office of the Chief Financial Officer, Financial Improvement and Receivables Group, 600 Independence Avenue, SW., Washington, DC 20202–4330.

U.S. Department of Education, Office of the Chief Information Officer, 7th and D Streets, SW., Washington, DC 20202.

Nationwide Credit, Inc., Credit Claims and Collection, 2253 Northwest Parkway, Marietta, Georgia 30067.

Payco American Corporation, 180 N. Executive Drive, Brookfield, Wisconsin 53005–6011.

CSC Credit Services, Inc., 7909 Parkwood Circle, Suite 200, Houston, Texas 77036–6565.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system include: Persons billed by the Department of Education (the Department) for materials and services such as Freedom of Information Act requests and computer tapes of statistical data, persons ordered by a court of law to pay restitutions to the Department, individuals who received grants under the Bilingual Education Fellowship Program and who have not provided evidence to the Department of fulfilling their work requirements as described in the Bilingual Education Fellowship Program Contract, individuals who have received funds through the Rehabilitation Services Administration (RSA) Scholarship program and who have not provided evidence of fulfilling their obligations under that program, current and former Department employees who received overpayments on travel allowances or who received salary overpayments and the overpayments have not been waived by the Department, individuals who were overpaid or inappropriately paid under grant programs administered by the Department other than Title IV of the Higher Education Act of 1965, as amended (HEA) and claims against individuals, including orders by a court or other authority to make restitution for the misuse of Federal funds in connection with any program administered by the Department.

CATEGORIES OF RECORDS IN THE SYSTEM:

Documents maintained in the system include: activity logs, copies of checks, contracts, court orders, letters of notice, promissory notes, telephone logs, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Claims Collection Act of 1966; Debt Collection Act of 1982; and the Debt Collection Improvement Act of 1996.

PURPOSE(S):

The Receivables Management System is a database system that is kept for servicing general consumer debts owed to the Department and issuing reports of operations and the status of accounts to the U.S. Department of Treasury (Treasury) and the Office of Management and Budget. The receivables are generated from bills to individuals for materials and services from the Department, claims arising from court-ordered restitutions for any program administered by ED, loans and overpayments to individuals under programs other than the student financial assistance programs authorized under Title IV of the Higher Education Act of 1965, as amended.

Records will be used by debt servicing staff to bill debtors to the Department and collect the debts.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Disclosures under the following routine uses may be made on a case-by-case basis or, in appropriate circumstances under computer matching agreements authorized under the Privacy Act of 1974 (5 U.S.C. 552a). Records may be disclosed for the following debt servicing program purposes:

(a) *Program purposes:* (1) To verify the identity and location of the debtor, disclosures may be made to credit agencies and Federal agencies. (2) To enforce the terms of a loan or where disclosure is required by Federal law, disclosure may be made to credit agencies, educational and financial institutions, and Federal, State, or local agencies.

(b) *Debt servicing.* Records under routine use may be disclosed to the United States Department of the Treasury and privately contracted collection companies for debt servicing.

(c) *Litigation disclosure.* (1) In the event that one of the parties listed below is involved in litigation, or has an interest in litigation, the Department may disclose certain records to the parties described in paragraphs (2), (3) and (4) of this routine use under the conditions specified in those paragraphs:

(i) The Department, or any component of the Department;

(ii) Any Department employee in his or her official capacity;

(iii) Any employee of the Department in his or her individual capacity where the Department of Justice (DOJ) has agreed to provide or arrange for representation for the employee;

(iv) Any employee of the Department in his or her individual capacity where the agency has agreed to represent the employee; or

(v) The United States where the Department determines that the litigation is likely to affect the Department or any of its components.

(2) *Disclosure to the DOJ.* If the Department determines that disclosure of certain records to the DOJ is relevant and necessary to litigation and is compatible with the purpose for which the records were collected. The Department may disclose those records as a routine use to the DOJ.

(3) *Administrative Disclosures.* If the Department determines that disclosure of certain records to an adjudication body before which the Department is authorized to appear, an individual or entity designated by the Department or otherwise empowered to resolve disputes is relevant and necessary to the administrative litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the adjudicative body, individual or entity.

(4) *Opposing counsel, representatives and witnesses.* If the Department determines that disclosure of certain records to an opposing counsel, representative or witness in an administrative proceeding is relevant and necessary to the litigation and is compatible with the purpose for which the records were collected, the Department may disclose those records as a routine use to the counsel, representative or witness.

(d) *Enforcement disclosure.* In the event that information in this system of records indicates, either on its face or in connection with other information, a violation or potential violation of any applicable statute, regulation, or order of a competent authority, the relevant records in the system of records may be referred, as a routine use, to the

appropriate agency, whether foreign, Federal, State, Tribal, or local, charged with the responsibility of investigating or prosecuting this violation or charged with enforcing or implementing the statute, or executive order or rule, regulation, or order issued pursuant thereto.

(e) *Contract disclosure.* If the Department contracts with an entity for the purpose of performing any function that requires disclosure of records in this system to employees of the contractor, the Department may disclose the records as a routine use to those employees. Before entering into a contract, the Department shall require the contractor to maintain Privacy Act safeguards as required under 5 U.S.C. 552a(m) with respect to the records in the system.

(f) *Disclosure to the Office of Management and Budget (OMB) for Credit Reform Act (CRA) Support.* The Department may disclose individually identifiable information to OMB as necessary to fulfill CRA requirements.

(g) *Employee grievance, complaint or conduct disclosure.* Records may be disclosed if a record maintained in this system of records is relevant to present or former employee grievance, complaint, discipline or competence determination proceedings of another agency of the Federal Government. In this case, the Department may disclose the record as a routine use in the course of the proceedings if the disclosure is compatible with the purposes for this system of records.

(h) *Labor organization disclosure.* Records under this routine use may be disclosed whenever a contract between a component of the Department and a labor organization recognized under Title V of the United States Code, Chapter 71, provides that the Department will disclose personal records relevant to the organization's mission. The disclosures will be made only as authorized by law.

(i) *Research disclosure.* Records under this routine use may be disclosed whenever an appropriate official of the Department determines that an individual or organization is qualified to carry out specific research related to functions or purposes of this system of records. The official may disclose records from this system of records to that researcher solely for the purpose of carrying out that research related to the functions or purposes of this system of records. The researcher is required to maintain Privacy Act safeguards with respect to these records.

(j) *Freedom of Information Act (FOIA) Advice Disclosure.* Records under this routine use may be disclosed to the DOJ and the OMB in the event that the Department deems it desirable or necessary in determining whether particular records are required to be disclosed under the FOIA.

(k) *Disclosure to the Department of Justice.* Records may be disclosed under this routine use to the DOJ from this system of records as a routine use to the extent necessary for obtaining DOJ advice on any matter relevant to an audit, inspection, or other inquiry related to the programs covered by this system.

(l) *Congressional member disclosure.* The Department may disclose information from this system of records to a member Congress from the record of an individual in response to an inquiry from the member made at the written request of that individual. The Member's right to the information is no greater than the right of the individual who requested it.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records under this system will be kept on paper files in metal file cabinets and in data files in computers. They are stored in desk top and mainframe computers with records backed up on magnetic media.

RETRIEVABILITY:

The data will be retrieved by name, loan or cage number, or Social Security Number.

SAFEGUARDS:

All physical access to the sites of the Department of Education and the contractors where this system of records is maintained, are controlled and monitored by security personnel who check each individual entering the building for an employee's or visitor's badge.

The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department of Education and contract staff on a ''need to know'' basis, and controls individual users' ability to access and alter records within the system. All users of this system are given a unique user ID. All interactions by individual users with the system are recorded.

At contractor sites, access to all automated data processing facilities are restricted by photo identification, sign-in and out logs, CYPHER locks, or ID card readers. Smoke and fire detection devices are installed and maintained operational on all facilities including tape and disk library areas.

Physical security of the building involves restricted access as well as 24-hour security guard at the ground-floor entrance to the building. Access to building is obtained through the use of key entry doors. The system permits entry to an individual only with an access code.

RETENTION AND DISPOSAL:

Records are disposed of in accordance with the National Archives and Records Administration's General Records Schedule (GRS) 6, items 1a, 10b, and 10c; and GRS 7.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Financial Improvement and Receivables Group, Office of the Chief Financial Officer, U.S. Department of Education, 600 Independence Avenue, SW., Room 3117, Washington, DC 20202–4330. Telephone number: (202) 205–3511.

NOTIFICATION PROCEDURE:

If an individual wishes to determine whether a record exists regarding him or her in this system of records, the individual should provide the system manager his or her name, Social Security Number, case or loan number, or other debt identifying number. Requests for notification about an individual must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

RECORD ACCESS PROCEDURES:

If an individual wishes to gain access to a record in this system, he or she should contact the system manager and provide information described in the notification procedure. Requests by an individual for access to a record must meet the requirements in the Department's Privacy Act regulations at 34 CFR 5b.5.

CONTESTING RECORD PROCEDURES:

If an individual wishes to change the content of a record in the system of records, he or she should contact the system manager with the information described in the notification procedure, identify the specific item(s) to be changed, and provide a written justification for the change. Requests to amend a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7.

RECORD SOURCE CATEGORIES:

Information is obtained from Department program offices, debtors, court orders, and probation officers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 98–18872 Filed 7–14–98; 8:45 am]
BILLING CODE 4000–01–P

federal register

Wednesday
July 15, 1998

Part V

Department of Education

Notices Inviting Applications for New Awards for Fiscal Year (FY) 1999: Ronald E. McNair Postbaccalaureate Achievement Program; Upward Bound and Upward Bound Math/Science Programs; Notice

DEPARTMENT OF EDUCATION

[CFDA NO: 84.217]

Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999—Ronald E. McNair Postbaccalaureate Achievement Program

Purpose: The purpose of this program is to provide grants for higher education institutions to prepare low-income, first generation college students, and students from groups underrepresented in graduate education, for doctoral study.

Eligible Applicants: Institutions of higher education and combinations of those institutions.

Deadline for Transmittal of Applications: October 2, 1998.

Deadline for Intergovernmental Review: December 31, 1998.

Applications Available: August 1, 1998.

