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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.

FEDERAL LABOR RELATIONS AUTHORITY

5 CFR Part 2430

Amendment of Equal Access to Justice Act Attorney Fees Regulations

AGENCY: Federal Labor Relations Authority.

ACTION: Final rule.

SUMMARY: The Federal Labor Relations Authority (FLRA) amends its regulations implementing the Equal Access to Justice Act (EAJA) to conform to and carry out the intent of the March 29, 1996 amendments to the EAJA. Specifically, as provided in the EAJA's amendments, the amended regulation will permit recovery, in conjunction with adversary adjudications commenced on or after March 29, 1996, of attorney fees not to exceed $125.00 per hour.

EFFECTIVE DATE: June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Peter Constantine, Office of Case Control, Federal Labor Relations Authority, 607 14th Street, NW, Room 415, Washington, DC 20424–0001, or by telephone at (202) 482–6540.

SUPPLEMENTARY INFORMATION: The FLRA amends its regulation pertaining to the maximum per hour rate for attorney fees under the EAJA, 5 U.S.C. 504(b)(1)(A) (1994 & Supp. III 1997), in conformance with the amendments to the EAJA adopted as part of the Contract with America Advancement Act of 1996, Public Law 104–121, 110 Stat. 847.

In conjunction with adversary adjudications commenced on or after March 29, 1996, the EAJA's amendments permit recovery of attorney fees not to exceed $125.00 per hour. The FLRA's revised regulation, as set forth below, simply incorporates this change to the EAJA and makes the change applicable to FLRA proceedings. Because this amendment to the FLRA's regulation merely reiterates the specific terms of the EAJA's amendment in this regard, this regulatory action comes within the ''good cause'' exemptions of the Administrative Procedure Act, 5 U.S.C. 553(b)(B) and 553(d). As a result, the notice and comment and effective date provisions of the Administrative Procedure Act are inapplicable.

This action was announced by the FLRA in 55 FLRA No. 72 (Apr. 30, 1999). That decision also noted that the FLRA would engage in rulemaking to consider appropriate criteria for increasing the maximum rate based on cost of living and other special factors. The Authority will subsequently promulgate the proposed rule and provide an opportunity for comment.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), the FLRA has determined that this regulation, as amended, will not have a significant economic impact on a substantial number of small entities. The amendment is procedural in nature and is required to implement amendments to the EAJA.

Unfunded Mandates Reform Act of 1995

This rule change will not result in the expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This action is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

Paperwork Reduction Act of 1995

The amended regulation contains no additional information collection or record keeping requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, et seq.

List of Subjects in 5 CFR Part 2430

Administrative practice and procedure, Government employees, Labor-management relations.

For the reasons stated in the preamble, the FLRA amends 5 CFR part 2430 as follows:

PART 2430—AWARDS OF ATTORNEY FEES AND OTHER EXPENSES

1. The authority citation for part 2430 is revised to read as follows:

Authority: 5 U.S.C. 504(c)(1).

2. Amend § 2430.4(a) by revising the first sentence to read as follows:

§ 2430.4 Allowable Fees and Expenses.

(a) No award for the fee of an attorney or agent under these rules may exceed $125.00 per hour, or for adversary adjudications commenced prior to March 29, 1996, $75.00 per hour. * * *

Dated: June 4, 1999.

Solly Thomas,

Executive Director.

[FR Doc. 99–14598 Filed 6–8–99; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 37

[Docket Number LS–99–04]

RIN 0581–AB58

Program to Assess Organic Certifying Agencies

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule establishes a voluntary, fee-for-service program, under the Agricultural Marketing Agreement Act of 1946, to verify that State and private organic certifying agencies comply with the requirements prescribed under the International Organization for Standardization/

International Electrotechnical Commission Guide 65 ''General Requirements for Agencies Operating Product Certification Systems'' (ISO Guide 65). Assessments are to be conducted by the Livestock and Seed Program of the Agricultural Marketing Service (AMS).

This assessment program is established to enable organic certifying agencies to comply with European Union (EU) requirements beginning on June 30, 1999. This assessment program will verify that State and private organic certifying agencies are operating third-party certification systems in a consistent and reliable manner thereby, facilitating uninterrupted exports of U.S. organic agricultural commodities to the EU. This action also establishes fees for the services provided and announces that AMS has obtained, on an emergency basis, approval from the Office of Management and Budget (OMB) of the information collection requirements contained in this rule.

DATES: This rule is effective June 10, 1999. Comments must be received by August 9, 1999. The incorporation by reference of the International Organization for Standardization/ International Electrotechnical Commission Guide 65, ''General Requirements for Agencies Operating Product Certification Systems'', Ref. No. ISO/IEC Guide 65:1996, listed in this rule is approved by the Director of the Federal Register as of June 10, 1999.

ADDRESSES: Interested persons are invited to submit written comments concerning this interim final rule. Comments must be sent to Larry R. Meadows, Chief, Meat Grading and Certification Branch, Livestock and Seed Program, AMS, USDA, STOP 0248, 1400 Independence Avenue, SW.; Washington, D.C. 20250–0248. Comments also may be sent by fax to (202) 690–4119. Additionally, comments may be sent via E-mail to larry.meadows@usda.gov. Comments should make reference to the date and page number of this issue of the **Federal Register** and they will be made available for public inspection in the above office during regular business hours.

Pursuant to the Paperwork Reduction Act of 1995 (PRA), also send comments regarding the merits of the burden estimate, ways to minimize the burden, including through the use of automated collection techniques or other forms of information technology, or any other aspect of this collection of information, to the above address. Comments concerning the information collection and recordkeeping under the PRA should also be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Larry R. Meadows, Chief, Meat Grading and Certification (MGC) Branch, (202) 720–1246.

SUPPLEMENTARY INFORMATION:

Background and Discussion

This action establishes a voluntary, user-fee funded program under which AMS would assess State and private agencies in the United States that meet the requirements of ISO Guide 65, which has been incorporated in this rule by reference. This assessment will facilitate uninterrupted imports of U.S. organic products to countries in the EU by enabling organic certifying agencies to comply with EU requirements beginning on June 30, 1999.

This program does not provide for national standards governing the marketing of agricultural commodities or products as organically produced and therefore differs substantially from the proposed National Organic Program (NOP) under the Organic Foods Production Act of 1990. The 1990 Act requires the establishment of national standards governing the marketing of certain agricultural products as organically produced. A proposed rule concerning the NOP was published in the **Federal Register** at 63 FR 65850 on December 16, 1997. The Department is currently drafting a revised proposed rule for publication in the **Federal Register**.

This program is established under the Agricultural Marketing Act of 1946 and provides only for the voluntary assessment of State and private certifying agencies to verify compliance with the requirements of ISO Guide 65. To be assessed under this program, an organic certifying agency would submit an application requesting such assessment from AMS and also submit to AMS for review and evaluation, a manual documenting the organic certifying agency's quality system and associated quality certification procedures used to certify organic producers and handlers of organically produced agricultural commodities (including those involved with wild crop harvesting) in accordance with applicable industry standards.

According to the most complete data available to AMS, there are 11 State and 33 private organic certifying agencies currently providing organic certification for agricultural commodities in the United States. These certifying agencies provide service to approximately 4,000 organic producers and 600 handlers of agricultural commodities in the United States. ISO Guide 65 assessment will ensure that State and private organic certifying agencies operating third-party certification systems are doing so in a consistent and reliable manner; thereby, facilitating their acceptance on an international basis. Assessing organic certifying agencies under ISO Guide 65 would enable U.S. organic producers and handlers of U.S. organically produced agriculture commodities to continue to export to the EU.

In crafting the provisions of a service program to assess State and private organic certifying agencies, we have turned to the comprehensive scheme that appears in ISO Guide 65 and incorporated by reference its provisions in this rule. The ISO, itself, is based in Geneva, Switzerland, and coordinates development and maintenance of numerous international consensus standards and guidelines frequently referenced in trade and international agreements.

As noted in ISO Guide 65, the guide provides for the general requirements that a certifying agency would be required to meet so that the certifying agency is recognized as competent and reliable. ISO Guide 65 includes provisions that address a certification agency's organization and structure; operations; subcontracting; quality system and documentation of that system; conditions and requirements regarding certification; internal audits and management reviews; documentation and records; and confidentiality. Provisions of ISO Guide 65 also include requirements for personnel and their qualifications; the procedures to be followed by a certification agency in providing certifications, including evaluations; and decisions on certification and surveillance.