Supplementary Information: The Department is publishing this notice at this time to give potential applicants adequate time to prepare their applications even though the Congress has not yet reauthorized the Ronald E. McNair Postbaccalaureate Achievement Program or appropriated money to fund new awards under this program. The Department anticipates that the program will be reauthorized and that the reauthorized program will be virtually unchanged from the current program. In addition, the Department anticipates that funds will be appropriated to funds new awards. However, if legislative changes are made that materially affect the grant award process or the operation of grant projects, the Department will provide additional time for applicants to amend their applications to reflect these changes.

Currently, there are Ronald E. McNair Postbaccalaureate Achievement Program grants that expire in Fiscal Year 1999 and Fiscal Year 2000. However, to receive a new four or five year grant, applicants, including those that have five year grants that expire in Fiscal Year 2000, must submit an application under this funding competition.

Grantees whose grants expire in Fiscal Year 2000: If such a grantee is successful under this competition, its new award will begin when its existing grant expires, i.e., October 1, 2000.

Available Funds: The estimated amount of funds available for this program is based in part on the President's 1999 budget.

Estimated Range of Awards: $190,000–$285,000 per year.

Estimated Average Size of Awards: $215,000 per year.

Estimated Number of Awards: 109.

Note: The Department is not bound by any of the estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74, 75, 77, 79, 82, 85, and 86; (b) The regulations governing the Ronald E. McNair Postbaccalaureate Achievement Program in 34 CFR Part 647.

For Further Information Contact: Eileen S. Bland, Federal TRIO Programs, U.S. Department of Education, 600 Independence Avenue, SW, The Portals Building, Suite 600D, Washington, D.C. 20202–5249. Telephone number: (202) 708–4804 or by Internet to TRIO@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Services (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

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.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standards forms included in the application package.

Technical Assistance Workshops

The Department of Education will conduct 11 technical assistance workshops for the Ronald E. McNair Postbaccalaureate Achievement Program. At these workshops, Department of Education staff will assist prospective applicants in developing proposals and will provide budget information regarding these programs. The technical assistance workshops will be held as follows:

University of Massachusetts/Boston, Media Auditorium, Lower Level, Healy Library, 100 Morrissey Blvd., Boston, Massachusetts 02125, Contact: James McCarthy, (617) 287–5845.	August 11, 1998, 1:30 p.m.–5:00 p.m.
Miami-Dade Community College, Wolfson Campus, Room 3210 / Bldg. # 3 2nd Floor, Chapman Conference Center, 300 N.E. Second Avenue, Miami, Florida 33132, Contact: Bernice O. Belcher, (305) 237–0940.	August 11, 1998, 1:30 p.m.–5:00 p.m.
Arizona State University, Business College–12 C Wing, Room 316, Tempe, Arizona 85287, Contact: Irvin Coin, (602) 965–6483.	August 11, 1998, 1:30 p.m.–5:00 p.m.
John Jay College, 445 West 59th Street, Room 1524, New York, New York 10019, Contact: Karen Delucca, (212) 237–8280.	August 13, 1998, 1:30 p.m.–5:00 p.m.
Saint Mary's University, University Center, Conference Room A, One Camino Santa Maria Street, San Antonio, Texas 78228–8500, Contact: Jackie Dansby-Edwards, (210) 436–3206.	August 13,1998, 1:30 p.m.–5:00 p.m.
California State University/Los Angeles, 5151 State University Drive, University Student Union, Glendale Room, Los Angeles, California 90032, Contact: David Godoy (213)343–3103.	August 13, 1998, 1:30 p.m.–5:00 p.m.
University of Utah, Engineering and Mines Classroom Bldg., Room 102 Lecture Hall, Salt Lake City, Utah 84112, Contact: Kathryn Felker, (801) 581–7188.	August 18, 1998 1:30 p.m.–5:00 p.m.
University of Missouri/Kansas City, University Center, Pearson Auditorium, 5000 Holmes, Kansas City, Missouri 64110, Contact: Linda Carter, (816) 235–1163.	August 18, 1998, 1:30 p.m.–5:00 p.m.
Universidad Central De Bayamon, P.O. Box 1725, Caya Avenue, Caya Verde Sector, Hato Tejas, Bayamon, Puerto Rico 00959, Contact: Leonor Aviles Cordero, (787) 786–3030.	August 18, 1998, 1:30 p.m.–5:00 p.m.
University of Chicago, Ida Noyes Hall, 1212 East 59th St., Chicago, Illinois 60637, Contact: Terhonda Palacios, (773) 702–8288.	August 20, 1998, 1:30 p.m.–5:00 p.m.
GSA Auditorium, ROB #3, 7th and D Street, S.W., Washington, D.C. 20202, Contact: Federal TRIO Program Staff, (202) 708–4804.	August 25, 1998, 1:30 p.m.–5:00 p.m.

Electronic Access to This Document

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http://ocfo.ed.gov/fedreg.htm

http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the 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 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**.

Program Authority: 20 U.S.C. 1070a–11 and 1070a–15.

Dated: July 10, 1998.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18871 Filed 7–14–98; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA Nos. 84.047 and 84.047M]

Notice Inviting Applications for New Awards for Fiscal Year (FY) 1999—Upward Bound and Upward Bound Math/Science Programs

Purpose: (a) The Upward Bound Program provides grants to enable applicants to conduct projects designed to (1) identify qualified youths who are low-income and potential first-generation college students and to generate the skills and motivation necessary for success in completing high school and enrolling into postsecondary education; (2) encourage youths in the program to remain and complete the secondary level of education; and (3) encourage youths to enroll in a postsecondary institution and graduate.

(b) The Upward Bound Math/Science Program provides grants to conduct projects to prepare high school students for postsecondary education programs that lead to careers in the fields of math and science.

Eligible Applicants: Institutions of higher education, public and private agencies and organizations, combinations of institutions, agencies, and organizations, and, in exceptional cases, secondary schools, if there are no other applicants capable of providing an Upward Bound Program in the proposed target area.

Supplementary Information: The Department is publishing this notice at this time to give potential applicants adequate time to prepare their applications even though the Congress has not yet reauthorized the Upward Bound Program or appropriated money to fund new awards under this program. The Department anticipates that the program will be reauthorized and that the reauthorized program will be virtually unchanged from the current program. In addition, the Department anticipates that funds will be appropriated to funds new awards. However, if legislative changes are made that materially affect the grant award process or the operation of grant projects, the Department will provide additional time for applicants to amend their applications to reflect these changes.

Currently, there are Upward Bound and Upward Bound Math/Science grants that expire in Fiscal Year 1999 and Fiscal Year 2000. However, to receive a new four or five year grant, applicants, including those that have five year grants that expire in Fiscal Year 2000, must submit an application under this funding competition.

Grantees whose grants expire in Fiscal Year 2000: If such a grantee is successful under this competition, its new award will begin when its existing grant expires, *i.e.*, September 1, 2000.

Deadline for Transmittal of Applications:

October 2, 1998—Upward Bound Math/Science

October 30, 1998—Upward Bound

Deadline for Intergovernmental Review: December 31, 1998.

Application Available: August 1, 1998.

Available Funds: The estimated amount of funds available for these programs is based on the President's 1999 budget.

Estimated Range of Awards:

84.047A–$200,000–$690,000

84.047M–$200,000–$300,000

Estimated Size of Awards:

84.047A–$319,000

84.047M–$254,000

Estimated Number of Awards:

84.047A–682

84.047M–99

Note: The Department is not bound by any of the estimates in this notice.

Project Period: Up to 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 82, 85, and 86; and (b) the regulations for these programs in 34 CFR parts 645.

For Application or Information Contact: For Upward Bound (84.047A) contact Sheryl Wilson or Gaby Watts. For Upward Bound-Math/Science, (84.047M) contact Geraldine Smith, Federal TRIO Programs, U.S. Department of Education, 600 Independence Avenue, SW, The Portals Building, Suite 600 D, Washington, DC 20202–5249. Telephone: (202) 708–4804 or by Internet to TRIO @ed.gov or Sheryl__Wilson@ed.gov, Gaby__Watts@ed.gov, or Geraldine__Smith@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.

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Technical Assistance Workshops: The Department of Education will conduct 11 technical assistance workshops for the Upward Bound and the Upward Bound Math/Science Programs. At these workshops, Department of Education staff will assist prospective applicants in developing proposals and will provide budget information regarding these programs. The technical assistance workshops will be held as follows:

University of Massachusetts/Boston, Media Auditorium, Lower Level, Healy Library, 100 Morrissey Blvd., Boston, Massachusetts 02125, Contact: James McCarthy, (617) 287–5845.	August 11, 1998, 8:00 a.m.–12:30 p.m.
Miami-Dade Community College, Wolfson Campus, Room 3210/Bldg. #3 2nd Floor, Chapman Conference Center, 300 N.E. Second Avenue, Miami, Florida 33132, Contact: Bernice O. Belcher, (305) 237–0940.	August 11, 1998, 8:00 a.m.—12:30 p.m.
Arizona State University, Business College—C Wing, Room 316, Tempe, Arizona 85287, Contact: Irvin Coin, (602) 965–6483.	August 11, 1998, 8:00 a.m.—12:30 p.m.
John Jay College, 445 West 59th Street, Room 1524, New York, New York 10019, Contact: Karen Delucca, (212) 237–8280.	August 13, 1998, 8:00 a.m.—12:30 p.m.
Saint Mary's University, University Center, Conference Room A, One Camino Santa Maria Street, San Antonio, Texas 78228–8500, Contact: Jackie Dansby-Edwards, (210) 436–3206.	August 13, 1998, 8:00 a.m.—12:30 p.m.
California State University/Los Angeles, 5151 State University Drive, University Student Union, Glendale Room, Los Angeles, California 90032, Contact: David Godoy (213)343–3103.	August 13, 1998, 8:00 a.m.—12:30 p.m.

University of Utah, Engineering and Mines Classroom Bldg., Room 102 Lecture Hall, Salt Lake City, Utah 84112, Contact: Kathryn Felker, (801) 581–7188.	August 18, 1998, 8:00 a.m.—12:30 p.m.
University of Missouri/Kansas City, University Center, Pearson Auditorium, 5000 Holmes, Kansas City, Missouri 64110, Contact: Linda Carter, (816) 235–1163.	August 18, 1998, 8:00 a.m.—12:30 p.m.
Universidad Central De Bayamon, P.O. Box 1725, Caya Avenue, Caya Verde Sector, Hato Tejas, Bayamon, Puerto Rico 00959, Contact: Leonor Aviles Cordero, (787) 786–3030.	August 18, 1998, 8:00 a.m.—12:30 p.m.
University of Chicago, Ida Noyes Hall, 1212 East 59th St., Chicago, Illinois 60637, Contact: Terhonda Palacios, (773) 702–8288.	August 20, 1998, 8:00 a.m.—12:30 p.m.
GSA Auditorium, ROB #3, 7th and D Street, SW, Washington, D.C. 20202, Contact: Federal TRIO Program Staff, (202) 708–4804.	August 25, 1998, 8:00 a.m.—12:30 p.m.