Because this action establishes a voluntary, user-fee service based upon and similar to the Quality Systems Certification Program (QSCP) established pursuant to 7 CFR Part 54, this program would be administered by the AMS, Livestock and Seed (LS) Program, Meat Grading and Certification (MGC) Branch. The QSCP is an audit-based program administered by AMS which provides meatpackers, processors, producers, and other businesses in the livestock and meat trade with the opportunity to have special processes or documented quality management systems verified. The services provided for in this rule would utilize experienced QSCP auditors to assess organic certifying agencies to ISO Guide 65. AMS has developed, tested,

and implemented QSCP procedures to verify quality systems and this knowledge and experience is readily adaptable to reviewing and assessing quality systems of organic certifying agencies pursuant to the requirements of ISO Guide 65.

Interested State or private organic certifying agencies can apply to be assessed under ISO Guide 65 by completing Form LS–314, Application for Service and submitting the completed and signed Form LS–314 to the address listed on the form. Upon approval of a request for service, an applicant would be required to submit a copy of its quality manual used for conducting certification.

AMS auditors would review the quality manual for conformance with requirements set forth in ISO Guide 65. Upon AMS approval of the quality manual, AMS auditors would schedule and conduct an onsite audit of the certifying agency's operation which would include confirmation that the provisions of the quality manual have been implemented and that the applicant complies with the requirements of ISO Guide 65. Upon verification by AMS of the organic certifying agency's compliance with ISO Guide 65 requirements, AMS would issue a certificate of compliance.

Those organic certifying agencies determined to not meet applicable assessment program requirements would be provided with a written summary of observed program deficiencies. These organic certifying agencies would have the opportunity to implement the required corrective actions needed to receive a certificate of compliance or appeal the determination to the LS Program Deputy Administrator. Once corrective action has been taken, the organic certifying agency may contact the MGC Branch to schedule another audit for assessment.

Each assessed organic certifying agency would be provided official documentation of their compliance with ISO Guide 65 in the form of a certificate of compliance. The names of assessed certifying agencies would be posted for public reference on the LS Program's website at: http://www.ams.usda.gov/lsg/. AMS would conduct periodic reassessment audits to ensure continued compliance with all applicable program requirements.

This section establishes and adds a new Part 37 to Title 7 of the Code of Federal Regulations. In addition to fees, those provisions and procedures that would be the same or similar to the provisions of Part 54 are included in this rule in order to provide a complete voluntary service program under the Agricultural Marketing Act of 1946. Accordingly, the regulations include provisions for appropriate definitions; description of services; the incorporation by reference of the requirements of ISO Guide 65; how to apply for service; when an application may be withdrawn; access to establishments and records; reassessment of approved certification programs; suspension or denial of program assessment; appeals and termination.

Under the Agricultural Marketing Act of 1946, AMS is required to collect hourly fees for providing official services under 7 CFR Part 54, including services provided under the QSCP, to cover as nearly as practicable AMS costs for performing the service including related administrative and supervisory costs. Since the procedures used for assessing State and private organic certifying agencies are similar as those used to certify other types of product or system certification programs under the QSCP, AMS has decided to charge the same hourly fees for assessing organic certifying agencies as are charged for services currently provided under QSCP. QSCP services are based on the hourly rate for applicants who request services on an hourly or daily basis and appear at 7 CFR Part 54 as published in the **Federal Register** at 63 FR 32965 on July 17, 1998. The current base hourly rate for such service is $42.20 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays. The premium hourly rate for all applicants is $47.80 per hour charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for the hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants is $79.60 per hour charged to users of the service for all hours worked on legal holidays. Travel costs, per diem costs, and other administrative costs are in addition to the hourly charges. The estimated average total cost for assessment would be approximately $2,000 plus associated travel expenses. These fees are currently under review and any changes deemed necessary will be subject to a separate rulemaking action.

Executive Order 12866

This rule has been determined to be significant for purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. The EU regulatory framework permits assessment to ISO Guide 65 by competent government authorities or by internationally recognized private accreditation agencies such as European Accreditation or the American National Standards Institute. National governments are recognized as competent authorities and in matters pertaining to agriculture USDA is the competent authority for the United States. At this time, USDA believes there are no domestic private official accreditation agencies which perform ISO Guide 65 assessments for agriculture-related third party certification programs. Thus, pending implementation of this rule there is no domestic supply of ISO Guide 65 assessments for organic certifiers.