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http://www.ed.gov/news.html

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Anyone may also view these documents in text copy 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**.

Program Authority: 20 U.S.C. 1070 a–11; 1070 a–13.

Dated: July 10, 1998.

Maureen A. McLaughlin,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 98–18870 Filed 7–14–98; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
July 15, 1998

Part VI

Department of Housing and Urban Development

Funding Availability for the HUD Colonias Initiative (HCI), Fiscal Year 1998; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4380–N–01]

Notice of Funding Availability for the HUD Colonias Initiative (HCI), Fiscal Year 1998

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding availability (NOFA).

SUMMARY: This NOFA announces the availability of $5 million for assistance to organizations serving colonia residents. Of this amount, up to $4 million will be provided to carry out development projects in colonias. One grant of $1 million may be provided to one or more private intermediary organization(s) (for profit and nonprofit) that would provide capacity-building loans, grants, or technical assistance to local nonprofit organizations serving colonias residents. This document sets forth the application instructions for the development grants and capacity-building grants made available under the NOFA. As indicated in the body of this NOFA, applicants may use either of two definitions for the term ''rural county.''

APPLICATION DUE DATES: Completed applications (one original and two copies) must be submitted no later than 12:00 midnight, Eastern time, on August 14, 1998, to the address shown below. The above-stated application deadline is firm as to date and hour. In the interest of fairness to all applicants, HUD will treat as ineligible for consideration any application that is not received before the application deadline. Applicants should submit their materials as early as possible to avoid any risk of loss of eligibility because of unanticipated delays or other delivery-related problems. HUD will not accept, at any time during the NOFA competition, application materials sent by facsimile (FAX) transmission.

ADDRESSES AND APPLICATION SUBMISSION PROCEDURES: *Addresses:* Completed applications (one original and two copies) must be submitted to: Department of Housing and Urban Development, 451 Seventh Street, SW, Room 7184, Washington, DC 20410; ATTN: HUD Colonias Initiative.

Applications Procedures. Mailed Applications. Applications will be considered timely filed if postmarked on or before 12:00 midnight on the application due date and received at the address above on or within five (5) days of the application due date.

Applications Sent by Overnight/Express Mail Delivery. Applications sent by overnight delivery or express mail will be considered timely filed if received before or on the application due date, or upon submission of documentary evidence that they were placed in transit with the overnight delivery service by no later than the specified application due date.

Hand Carried Applications. Hand carried applications delivered before and on the application due date must be brought to the specified location and room number between the hours of 8:45 am to 5:15 pm, Eastern time. Applications hand carried on the application due date will be accepted in the South Lobby of the HUD Headquarters Building at the above address from 5:15 pm until 12:00 midnight, Eastern time.

FOR APPLICATION KITS, FURTHER INFORMATION, AND TECHNICAL ASSISTANCE: All information and materials required to submit an application for funding under the HUD Colonias Initiative are included in the appendix to this notice. For information concerning the HUD Colonias Initiative, and technical assistance, contact Yvette Aidara, Office of Block Grant Assistance, Department of Housing and Urban Development, 451 7th Street, SW, Room 7184, Washington, DC 20410; telephone (202) 708–1322 (this is not a toll-free number). Persons with speech or hearing impairments may access this number via TTY by calling the toll-free Federal Information Relay Service at 1–800–877–8339.

All program documents referred to in this NOFA are accessible through HUD's web site at http://www.hud.gov.

SUPPLEMENTAL INFORMATION:

I. Authority; Definitions; Background; Purpose; Amount Allocated; Eligibility

(A) Authority

Title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1998 (Pub.L. 105–65, 111 Stat. 1357, approved October 27, 1997) (FY 1998 HUD Appropriations Act).

(B) Definitions

Capacity-building is the transferring of skills and knowledge in planning, developing and administering activities funded under this NOFA. For purposes of this NOFA, capacity-building may include provision of loans and grants as well as training and technical assistance activities.

Colonia means any identifiable community that:

(a) Is located in the State of Arizona, California, New Mexico, or Texas;

(b) Is located in the U.S.-Mexico border region (that is, within 150 miles of the border between the U.S. and Mexico); and

(c) Meets objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, sanitary, and accessible housing.

Although section 916(e)(4) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 5306(e)(4)) included the notation that a colonia must have been in existence and generally recognized as such prior to its enactment, HUD recognizes that additional identifiable colonias have come into existence, in the near-decade since the enactment, and are in need of assistance to the same extent as older colonias. These newer colonias are eligible for assistance under this NOFA. *Rural County* may be defined in either of two ways:

(a) *Bureau of the Census Definition.* A rural county is a place having fewer than 2,500 inhabitants (within or outside of metropolitan areas).

(b) *Department of Agriculture's Beale Code Definition.* A rural county is a county with no urban population (i.e., city) of 20,000 inhabitants or more.

Visitability means at least one entrance at grade (no steps), approached by an accessible route such as a sidewalk; the entrance door and all interior passage doors provide a minimum 2 feet 10 inches (34-inch) clear opening. Allowing use of 2′10″ doors is consistent with the Fair Housing Act (at least for the interior doors), and may be more acceptable than requiring the 3 foot doors that are required in fully accessible areas under the Uniform Federal Accessibility Standards for a small percentage of units.

(C) Background

(1) Colonias eligible for assistance under this NOFA are any of the severely distressed, rural, unplanned, predominantly unincorporated settlements located along the 2,000 mile United States-Mexico border. Due to a lack of affordable housing in this area, many colonias came into existence as a result of developers selling unimproved lots, to buyers with extremely limited means, under high-interest bearing contracts for deed (i.e., the developers retain title to the land until the debt is fully paid). Due to the nature of land contract sales, buyers typically could not secure mortgage-secured loans to build standard housing. As a consequence, they often constructed

whatever limited dwellings or shelters they could afford. Thus, most colonias developed without regard to local zoning or other laws or covenants, adequate roads and drainage, and non-existent water and/or sewer facilities. The majority of housing in colonias is sub-standard and not in accordance with building codes.

(2) One response to these needs was passage of Section 916 of the Cranston-Gonzalez National Affordable Housing Act which required the States of Arizona, California, New Mexico, and Texas to set aside ten percent of their Fiscal Year 1991 State Community Development Block Grant allocations to assist colonias. Subsequent years required colonias to be assisted at up to ten percent (California has been funded at two percent), as determined by HUD to be appropriate. Texas, with the largest population of colonia residents, accounts for approximately two-thirds of the set-aside in any given year.

(3) Due to the limited State CDBG colonias set-asides in relation to the overwhelming needs, funding has generally been given to infrastructure activities, with special consideration to water and sewer services. The provision of housing has not been a primary focus of the limited CDBG funds available to colonias. This current initiative, in an effort to address the continuing need for decent, safe, sanitary, and accessible housing for colonias residents, is designed to encourage the production of decent, safe, sanitary, and accessible affordable housing for colonia residents.

(D) Purpose

The FY 1998 HUD Appropriations Act provided $25 million to test comprehensive approaches to developing a job base through economic development, developing affordable low- and moderate-income rental and homeownership housing, and increasing the investment of both private and nonprofit capital in rural and tribal areas of the US. Of that amount, $5 million has been targeted for this initiative to support assistance to organizations administering projects to address the housing needs of colonia residents in rural areas. HUD anticipates making grants totaling $4 to 5 million to address housing needs in the four border States where colonias are found (California, Arizona, New Mexico, and Texas). Of the $5 million, $1 million may be provided to one or more private intermediary organization(s) (for profit and nonprofit) that would provide capacity-building loans, grants, or technical assistance to local nonprofit organizations serving colonia residents. The intermediary organization would demonstrate experience in providing technical assistance in housing development to colonias or areas with similar economic and social conditions that exist in colonias and the capacity to administer a program to increase the capacity of colonia-based organizations to address local housing needs.

(E) Amounts Allocated

This NOFA makes available a total of $5 million in FY 1998 funding. Of this amount, HUD expects to allocate a total of $4 to 5 million for programs administered by competitively selected grantees in each of the four colonias border states. It is expected that applicants serving colonias residents in the State of Texas will receive a greater portion of the funds available under this NOFA since Texas has the largest population of colonia residents. Based on final negotiations of budgets and project plans, the Department reserves the right to award grants of up to $800,000 per applicant in each of the four states. The Department also reserves the right to provide multiple grants in each state, with multiple awards likely in Texas.

Additionally, of the total $5 million available, HUD may award up to $1 million to one or more private organizations (for profit and nonprofit) for the purpose of building capacity among locally-based nonprofit organizations meeting the affordable housing needs of colonia residents. Preference will be given to applicants with the ability to serve the broadest area of the colonias region, and with the ability to serve colonia residents with disabilities. Note that if there are insufficient fundable applications for the capacity-building competition (i.e., scoring a minimum of 70 points), HUD reserves the right to shift the balance (including up to the full $1 million) to the housing development category to allow full utilization of the funding targeted for this initiative.

(F) Eligible Applicants/Recipients

Private (for profit and nonprofit) entities currently providing assistance to and for residents of colonias, including in any of the four colonia States (Arizona, California, New Mexico, and Texas) are eligible to apply for funds under the development activities portion of this NOFA to undertake activities within their respective States. Private (for profit and nonprofit) with the ability to provide capacity-building resources and technical assistance to locally-based nonprofit organizations serving colonias in the four-State colonias region are eligible to compete for the capacity-building funds. For-profit organizations are eligible to apply for funding under this NOFA with the stipulation that compensation be provided in accordance with Federal procurement guidelines (i.e., payment will be on a cost reimbursement basis without profit).