A U.S. certification agency may obtain assessment to ISO Guide 65 from a private entity sanctioned by a government agency within a individual EU member state. This approach allows products to be imported only into the EU Member State that provides oversight to the private entity. This approach would potentially require each certifier to negotiate 15 separate agreements, one for each member state. Therefore, country-by-country recognition is inefficient. ISO Guide 65 assessments conferred by the competent authority of a third country, USDA for the United States, would be more efficient because under the EU regulatory framework such assessments would be recognized by all EU Member States, enabling direct trade with all 15 Member States.

Alternatively, USDA could establish through rulemaking a process to approve private parties who could then perform ISO Guide 65 assessments acceptable to the EU at large. However, given the small universe of potential clients—11 State programs and 33 private certifying agencies—it is unlikely that economic returns would be sufficient for a competitive system to develop. Also, establishing a program to approve a private party to perform conformity assessments to ISO Guide 65, would take more time than is available before the announced EU deadline for such assessments, and does not ensure these services are available.

This regulatory action directly affects organic certifying agencies and indirectly affects producers and handlers of organic goods. The rule provides a mechanism for certifying agencies to be assessed for conformance to ISO Guide 65 guidelines. The benefit of the assessment to the certifiers is their clients will satisfy the EU requirement that producers and handlers of organic goods exported to

the EU must be operating under a certifying agency that conforms to ISO Guide 65. Certifying agencies will choose to be assessed against ISO Guide 65 if they perceive that it will benefit their clients and if the certifying agency expects to be able to recover the costs of an ISO Guide 65 assessment. This is the case where their clients are or may anticipate exporting to the EU, or the certifier hopes to attract new clients that wish to export to the EU.

Organic producers and handlers in the United States will demand that their certifying agency undertake an ISO Guide 65 assessment if it benefits them. The benefit to organic producers and handlers derives from access to the EU market for organic goods. It is difficult to quantify the value of access to the European market because suitable statistics on organic goods exported to Europe are not available. U.S. exports of organic goods are estimated at a retail value of $300 million. It is not known what share of these exports go to the EU.

The immediate benefit of this rule is that it maintains the access that the U.S. organic industry has to the European market. Without the rule, U.S. producers and handlers would incur economic loses resulting from the sale of their organic goods in less remunerative markets.

If EU markets were no longer available, organic goods would be marketed in the domestic organic market or in other foreign organic markets. This would preserve part of the price premium for organic goods. Returns would fall as product is shifted into other markets, first because producers were presumably selling into their most profitable markets and secondly because increased supplies to other markets will depress prices. Another marketing alternative is to sell organic goods in the conventional market. Unlike organic markets which are relatively thin, little price impact would be expected from shifts to conventional markets. In the longer run, U.S. organic production could decline if producers perceived that the European market were lost.

The difference in net returns between sales to the EU organic market and sales to the conventional market is the maximum loss to the organic industry. There is insufficient data to estimate this difference. Data on the volumes of particular organic goods exported, their value as organic goods in Europe, and their value if sold into conventional markets would be needed. However, it is possible to illustrate the difference in net returns.

Retail price premiums for organic products vary by commodity, region, and season. Case studies suggest a range of premiums from 5 percent to over 200 percent.[1] In the following illustration, a 100 percent premium is assumed. The impact on organic products from shifting sales to the conventional market cannot be directly computed by applying the lost premium to the retail value. The aggregate loss to producers is much smaller because the farm share of value of retail sales is only a fraction of the retail value. In aggregate, the farm share of retail value is about 22 percent, but this could be different for organic goods.[2] The farm share is slightly smaller—18 to 20 percent—for fresh fruits and vegetables which are important organic commodities and much smaller, around 5 percent for highly processed goods like breads and cereals. The highest farm shares are for eggs and meats which can run from 30 to almost 60 percent. Thus, shifting the sales of organic goods from markets where they are valued at $1 million retail to conventional markets would involve a decrease in revenues to organic producers of about $110,000 (a decrease from $220,000 to $110,000). This assumes the average 22 percent farm share of value and an organic price premium of 100 percent that carries through from retail to farm.