(G) Eligible Activities

(1) *General.* HUD Colonias Initiative (HCI) funds are to be used to address the housing and related needs of residents of colonias. The Department is especially interested in supporting self-help housing construction, homeownership opportunities, and rehab of units (where rehab is a viable alternative to new construction) for current residents of colonias. In undertaking activities under this NOFA, applicants must comply with applicable provisions of the Americans with Disabilities Act and should design construction, rehabilitation or modifications to buildings and facilities to be accessible and visitable for persons with disabilities and others who may also benefit, such as mothers with strollers or persons delivering appliances. In providing technical assistance and other educational opportunities, training and informational materials related to program activities should be made available in languages appropriate to the residents served or in video or audio formats. Use of intermediaries and collaborative partnerships, to the greatest extent possible, and leveraging of the funds provided under this NOFA to achieve the maximum positive impact is encouraged.

(2) *Primary Activities.* It is expected that the majority of funding for each proposed project will be budgeted for the following primary housing activities that will result in decent, safe, sanitary, and accessible affordable housing:

(a) New housing construction, including self-help, energy-efficient and innovative housing design initiatives. Housing may be single- or multi-family, owner- or renter-occupied;

(b) Self-help construction training for residents and prospective owners/tenants;

(c) Homeownership assistance;

(d) Rehabilitation of existing permanent housing structures to meet local codes;

(e) Construction of additions onto existing permanent housing structures, such as to provide for bathroom facilities or to reduce overcrowding, where cost-effective;

(f) Installation of water wells or septic systems for individual permanent housing structures;

(g) Refinancing of existing landowner/homeowner debt to convert contracts-for-deed into mortgages;

(h) Acquisition of land from existing owners or deed-holders, for resale to colonias residents;

(i) Surveying and replatting of existing subdivisions;

(j) Acquisition of land, relocation payments to residents and costs of developing new subdivisions, where existing development sites have been determined to be legally or environmentally inappropriate for habitation; and

(k) Tenant-based assistance.

(3) *Other Related Activities to Support Housing Development.* Applicants may propose other activities (public improvements, economic development, public services, administrative costs), that directly support the housing activities listed above, providing such activities do not constitute more than thirty percent (30%) of the budget in the aggregate, and clearly support and serve the same general population as the housing activities. Such activities may include:

(a) Construction of publicly- or privately-owned utilities needed to serve the housing site(s) for which primary activities are funded, such as water supply/distribution systems, sewage collection/treatment systems, electricity or gas distribution lines;

(b) Construction of public facilities such as libraries, parks and recreation centers, fire stations (including purchase of fire trucks and other equipment), or community centers;

(d) Provision of financial or technical assistance to start or expand businesses, for purposes of creating jobs or providing goods or services for colonias residents living in or near the proposed housing site(s);

(e) Funding microenterprise assistance programs to enable colonias residents to start their own businesses or to expand existing businesses;

(f) Provision of public services which are directly supportive of the housing activities proposed, including but not limited to legal assistance, housing counseling, classes on purchasing a home, home maintenance and repair training, tenant services, education, health services, recreation programs, day care, transportation services, or costs of operating recreation centers, libraries or community centers; and

(g) Recipient costs of administering the funding and carrying out of activities, to the extent allowed at 24 CFR part 84, but at a rate not to exceed 10% of the funds provided.

(4) *Capacity-Building Funds.* Applicants for Capacity-Building funds (not to exceed $1 million) will provide loans, grants or technical assistance to regionally or locally-based nonprofit organizations working in colonias to meet housing and related needs. The nonprofit organizations may use the assistance for:

(a) Provision of planning, training, and pre-development assistance to existing nonprofit organizations to expand their scope of expertise, to implement larger-scale projects, and/or enhance existing projects;

(b) Self-help assistance, including skill in fiscal management, for colonias residents;

(c) Dissemination of capacity-building information and citizen participation activities; and

(d) Coordination of existing resources to maximize housing or economic opportunities funded under the provisions of this NOFA.

(H) Ineligible Activities

The following activities are not eligible for funding under this NOFA:

(1) Acquisition, construction or rehabilitation of buildings for the general conduct of government, such as city halls, county courthouses, county jails, etc.;

(2) General government expenses required to carry out the regular responsibilities of a unit of general local government;

(3) Political activities; and

(4) Provision of technical assistance to staff of award recipients.

II. Program Requirements

(A) Compliance With Fair Housing and Civil Rights Laws

All applicants must comply with all Fair Housing and civil rights laws, statutes, regulations and executive orders as enumerated in 24 CFR § 5.105(a).

(B) Additional Nondiscrimination Requirements

Applicants must also comply with the Americans with Disabilities Act, and Title IX of the Education Amendments Act of 1972.

(C) Affirmatively Furthering Fair Housing

Recipients will have a duty to affirmatively further fair housing. Applicants should include in their work plan the specific steps that they will take to (1) address the elimination of impediments to fair housing that were identified in the jurisdiction's Analysis of Impediments (AI) to Fair Housing Choice; (2) remedy discrimination in housing; or (3) promote fair housing rights and fair housing choice. Further, applicants have a duty to carry out the specific activities cited in their responses to the Factors for Award that address affirmatively furthering fair housing.

(D) Economic Opportunities for Low and Very Low-Income Persons (Section 3)

Recipients of HUD assistance must comply with section 3 of the Housing and Urban Development Act of 1968, 12 U.S.C. 1701u (Economic Opportunities for Low and Very Low-Income Persons) and the HUD regulations at 24 CFR part 135, including the reporting requirements subpart E. Section 3 provides that recipients shall ensure that training, employment and other economic opportunities, to the greatest extent feasible, be directed to: (1) low and very low income persons, particularly those who are recipients of government assistance for housing; and (2) business concerns which provide economic opportunities to low and very low income persons.

(E) Relocation

Any person (including individuals, partnerships, corporations or associations) who moves from real property or moves personal property from real property as a direct result of a written notice to acquire or the acquisition of the real property, in whole or in part, for a HUD-assisted activity is covered by acquisition policies and procedures and the relocation requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and the implementing governmentwide regulation at 49 CFR part 24. Any person who moves permanently from real property or moves personal property from real property as a direct result of rehabilitation or demolition for an activity undertaken with HUD assistance is covered by the relocation requirements of the URA and the governmentwide regulation.

(F) OMB Circulars

The policies, guidances, and requirements of OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations) and 24 CFR part 84 (Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations) apply to the award, acceptance and use of assistance under this NOFA, and to the remedies for noncompliance, except when inconsistent with the provisions of the FY 1998 HUD Appropriations Act, other Federal statutes or the provisions of this NOFA. Copies of the OMB Circular may

be obtained from EOP Publications, Room 2200, New Executive Office Building, Washington, DC 10503, telephone (202) 395–7332 (this is not a toll free number).

(G) Conflicts of Interest

Consultants or experts assisting HUD in rating and ranking applicants for funding under this NOFA are subject to 18 U.S.C. 208, the Federal criminal conflict of interest statute, and to the Standards of Ethical Conduct for Employees of the Executive Branch regulation published at 5 CFR part 2635. As a result, individuals who have assisted or plan to assist applicants with preparing applications for this NOFA may not serve on a selection panel or as a technical advisor to HUD for this NOFA. All individuals involved in rating and ranking this NOFA, including experts and consultants, must avoid conflicts of interest or the appearance of conflicts. If the selection or non-selection of any applicant under this NOFA affects the individual's financial interests set forth in 18 U.S.C. 208 or involves any party with whom the individual has a covered relationship under 5 CFR 2635.502, that individual must, prior to participating in any matter regarding this NOFA, disclose this fact to the General Counsel or the Ethics Law Division.

(H) Eligible Populations to be Served

The HCI is designed to serve colonias in rural areas in the States of Arizona, California, New Mexico, and Texas. See definitions of ''colonias'' and ''rural county'' above.

(I) Grant Amounts

In the event an applicant is awarded an HCI grant that has been reduced (e.g. the application contained some activities that were ineligible or budget information did not support the request), the applicant will be required to modify its project plans and application to conform to the terms of HUD's approval before execution of a grant agreement. HUD reserves the right to reduce or de-obligate the HCI award if approvable modifications to the proposed project are not submitted by the awardee in the required amounts in a timely manner. Any modifications must be within the scope of the original HCI application. HUD reserves the right not to make awards under this NOFA.

(J) Grant Period

Recipients will have 36 months from the date of funding award to complete all project activities except the final evaluation and reporting, fulfillment of audit requirements and final project close-out.

(K) Leveraging of Other Resources

(1) A key component of the HCI is the leveraging of other sources of capital to significantly expand the scope of accomplishments to be realized with this funding.

(2) Potential recipients must demonstrate the commitment of additional resources to support their proposed projects. Sources of this other funding can be other public (Federal, State or local) agencies, private funding or internal resources. In-kind services, ''sweat equity'' and commitments of funds for activities which are already being implemented may be counted toward the leveraging requirements. Funding for which commitments were received prior to publication of this NOFA may be counted, provided that the commitment is still valid, is for the project activities proposed, and that implementation of the activity had not yet begun. Final negotiation of budgets and implementation schedules may be conditioned upon evidence that leveraging requirements have been met.

(L) Negotiations

After all applications have been rated and ranked and a selection has been made, HUD may require that awardees participate in negotiations to determine the specific tasks and grant budget. Where a specific area or one or more specific sites for project activities are identified in an application or during negotiations, HUD may undertake and complete its environmental review during negotiations. In cases where HUD cannot successfully conclude negotiations or a selected applicant fails to provide HUD with requested information, or if the reduced amount of funding makes the project infeasible, awards will not be made. In such instances, HUD will offer an award to the next highest ranking applicant and proceed with negotiations with that next highest ranking applicant.

(M) Adjustments to Funding

(1) HUD reserves the right to fund less than the full amount requested in any application to ensure the purpose of the initiative is met. HUD may not fund portions of the applications that are ineligible for funding under applicable program statutory or regulatory requirements, or which do not meet the requirements of this NOFA, but may fund eligible portions of the applications.

(2) If funds remain after funding the highest ranking applications in each State, HUD may fund part of the next highest ranking application in the same category (i.e., development or capacity-building). If the applicant turns down the award offer, or if the project is not feasible at the proposed funding level, HUD will make the same determination for the next highest ranking applications in each category.

(N) Environmental Review

Selection for award does not constitute approval of any proposed sites. Following selection for award, HUD will perform an environmental review of activities proposed for assistance under this part, in accordance with 24 CFR part 50. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. Applicants are particularly cautioned not to undertake or commit funds for acquisition or development of proposed properties prior to HUD approval of specific properties or areas. Each application shall contain an assurance that the applicant will assist HUD to comply with part 50; will supply HUD with all available, relevant information to perform an environmental review for each proposed property; will carry out mitigating measures required by HUD or select alternate property; and will not acquire, rehabilitate, convert, lease, repair or construct property, nor commit HUD or local funds for these program activities with respect to any eligible property, until HUD approval of the property is received.

III. Application Selection Process

(A) Rating and Ranking

(1) *General.* To review and rate applications, HUD may establish panels including outside experts or consultants to obtain certain expertise and outside points of view, including views from other Federal agencies. A total of 100 points is possible. For the capacity-building category, a minimum score of 70 points must be achieved to be considered for funding.

(2) *Rating.* All applicants for funding under this NOFA will be evaluated against the criteria below. The rating of the ''applicant'' or the ''applicant's organization and staff'' for technical merit or threshold compliance, unless otherwise specified, will include any sub-contractors, consultants, sub-recipients, and members of consortia which are firmly committed to the project.

(3) *Ranking.* Applicants will be ranked within each of the two set-aside program areas: housing development activities and capacity-building. Applicants will be ranked only against

others in the separate set-aside program areas. Once scores are assigned, all applications will be ranked in order of points assigned, with the applications receiving more points ranking above those receiving fewer points. The highest ranking applications in each State area will be funded; the highest ranking capacity-building application will be funded, provided it has achieved a score of at least 70 points. As noted above, if the highest ranking application in the capacity-building category may be funded at an amount less than $1 million, additional grants may be made to the extent funds and fundable applicants remain.

(4) If HUD determines that an application rated, ranked and fundable could be funded at a lesser HCI grant amount than requested consistent with feasibility of the funded project or activities and the purposes of this NOFA, HUD reserves the right to reduce the amount of the HCI grant award and fund the next ranking application in that State if sufficient funds remain to undertake a feasible project in the scope of that application. Any remaining amounts may be pooled to fund the next highest ranked application in any of the four states.

(B) Threshold Requirements

HUD will review each application to determine whether the application meets all of the threshold criteria described for program funding made available under this NOFA. Applications that meet the threshold criteria will be eligible to be rated and ranked, based on the criteria described, and the total number of points to be awarded. The threshold criteria are:

(1) An applicant must be a private for-profit or nonprofit entity organized according to State law where situated.

(2) If an applicant (a) has been charged with a violation of the Fair Housing Act by the Secretary; (b) is the defendant in a Fair Housing Act lawsuit filed by the Department of Justice; (c) has received a letter of noncompliance findings under Title VI of the Civil Rights Act or Section 504 of the Rehabilitation Act; or (d) has been debarred, the applicant is not eligible to apply for funding under this NOFA until the applicant resolves such charge, lawsuit, letter of findings, or debarment to the satisfaction of the Department.

(C) Narrative Statement

Each applicant shall provide: (1) a narrative statement describing the activities that will be carried out with the HCI grant funds; and (2) an explanation of how the use of HCI grant funds meets the rating factors identified below. The description of activities should include a statement of how the proposed uses of HCI funds will meet the objectives of this initiative. The application as a whole (narrative and responses to the Factors for Award, below) shall not exceed 25 8.5″ by 11″ pages. Applicants may also submit videotapes and/or photographs of the area or neighborhood that would be assisted by grant funds under this NOFA. The applicant must indicate which factor(s) the photographs and/or video tapes address.

(D) Factors for Award

All applicants will be considered for selection based on the following factors that demonstrate the need for the proposed project or activities, and the applicant's creativity, capacity and commitment to provide the maximum benefit to the residents of the colonias areas served and the extent to which the proposed project will increase the supply of decent, safe, sanitary, and accessible affordable housing in colonias. The maximum points awarded for the factors total 100.

Rating Factor 1: Capacity of the Applicant and Relevant Organizational Staff (20 points).

This factor addresses the applicant's organizational experience in administering similar types of funding, and the demonstrated capacity to carry out the proposed activities. Applicants must demonstrate previous relevant experience working in colonias. When responding to this factor, the applicant should identify the number of projects undertaken, the type of project, and the number of units of affordable housing developed, as applicable. The response should include a discussion of how housing units were made affordable for low-income persons. The rating of the applicant or the applicant's organization and staff for technical merit will include any faculty, subcontractors, consultants, subrecipients, and members of consortia which are firmly committed (i.e. has a written agreement or a signed letter of understanding with the applicant agreeing in principle to its participation and role in the project). HUD will also consider past performance in carrying out HUD-funded or other projects, including projects similar in size and scope to the project proposed, and the extent to which projects encourage and incorporate collaborative and partnership relationships in serving colonia residents.

Rating Factor 2: Need/Extent of the Problem (20 points).

This factor addresses the extent of colonia need(s) for housing, including accessible housing, and related investments, including a description of physical and social conditions. In applying this factor, HUD will consider current levels of distress in the immediate community to be served by the project. Level of distress will be indicated most directly by data on the size and condition of the existing housing stock, homeownership and land tenure, availability of housing finance, and rental assistance need. Additional indicators of distress may include: infrastructure and community facility needs, education and employment of residents, and the need for legal or other assistance. HUD requires that applicants use sound, reliable and verifiable data to support the level of distress claimed in the application.

Rating Factor 3: Soundness of Approach (40 points).

This factor addresses the appropriateness and effectiveness of the proposed activities in substantially addressing identified needs. HUD will consider the extent to which the plan is logical, feasible, and substantially likely to achieve its stated purpose and provides benchmarks to measure actual increase in the number of decent, safe, sanitary, and accessible affordable housing units. HUD's desire is to fund projects and activities which will quickly produce demonstrable results and advance the public interest including the number of colonia residents to be assisted and the impact of the projects and activities on the distress factors indicated by the applicant's response to Factor 2. An applicant must demonstrate that it has an understanding of the steps required to implement its project, the actions that it and others responsible for implementing the project must complete and shall include a reasonable time schedule for carrying out the project. In considering this factor, HUD will take into account the cost per unit for construction or rehab of housing units.

Rating Factor 4: Financial Feasibility/ Leveraging Resources (20 points).

This factor addresses the extent to which the proposed project will leverage the use of other public and private financial resources to provide a fiscally sound project. A minimum ratio of RDDC funds in any project is not specified. However, applicants that have the greatest ratio of other funds or in-kind services to RDDC funds will receive a greater number of points for leveraging resources. Documentation of funds pledged and in-kind services to be provided must be submitted with the application to be considered. This documentation might include letters of financial commitment or verifiable evidence of other loan or grant

assistance to address the housing development needs of the colonia project area and residents. Also considered in determining the points for this factor must be the extent to which project costs (as evidenced by a complete budget-by-task) are reasonable and financially feasible.

IV. Application Submission Requirements

The application must include an original and two copies of the items listed below:

(A) Transmittal letter from applicant;

(B) Table of contents;

(C) A signed SF–424 (application form);

(D) A narrative statement as described above;

(E) Responses to each of the Factors for Award;

(F) Written agreements or signed letters of understanding in support of Rating Factor 1: ''Capacity of the Applicant and Relevant Organizational Staff'';

(G) Documentation of funds pledged in support of Rating Factor 4: ''Financial Feasibility/Leveraging Resources'';

(H) A budget-by-task to accompany Factor 4;

(I) Required certifications (signed, as appropriate, and attached as an appendix); and

(J) Acknowledgment of Application Receipt form (submitted with application and returned to applicant as verification of timely receipt).

V. Corrections to Deficient Applications

After the application due date, HUD may not, consistent with 24 CFR part 4, subpart B, consider unsolicited information from an applicant. HUD may contact an applicant, however, to clarify an item in the application or to correct technical deficiencies. Applicants should note, however, that HUD may not seek clarification of items or responses that improve the substantive quality of the applicant's response to any eligibility or selection criterion. Examples of curable technical deficiencies include failure to submit an application containing an original signature by an authorized official. In each case, HUD will notify the applicant in writing by describing the clarification or technical deficiency. HUD will notify applicants by facsimile or by return receipt requested mail. Applicants must submit clarifications or corrections of technical deficiencies in accordance with the information provided by HUD within 7 calendar days of the date of receipt of the HUD notification. If the deficiency is not corrected within this time period, HUD will reject the application as incomplete.

VI. Findings and Certifications

(A) Paperwork Reduction Act Statement

The information collection requirements contained in this NOFA have been submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The OMB approval number, once assigned, will be published in the **Federal Register**. *An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.*

(B) Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, implementing section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332). The Finding of No Significant Impact is available for public inspection during business hours in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500.

(C) Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism*, has determined that the policies contained in this NOFA will not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the notice is not subject to review under the Order. This notice is a funding notice and does not substantially alter the established roles of HUD, the States, and local governments.

(D) Accountability in the Provision of HUD Assistance

Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (HUD Reform Act) and the regulations in 24 CFR part 4, subpart A contain a number of provisions that are designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. On January 14, 1992 (57 FR 1942), HUD published a notice that also provides information on the implementation of section 102. HUD will comply with the documentation, public access, and disclosure requirements of section 102 with regard to the assistance awarded under this NOFA, as follows:

(1) *Documentation and public access requirements.* HUD will ensure that documentation and other information regarding each application submitted pursuant to this NOFA are sufficient to indicate the basis upon which assistance was provided or denied. This material, including any letters of support, will be made available for public inspection for a 5-year period beginning not less than 30 days after the award of the assistance. Material will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15. In addition, HUD will include the recipients of assistance pursuant to this NOFA in its **Federal Register** notice of all recipients of HUD assistance awarded on a competitive basis.

(2) *Disclosures.* HUD will make available to the public for 5 years all applicant disclosure reports (HUD Form 2880) submitted in connection with this NOFA. Update reports (also Form 2880) will be made available along with the applicant disclosure reports, but in no case for a period less than 3 years. All reports—both applicant disclosures and updates—will be made available in accordance with the Freedom of Information Act (5 U.S.C. 552) and HUD's implementing regulations at 24 CFR part 15.

(E) Section 103 HUD Reform Act

HUD will comply with section 103 of the Department of Housing and Urban Development Reform Act of 1989 and HUD's implementing regulations in subpart B of 24 CFR part 4 with regard to the funding competition announced today. These requirements continue to apply until the announcement of the selection of successful applicants. HUD employees involved in the review of applications and in the making of funding decisions are limited by section 103 from providing advance information to any person (other than an authorized employee of HUD) concerning funding decisions, or from otherwise giving any applicant an unfair competitive advantage. Persons who apply for assistance in this competition should confine their inquiries to the subject areas permitted under section 103 and subpart B of 24 CFR part 4.