Handlers and processors between the producer and retailer would also see lower revenues from shifting sales to conventional markets. However, it is difficult to describe quantitative relationships for intermediary handlers because they engage in a wide range of activities including substantial processing of some commodities.

Certifying agencies that choose to be assessed with regard to ISO Guide 65 will face the direct cost of fees for the assessment service and any ancillary costs to bring their business practices into conformity. Ancillary costs might include costs to create or modify business records and policy documents so that they meet ISO Guide 65 standards. AMS has already provided training regarding ISO Guide 65 to interested organic certifiers and believes industry participants are already in or very nearly in conformity with ISO Guide 65. Thus, ancillary costs are expected to be minor. The cost of providing and obtaining information for AMS review is $590 per certifying agency and discussed in detail under the Paperwork Reduction Act.

Some State organic certifying agencies which subsidize activities associated with providing organic certification services may not pass assessment costs on to users of their organic certification. Likewise, some of the larger organic certifying agencies may absorb the assessment costs because they are able to spread their fixed costs over a larger number of clients. However, given that there are approximately 4,000 organic farmers and 600 handlers in the United States, the Agency anticipates that any increase in fee rates based solely on recovering assessment costs would be minimal.

This rule is not intended to have any effect on consumers. The costs to certifying agencies for ISO Guide 65 assessment would be passed on to their clients. Organic producers and handlers could pass some of these costs on to consumers depending on the elasticity of demand and supply.

Regulatory Flexibility Act

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), AMS has considered the economic impact of this rule on small entities. The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such action so that small businesses will not be disproportionally burdened. Accordingly, we also have prepared an initial regulatory flexibility analysis.

This action establishes, under the authority of the Agricultural Marketing Act of 1946, a voluntary, user-fee funded program under which the AMS would accredit State and private organic certifying agencies in the United States that meet the requirements of ISO Guide 65, which has been incorporated in this rule by reference. This assessment will facilitate uninterrupted imports of U.S. organic products to countries in the EU by enabling organic certifying agencies to comply with EU requirements beginning on June 30, 1999.

To be assessed, an organic certifying agency would submit an application requesting such assessment from AMS and also submit to AMS for review and evaluation, a manual documenting the organic certifying agency's quality system and associated quality certification procedures used to certify organic farms and handlers of organically produced agricultural commodities (including those involved in wild crop harvesting).

[1] Harris J. Michael, ''Consumers Pay a Premium for Organic Baby Foods,'' Food Review, USDA, Economic Research Service, May–August 1997.

Glazer, Lewrene, et al, ''Demand for Frozen Vegetables: A Comparison of Organic and Conventional Products,'' Vegetables and Specialities, VGS–276, USDA, Economic Research Service, Nov. 1998.

Dobbs, Thomas L. ''Price Premiums for Organic Crops,'' Choices, American Agricultural Economics Association, Second Quarter, 1998.

[2] U.S. Department of Agriculture. Agricultural Outlook, Economic Research Service. Table 8, page 37, May 1998.

According to the Standard Industrial Classifications (SIC) (13 CRF Part 121) which are used by the Small Business Administration (SBA) to identify small businesses, nearly all of the entities affected by this proposed regulation would be considered small businesses. According to the SIC, a small business in the agricultural services sector, such as organic certifying agencies, includes firms with revenues of less than $3.5 million (SIC Division A Major Group 07).

According to the most complete data available to AMS, there are 11 State and 33 private organic certifying agencies currently providing organic certification services in the United States. While they vary in size, they all have fewer than 499 employees and earn annual revenues of less than $3.5 million. These agencies certify approximately 4,000 farmers and 600 handlers in the United States. In crop production, the SIC definition of a small business includes all farms with annual crop sales of under $500,000 (SIC 0111–0191). Most of the farms currently certified have less than $25,000 in gross sales of organic production. However, many farms combine organic and conventional production on the same operation, some with total sales that may exceed $500,000. In handling operations, the SIC defines a small business as having fewer than 500 employees (SIC Division D. Mayor Group 20). In the absence of definitive data on organic handling operations, AMS believes that no handling operation employs more than 499 employees.