Applicants or employees who have ethics related questions should contact the HUD Office of Ethics (202) 708–3815. (This is not a toll-free number.)

(F) Prohibition Against Lobbying Activities

Applicants for funding under this NOFA are subject to the provisions of section 319 of the Department of Interior and Related Agencies Appropriation Act for Fiscal Year 1991 (31 U.S.C. 1352) (the Byrd Amendment) and to the provisions of the Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995).

The Byrd Amendment, which is implemented in regulations at 24 CFR part 87, prohibits applicants for Federal contracts and grants from using appropriated funds to attempt to influence Federal executive or legislative officers or employees in connection with obtaining such assistance, or with its extension, continuation, renewal, amendment, or modification. The Byrd Amendment applies to the funds that are the subject of this NOFA. Therefore, applicants must file a certification stating that they have not made and will not make any prohibited payments and, if any payments or agreement to make payments of nonappropriated funds for these purposes have been made, a form SF–LLL disclosing such payments must be submitted. The certification and the SF–LLL are included in the application.

The Lobbying Disclosure Act of 1995 (Pub. L. 104–65; approved December 19, 1995), which repealed section 112 of the HUD Reform Act, requires all persons and entities who lobby covered executive or legislative branch officials to register with the Secretary of the Senate and the Clerk of the House of Representatives and file reports concerning their lobbying activities.

Dated: July 10, 1998.

Saul N. Ramirez, Jr.,

Assistant Secretary for Community Planning and Development.

Appendix—Checklist, Forms and Certifications

Page No.

_____ 1. Transmittal Letter
_____ 2. Checklist and Submission Table of Contents
_____ 3. Standard Form for Application for Federal Assistance (SF–424)
_____ 4. Narrative Statement
_____ 5. Response to Factors for Award
_____ 6. Written Agreements/Signed Letters of Understanding in Support of Rating Factor 1
_____ 7. Budget-by-Task and Benchmarks in Support of Rating Factor 3
_____ 8. Documentation of Funds/In-Kind Services Pledged in Support of Rating Factor 4
_____ 9. Required Certifications (signed)
  _____ a. Certification for a Drug-Free Workplace (HUD–50070)
  _____ b. Certification of Payments to Influence Federal Transactions (HUD–50071) (See 24 CFR part 87, Appendix A)
  _____ c. If required, Disclosure of Lobbying Activities (SF–LLL) (See 24 CFR part 87, Appendix B)
  _____ d. Applicant/Recipient Disclosure/Update Report (HUD–2880)
  _____ e. Applicant Nondiscrimination Certifications
  _____ f. Certification Regarding Debarment & Suspension (HUD–2992)
_____ 10. Acknowledgement of Application Receipt (to be returned to applicant)

BILLING CODE 4210–29–P

Application for Federal Assistance

OMB Approval No. 0348-0043

	2. Date Submitted	Applicant Identifier
1. **Type of Submission:** **Application** ☐ Construction ☐ Non-Construction; **Preapplication** ☐ Construction ☐ Non-Construction	3. Date Received by State	State Application Identifier
	4. Date Received by Federal Agency	Federal Identifier

5. **Applicant Information**

Legal Name	Organizational Unit
Address (give city, county, State, and zip code): matters	Name, telephone number, and facsimile number of the person to be contacted on involving this application (give area codes)

6. **Employer Identification Number (EIN):** ☐☐ — ☐☐☐☐☐☐☐

7. **Type of Applicant:** (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N Non-profit
O Public Housing Agency
P. Other (Specify):

8. **Type of Application:**

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

9. **Name of Federal Agency:**

10. **Catalog of Federal Domestic Assistance Number:** ☐☐ — ☐☐☐

Title:

11. **Descriptive Title of Applicant's Project:**

12. **Areas Affected by Project** (cities, counties, States, etc.):

13. **Proposed Project:**		14. **Congressional Districts of:**	
Start Date	Ending Date	a. Applicant	b. Project

15. **Estimated Funding:**		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. **Total**	$	.00

16. **Is Application Subject to Review by State Executive Order 12372 Process?**

a. **Yes** This preapplication/application was made available to the State Executive Order 12372 Process for review on:

Date:_____

b. **No** ☐ Program is not covered by E.O. 12372

or ☐ Program has not been selected by State for review.

17. **Is the Applicant Delinquent on Any Federal Debt?**

☐ Yes If "Yes," explain below or attach an explanation ☐ No

18. To the best of my knowledge and belief, all data in this application/preapplication are true and correct, the document has been duly authorized by the governing body of the applicant and the applicant will comply with the attached assurances if the assistance is awarded.

a. Typed Name of Authorized Representative	b. Title	c. Telephone Number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable
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form **SF-424** (4/92)
Prescribed by OMB Circular A-102

Instructions for the SF-424

Public reporting burden for this collection of information is estimated to average 45 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency.

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item Entry

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) and applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate only the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

Certification for a Drug-Free Workplace

U.S. Department of Housing and Urban Development

Applicant Name

Program/Activity Receiving Federal Grant Funding:

Acting on behalf of the above named Applicant as its Authorized Official, I make the following certifications and agreements to the Department of Housing and Urban Development (HUD) regarding the sites listed below:

I certify that the above named Applicant will or will continue to provide a drug-free workplace by:

a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the Applicant's workplace and specifying the actions that will be taken against employees for violation of such prohibition.

b. Establishing an on-going drug-free awareness program to inform employees ---

(1) The dangers of drug abuse in the workplace;

(2) The Applicant's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace.

c. Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph a.;

d. Notifying the employee in the statement required by paragraph a. that, as a condition of employment under the grant, the employee will ---

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

e. Notifying the agency in writing, within ten calendar days after receiving notice under subparagraph d.(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to every grant officer or other designee on whose grant activity the convicted employee was working, unless the Federalagency has designated a central point for the receipt of such notices. Notice shall include the identification number(s) of each affected grant;

f. Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph d.(2), with respect to any employee who is so convicted ---

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

g. Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs a. thru f.

2. Sites for Work Performance. The Applicant shall list (on separate pages) the site(s) for the performance of work done in connection with the HUD funding of the program/activity shown above: Place of Performance shall include the street address, city, county, State, and zip code. Identify each sheet with the Applicant name and address and the program/activity receiving grant funding.)

Check here ☐ if there are workplaces on file that are not identified on the attached sheets.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.
Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties.
(18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official: | Title:

Signature: | Date:

X

form **HUD-50070** (3/98)
ref. Handbooks 7417.1, 7475.13, 7485.1 & .3

Certification of Payments to Influence Federal Transactions

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

Applicant Name

Program/Activity Receiving Federal Grant Funding

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, Disclosure Form to Report Lobbying, in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Name of Authorized Official:	Title:
Signature:	Date:
X	

Previous edition is obsolete

form HUD 50071 (3/98)
ref. Handboooks 7417.1, 7475.13, 7485.1, & 7485.3

Disclosure of Lobbying Activities

Approved by OMB 0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse side for Instructions.)

Public Reporting Burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Please do not return your completed form to the Office of Management and Budget; send it to the address provided by the sponsoring agency .

1. Type of Federal Action:
- ☐ a. contract
- ☐ b. grant
- c. cooperative agreement
- d. loan
- e. loan guarantee
- f. loan insurance

2. Status of Federal Action:
- ☐ a. bid/offer/application
- ☐ b. initial award
- c. post-award

3. Report Type:
- ☐ a. initial filing
- ☐ b. material change

For Material Change Only:
year _____ quarter _____
date of last report _____

4. Name and Address of Reporting Entity:
☐ Prime ☐ Subawardee Tier _____ , if known:

Congressional District, if known:

5. If Reporting Entity in No. 4 is Subawardee, enter Name and Address of Prime:

Congressional District, if known:

6. Federal Department/Agency:

7. Federal Program Name/Description:

CFDA Number, if applicable: _____

8. Federal Action Number, if known:

9. Award Amount, if known:
$

10a. Name and Address of Lobbying Registrant
(if individual, last name, first name, MI):

b. Individuals Performing Services (including address if different from No. 10a.) (last name, first name, MI):

11. Information requested through this form is authorized by Sec.319, Pub. L. 101-121, 103 Stat. 750, as amended by sec. 10; Pub. L. 104-65, Stat. 700 (31 U.S.C. 1352). This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Signature: _____

Print Name: _____

Title: _____

Telephone No.: _____

Date: _____

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Standard Form-LLL (1/96)

Instructions for Completion of SF-LLL, Disclosure of Lobbying Activities

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or any employee of a Member of Congress in connection with a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.

5.If the organization filing the report in item 4 checks "Subawardee", then enter the full name, address, city, state and zip code of the prime Federal recipient, Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9.For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state and zip code of the registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).

11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

Applicant/Recipient Disclosure/Update Report

U.S. Department of Housing and Urban Development
Office of Ethics

OMB Approval No. 2510-0011 (exp. 3/31/98)

Instructions. (See Public Reporting Statement and Privacy Act Statement and detailed instructions on page 4.)

Part I Applicant/Recipient Information

Indicate whether this is an Initial Report ☐ **or an Update Report** ☐

1. Applicant/Recipient Name, Address, and Phone (include area code)	Social Security Number or Employer ID Number

2. Project Assisted/ to be Assisted (Project/Activity name and/or number and its location by Street address, City, and State)

3. Assistance Requested/Received	4. HUD Program	5. Amount Requested/Received
		$

Part II. Threshold Determinations -- Applicants Only

1. Are you requesting HUD assistance for a specific project or activity, as provided by 24 CFR Part 12, Subpart C, **and** have you received, or can you reasonably expect to receive, an aggregate amount of all forms of covered assistance from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted? ☐ **Yes** ☐ **No**

   If Yes, you must complete the remainder of this report.

   If No, you must sign the certification below and answer the next question.

   I hereby certify that this information is true. (Signature) _____ Date _____

2. Is this application for a specific housing project that involves other government assistance? ☐ **Yes** ☐ **No**

   If Yes, you must complete the remainder of this report.

   If No, you must sign this certification.

   I hereby certify that this information is true. (Signature) _____ Date _____

If your answers to both questions are No, you do not need to complete Parts III, IV, or V, but you must sign the certification at the end of the report.

Part III. Other Government Assistance Provided/Requested

Department/State/Local Agency Name and Address	Program	Type of Assistance	Amount Requested/Provided

Is there other government assistance that is reportable in this Part and in Part V, but that is reported only in Part V? ☐ Yes ☐ No

If there is no other government assistance, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

form **HUD-2880** (3/92)
ref. Sec 102, HRA 1989; PL. 101 - 235

Part IV. Interested Parties

Alphabetical list of all persons with a reportable financial interest in the project or activity (for individuals, give the last name first)	Social Security Number or Employee ID Number	Type of Participation in Project/Activity	Financial Interest in Project/Activity ($ and %)

If there are no persons with a reportable financial interest, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

Part V. Report on Expected Sources and Uses of Funds

Source

If there are no sources of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

Use

If there are no uses of funds, you must certify that this information is true.

I hereby certify that this information is true. (Signature) _____ Date _____

Certification

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional non-disclosure, is subject to civil money penalty not to exceed $10,000 for each violation.

I certify that this information is true and complete.

Signature	Date

form **HUD-2880** (3/92)
ref. Sec 102, HRA 1989; PL. 101 - 235

Public reporting burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless that collecton displays a valid OMB control number.

Privacy Act Statement. Except for Social Security Numbers (SSNs) and Employer Identification Numbers (EINs), the Department of Housing and Urban Development (HUD) is authorized to collect all the information required by this form under section 102 of the Department of Housing and Urban Development Reform Act of 1989, 42 U.S.C. 3531. Disclosure of SSNs and EINs is optional. The SSN or EIN is used as a unique identifier. The information you provide will enable HUD to carry out its responsibilities under Sections 102(b), (c), and (d) of the Department of Housing and Urban Development Reform Act of 1989, Pub. L. 101-235, approved December 15, 1989. These provisions will help ensure greater accountability and integrity in the provision of certain types of assistance administered by HUD. They will also help ensure that HUD assistance for a specific housing project under Section 102(d) is not more than is necessary to make the project feasible after taking account of other government assistance. HUD will make available to the public all applicant disclosure reports for five years in the case of applications for competitive assistance, and for generally three years in the case of other applications. Update reports will be made available along with the disclosure reports, but in no case for a period generally less than three years. All reports, both initial reports and update reports, will be made available in accordance with the Freedom of Information Act (5 U.S.C. §552) and HUD's implementing regulations at 24 CFR Part 15. HUD will use the information in evaluating individual assistance applications and in performing internal administrative analyses to assist in the management of specific HUD programs. The information will also be used in making the determination under Section 102(d) whether HUD assistance for a specific housing project is more than is necessary to make the project feasible after taking account of other government assistance. You must provide all the required information. Failure to provide any required information may delay the processing of your application, and may result in sanctions and penalties, including imposition of the administrative and civil money penalties specified under 24 CFR §12.34.

Note: This form only covers assistance made available by the Department. States and units of general local government that carry out responsibilities under Sections 102(b) and (c) of the Reform Act must develop their own procedures for complying with the Act.

Instructions (See Note 1 on last page.)

I. Overview. Subpart C of 24 CFR Part 12 provides for (1) **initial** reports from applicants for HUD assistance and (2) update reports from recipients of HUD assistance. An overview of these requirements follows.

A. Applicant disclosure (initial) reports: General. All applicants for assistance from HUD for a specific project or activity must make a number of disclosures, if the applicant meets a dollar threshold for the receipt of covered assistance during the fiscal year in which the application is submitted. The applicant must also make the disclosures if it requests assistance from HUD for a specific housing project that involves assistance from other governmental sources.

Applicants subject to Subpart C must make the following disclosures:

Assistance from other government sources in connection with the project,

The financial interests of persons in the project,

The sources of funds to be made available for the project, and

The uses to which the funds are to be put.

B. Update reports: General. All recipients of covered assistance must submit update reports to the Department to reflect substantial changes to the initial applicant disclosure reports.

C. Applicant disclosure reports: Specific guidance. The applicant must complete all parts of this disclosure form if **either** of the following **two** circumstances in paragraph 1. or 2., below, applies:

1.a. Nature of Assistance. The applicant submits an application for assistance for a specific project or activity (See Note 2) in which:

HUD makes assistance available to a recipient for a specific project or activity; or

HUD makes assistance available to an entity (other than a State or a unit of general local government), such as a public housing agency (PHA), for a specific project or activity, where the application is required by statute or regulation to be submitted to HUD for any purpose; **and**

b. Dollar Threshold. The applicant has received, or can reasonably expect to receive, an aggregate amount of all forms of assistance (See Note 3) from HUD, States, and units of general local government, in excess of $200,000 during the Federal fiscal year (October 1 through September 30) in which the application is submitted. (See Note 4)

2. The applicant submits an application for assistance for a specific housing project that involves other government assistance. (See Note 5) Note: There is no dollar threshold for this criterion: **any** other government assistance triggers the requirement. (See Note 6)

If the Application meets **neither** of these two criteria, the applicant need only complete Parts I and II of this report, as well as the certification at the end of the report. If the Application meets **either** of these criteria, the applicant must complete the entire report.

The applicant disclosure report must be submitted with the application for the assistance involved.

D. Update reports: Specific guidance. During the period in which an application for covered assistance is pending, or in which the assistance is being provided (as indicated in the relevant grant or other agreement), the applicant must make the following additional disclosures:

1. Any information that should have been disclosed in connection with the application, but that was omitted.

2. Any information that would have been subject to disclosure in connection with the application, but that arose at a later time, including information concerning an interested party that now meets the applicable disclosure threshold referred to in Part IV, below.

3. For changes in previously disclosed other government assistance:

For programs administered by the Assistant Secretary for Community Planning and Development, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed by $250,000 or by 10 percent of the assistance (whichever is lower).

For all other programs, any change in other government assistance that exceeds the amount of such assistance that was previously disclosed.

4. For changes in previously disclosed financial interests, any change in the amount of the financial interest of a person that exceeds the amount of the previously disclosed interests by $50,000 or by 10 percent of such interests (whichever is lower).

5. For changes in previously disclosed sources or uses of funds:

a. For programs administered by the Assistant Secretary for Community Planning and Development:

Any change in a source of funds that exceeds the amount of all previously disclosed sources of funds by $250,000 or by 10 percent of those sources (whichever is lower); and

Any change in a use of funds under paragraph (b)(1)(iii) that exceeds the amount of all previously disclosed uses of funds by $250,000 or by 10 percent of those uses (whichever is lower).

b. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a source of funds that was previously disclosed.

For all other projects, any change in a source of funds that exceeds the lower of:

The amount previously disclosed for that source of funds by $250,000, or by 10 percent of the amount previously disclosed for that source, whichever is lower; or

The amount previously disclosed for all sources of funds by $250,000, or by 10 percent of the amount previously disclosed for all sources of funds, whichever is lower.

c. For all programs, other than those administered by the Assistant Secretary for Community Planning and Development:

For projects receiving a tax credit under Federal, State, or local law, any change in a use of funds that was previously disclosed.

For all other projects, any change in a use of funds that exceeds the lower of:

The amount previously disclosed for that use of funds by $250,000, or by 10 percent of the amount previously disclosed for that use, whichever is lower; or

The amount previously disclosed for all uses of funds by $250,000, or by 10 percent of the amount previously disclosed for all uses of funds, whichever is lower.

Note: Update reports must be submitted within 30 days of the change requiring the update. The requirement to provide update reports only applies if the application for the underlying assistance was submitted on or after the effective date of Subpart C.

II. Line-by-Line Instructions.

A. Part I. Applicant/Recipient Information.

All applicants for HUD assistance specified in Section I.C.1.a., above, as well as all recipients required to submit an update report under Section I.D., above, must complete the information required by Part I. The applicant/recipient must indicate whether the disclosure is an initial or an update report. Line-by-line guidance for Part I follows:

1. Enter the full name, address, city, State, zip code, and telephone number (including area code) of the applicant/recipient. Where the applicant/recipient is an individual, the last name, first name, and middle initial must be entered. Entry of the applicant/recipient's SSN or EIN, as appropriate, is optional.

2. Applicants enter the name and full address of the project or activity for which the HUD assistance is sought. Recipients enter the name and full address of the HUD-assisted project or activity to which the update report relates. The most appropriate government identifying number must be used (e.g., RFP No.; IFB No.; grant announcement No.; or contract, grant, or loan No.) Include prefixes.

3. Applicants describe the HUD assistance referred to in Section I.C.1.a. that is being requested. Recipients describe the HUD assistance to which the update report relates.

4. Applicants enter the HUD program name under which the assistance is being requested. Recipients enter the HUD program name under which the assistance, that relates to the update report, was provided.

5. Applicants enter the amount of HUD assistance that is being requested. Recipients enter the amount of HUD assistance that has been provided and to which the update report relates. The amounts are those stated in the application or award documentation. NOTE: In the case of assistance that is provided pursuant to contract over a period of time (such as project-based assistance under section 8 of the United States Housing Act of 1937), the amount of assistance to be reported includes all amounts that are to be provided over the term of the contract, irrespective of when they are to be received.

Note: In the case of Mortgage Insurance under 24 CFR Subtitle B, Chapter II, the mortgagor is responsible for making the applicant disclosures, and the mortgagee is responsible for furnishing the mortgagor's disclosures to the Department. Update reports must be submitted directly to HUD by the mortgagor.

Note: In the case of the Project-Based Certificate program under 24 CFR Part 882, Subpart G, the owner is responsible for making the applicant disclosures, and the PHA is responsible for furnishing the owner's disclosures to HUD. Update reports must be submitted through the PHA by the owner.

B. Part II. Threshold Determinations — Applicants Only

Part II contains information to help the applicant determine whether the remainder of the form must be completed. **Recipients filing Update Reports should not complete this Part.**

1. The first question asks whether the applicant meets the Nature of Assistance and Dollar Threshold requirements set forth in Section I.C.1. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct, and to complete the next question.

2. The second question asks whether the application is for a specific housing project that involves other government assistance, as described in Section I.C.2. above.

If the answer is Yes, the applicant must complete the remainder of the form. If the answer is No, the form asks the applicant to certify that its response is correct.

If the answer to both questions1 and 2 is No, the applicant need not complete Parts III, IV, or V of the report, but must sign the certification at the end of the form.

C. Part III. Other Government Assistance.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports. Applicants must report any other government assistance involved in the project or activity for which assistance is sought. Recipients must report any other government assistance involved in the project or activity, to the extent required under Section I.D.1., 2., or 3., above.

Other government assistance is defined in note 5 on the last page. For purposes of this definition, other government assistance is expected to be made available if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the assistance will be forthcoming.

Both applicant and recipient disclosures must include all other government assistance involved with the HUD assistance, as well as any other government assistance that was made available before the request, but that has continuing vitality at the time of the request. Examples of this latter category include tax credits that provide for a number of years of tax benefits, and grant assistance that continues to benefit the project at the time of the assistance request.

The following information must be provided:

1. Enter the name and address, city, State, and zip code of the government agency making the assistance available. Include at least one organizational level below the agency name. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

2. Enter the program name and any relevant identifying numbers, or other means of identification, for the other government assistance.

3. State the type of other government assistance (e.g., loan, grant, loan insurance).

4. Enter the dollar amount of the other government assistance that is, or is expected to be, made available with respect to the project or activities for which the HUD assistance is sought (applicants) or has been provided (recipients).

If the applicant has no other government assistance to disclose, it must certify that this assertion is correct.

To avoid duplication, if there is other government assistance under this Part and Part V, the applicant/recipient should check the appropriate box in this Part and list the information in Part V, clearly designating which sources are other government assistance.

D. Part IV. Interested Parties.

This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

Applicants must provide information on:

(1) All developers, contractors, or consultants involved in the application for the assistance or in the planning, development, or implementation of the project or activity and

(2) any other person who has a financial interest in the project or activity for which the assistance is sought that exceeds $50,000 or 10 percent of the assistance (whichever is lower).

Recipients must make the additional disclosures refferred to in Section I.D.1.,2., or 4, above.

Note: A financial interest means any financial involvement in the project or activity, including (but not limited to) situations in which an individual or entity has an equity interest in the project or activity, shares in any profit on resale or any distribution of surplus cash or other assets of the project or activity, or receives compensation for any goods or services provided in connection with the project or activity. Residency of an individual in housing for which assistance is being sought is not, by itself, considered a covered financial interest.

The information required below must be provided.

1. Enter the full names and addresses of all persons referred to in paragraph (1) or (2) of this Part. If the person is an entity, the listing must include the full name of each officer, director, and principal stockholder of the entity. All names must be listed alphabetically, and the names of individuals must be shown with their last names first.

2. Entry of the Social Security Number (SSN) or Employee Identification Number (EIN), as appropriate, for each person listed is optional.

3. Enter the type of participation in the project or activity for each person listed: i.e., the person's specific role in the project (e.g., contractor, consultant, planner, investor).

4. Enter the financial interest in the project or activity for each person listed. The interest must be expressed both as a dollar amount and as a percentage of the amount of the HUD assistance involved.

If the applicant has no persons with financial interests to disclose, it must certify that this assertion is correct.

5. Part V. Report on Sources and Uses of Funds. This Part is to be completed by both applicants filing applicant disclosure reports and recipients filing update reports.

The applicant disclosure report must specify all expected sources of funds — both from HUD and from any other source — that have been, or are to be, made available for the project or activity. Non-HUD sources of funds typically include (but are not limited to) other government assistance referred to in Part III, equity, and amounts from foundations and private contributions. The report must also specify all expected uses to which funds are to be put. All sources and uses of funds must be listed, if, based on an assessment of all the circumstances involved, there are reasonable grounds to anticipate that the source or use will be forthcoming.

Note that if any of the source/use information required by this report has been provided elsewhere in this application package, the applicant need not repeat the information, but need only refer to the form and location to incorporate it into this report. (It is likely that some of the information required by this report has been provided on SF 424A, and on various budget forms accompanying the application.) If this report requires information beyond that provided elsewhere in the application package, the applicant must include in this report all the additional information required.

Recipients must submit an update report for any change in previously disclosed sources and uses of funds as provided in Section I.D.5., above.

General Instructions — sources of funds

Each reportable source of funds must indicate:

a. The name and address, city, State, and zip code of the individual or entity making the assistance available. At least one organizational level below the agency name should be included. For example, U.S. Department of Transportation, U.S. Coast Guard; Department of Safety, Highway Patrol.

b. The program name and any relevant identifying numbers, or other means of identification, for the assistance.

c. The type of assistance (e.g., loan, grant, loan insurance).

Specific instructions — sources of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each source of funds must indicate the total amount of approved, and received; and must be listed in descending order according to the amount indicated.

(2) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each source of funds must indicate the total amount of funds involved, and must be listed in descending order according to the amount indicated.

(3) If Tax Credits are involved, the report must indicate all syndication proceeds and equity involved.

General instructions—uses of funds.

Each reportable use of funds must clearly identify the purpose to which they are to be put. Reasonable aggregations may be used, such as "total structure" to include a number of structural costs, such as roof, evevators, exterior masonry, etc.

Specific instructions -- uses of funds.

(1) For programs administered by the Assistant Secretaries for Fair Housing and Equal Opportunity and Policy Development and Research, each use of funds must indicate the total amount of funds involved; must be broken down by amount committed, budgeted, and planned; and must be listed in descending order according to the amount indicated.

(ii) For programs administered by the Assistant Secretaries for Housing-Federal Housing Commissioner, Community Planning and Development, and Public and Indian Housing, each use of funds must indicate the total amount of funds involved and must be listed in descending order according to the amount involved.

(iii) If any program administered by the Assistant Secretary for Housing-Federal Housing Commissioner is involved, the report must indicate all uses paid from HUD sources and other sources, including syndication proceeds. Uses paid should include the following amounts.

AMPO
Architect's fee — design
Architect's fee — supervision
Bond premium
Builder's general overhead
Builder's profit
Construction interest
Consultant fee
Contingency Reserve
Cost certification audit fee
FHA examination fee
FHA inspection fee
FHA MIP
Financing fee
FNMA / GNMA fee
General requirements
Insurance
Legal — construction
Legal — organization
Other fees
Purchase price
Supplemental management fund
Taxes
Title and recording
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve
Total land improvement
Total structures

Uses paid from syndication must include the following amounts:

Additional acquisition price and expenses
Bridge loan interest
Development fee
Operating deficit reserve
Resident initiative fund
Syndication expenses
Working capital reserve

Footnotes:

1. All citations are to 24 CFR Part 12, which was published in the Federal Register on March 14, 1991 at 56 Fed. Reg. 11032.
2. A list of the covered assistance programs can be found at 24 CFR §12.30, or in the rules or administrative instructions governing the program involved. Note: The list of covered programs will be updated perodically.
3. Assistance means any contract, grant, loan, cooperative agreement, or other form of assistance, including the insurance or guarantee of a loan or mortgage, that is provided with respect to a specific project or activity under a program administered by the Department. The term does not include contracts, such as procurements contracts, that are subject to the Federal Acquisition Regulation (FAR) (48 CFR Chapter 1).
4. See 24 CFR §§12.32 (a)(2) and (3) for detailed guidance on how the threshold is calculated.
5. "Other government assistance" is defined to include any loan, grant, guarantee, insurance, payment, rebate, subsidy, credit, tax benefit, or any other form of direct or indirect assistance from the Federal government (other than that requested from HUD in the application), a State, or a unit of general local government, or any agency or instrumentality thereof, that is, or is expected to be made, available with respect to the project or activities for which the assistance is sought.
6. For further guidance on this criterion, and for a list of covered programs, see 24 CFR §12.50.
7. For purposes of Part 12, a person means an individual (including a consultant, lobbyist, or lawyer); corporation; company; association; authority; firm; partnership; society; State, unit of general local government, or other government entity, or agency thereof (including a public housing agency); Indian tribe; and any other organization or group of people.

Applicant Nondiscrimination Certifications

As the duly authorized representative of the applicant, I certify that the applicant:

1. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to:

   a) Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and regulations pursuant thereto (24 CFR Part 1), which prohibit discrimination on the basis of race, color or national origin;
   b) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), and implementing regulations at 24 CFR Part 8, which prohibit discrimination on the basis of handicap;
   c) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101-6107), and implementing regulations at 24 CFR Part 146, which prohibit discrimination on the basis of age; and,
   d) the requirements of any other nondiscrimination statute(s) which may apply to the application.

2. Will comply with the Fair Housing Act of (42 U.S.C. 3601-19), as amended, and with implementing regulations at 24 CFR Part 100 et seq., which prohibit discrimination in housing on the basis of race, color, religion, sex, handicap, familial status or national origin, and administer its programs and activities relating to housing in a manner to affirmatively further fair housing.

3. Will comply with Section 109 of the Housing and Community Development Act of 1974, as amended, (42 U.S.C. 5301-5322), which states that no person shall on the ground of race, color, national origin, religion, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Signature of Authorized Certifying Official: X	Applicant:
Title:	Date:

Certification Regarding Debarment and Suspension

U.S. Department of Housing and Urban Development

Certification A: Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

1. The prospective primary participant certifies to the best of its knowledge and belief that its principals;

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal debarment or agency;

b. Have not within a three-year period preceding this proposal, been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (A)

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

3. The certification in this clause is a material representation of fact upon which reliance was place when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of these regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines this eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph (6) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.

Certification B: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Instructions for Certification (B)

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms **covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded**, as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of these regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph (5) of these instructions, if a participant in a lower covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies including suspension and/or debarment.

Applicant		Date
Signature of Authorized Certifying Official	Title	

Acknowledgment of Application Receipt

U.S. Department of Housing and Urban Development

Type or clearly print the Applicant's name and full address in the space below.

(fold line)

Type or clearly print the following information:

Name of the Federal Program to which the applicant is applying: _____

To Be Completed by HUD

☐ HUD received your application by the deadline and will consider it for funding. In accordance with Section 103 of the Department of Housing and Urban Development Reform Act of 1989, no information will be released by HUD regarding the relative standing of any applicant until funding announcements are made. However, you may be contacted by HUD after initial screening to permit you to correct certain application deficiencies.

☐ HUD did not receive your application by the deadline; therefore, your application will not receive further consideration. Your application is:

- ☐ Enclosed
- ☐ Being sent under separate cover

Processor's Name _____

Date of Receipt _____

Page no: ☐

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