Except for an application form, no new forms will be required in connection with requests for assessment service or the assessment audit, review and approval process. Although, ISO Guide 65 requires that certifiers maintain a variety of records and documents, AMS believes many of these records and documents are already being prepared and maintained as a standard operating practice necessary for organic certifying agencies to support certification of organic farms and handling operations. However, it is possible that organic certifiers may need to refine their recordkeeping process and improve their documentation. We estimate that the cost of providing and obtaining the information required in this rule to assess State and private organic certifying agencies is $590 per certifying agency. The paperwork burden that may be imposed on organic certifying agencies is further discussed in the section entitled Paperwork Reduction Act that follows.

In addition, we have not identified any relevant Federal rules that are currently in effect that duplicate, overlap, or conflict with this rule.

Interested State or private organic certifying agencies would be able to apply for assessment under ISO Guide 65 in accordance with the provisions of this rule. Accordingly, this rulemaking action establishes and adds a new Part 37 to Title 7 of the Code of Federal Regulations. In addition to fees, those provisions and procedures that are the same or similar to the provisions of Part 54 are included in this rule in order to provide a complete voluntary service program under the Agricultural Marketing Act of 1946. The regulations include provisions for appropriate definitions; description of services; the incorporation by reference of the requirements of ISO Guide 65; how to apply for service; when an application may be withdrawn; access to establishments and records; reassessment of approved certification programs; suspension or denial of program assessment; appeals and termination.

Under the Agricultural Marketing Act of 1946, AMS is required to collect hourly fees for providing official services under 7 CFR Part 54, including services provided under the QSCP, to cover as nearly as practicable AMS costs for performing the service including related administrative and supervisory costs. Since the procedures used for assessing State and private organic certifying agencies are similar as those used to certify other types of product or system certification programs under the QSCP, AMS has decided to charge the same hourly fees for assessing organic certifying agencies as are charged for services currently provided under QSCP. QSCP services are based on the hourly rate for applicants who request services on an hourly or daily basis and appear at 7 CFR Part 54 as published in the **Federal Register** at 63 FR 32965 on July 17, 1998. The current base hourly rate for such service is $42.20 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays. The premium hourly rate for all applicants is $47.80 per hour charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for the hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants is $79.60 per hour charged to users of the service for all hours worked on legal holidays. Travel costs, per diem costs, and other administrative costs are in addition to the hourly charges.

AMS estimates that the average assessment service would cost $2,000 plus travel costs for the required documentation review and onsite audit required for verifying compliance with ISO Guide 65. These fees are currently under review and any charges deemed necessary will be subject to a separate rulemaking action.

Further, in assessing alternatives to the scheme provided for in Part 37, we believe that the provisions contained in the rule would best accomplish its purpose of this rule and at the same time minimize any burden that might be placed upon affected parties. Nonetheless, we invite comments concerning the potential effects of this rule on affected parties, including more information on the benefits or burdens that small entities may incur as a result of implementation of this rule.

Executive Order 12988 and 12898

This rule has been reviewed under Executive Order 12988, Civil Justice Reform and is not intended to have retroactive effect. This rule would not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule.

Pursuant to Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations,'' AMS has considered the potential civil rights implications of this rule on minorities, women, or persons with disabilities to ensure that no person or group shall be discriminated against on the basis of race, color, sex, national origin, religion, age, disability, or marital or familia status. This included those persons who are employees, program beneficiaries, or applicants for employment or program benefits in this voluntary program to assess organic certifying agencies. This rule does not require certifying agencies to relocate or alter their operations in ways that could adversely affect such persons or groups. Nor would it exclude any persons or groups from participation in the voluntary assessment program, deny any persons or groups the benefits of the assessment program, or subject any persons or groups to discrimination.

Paperwork Reduction Act

This interim final rule contains recordkeeping and submission

requirements that are subject to public comment and to review by the Office of Management and Budget under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. Chapter 35). In accordance with 5 CFR Part 1320, we included the description of the reporting and recordkeeping requirements and an estimate of the annual burden on organic certifying agencies. Because there is insufficient time for a normal clearance procedure, AMS has received temporary approval from OMB for the use of the information collection and recordkeeping requirements that we used to implement the assessment program for organic certifying agencies on an expedited basis.

Title: Program to Assess Organic Certifying Agencies.

OMB Number: New collection.

Expiration Date of Assessment: Three years from date of assessment.

Type of Request: New.

Abstract: The information collection and recordkeeping requirements in this regulation are essential to establishing and implementing a voluntary program which verifies State and private organic certifying agencies compliance with the requirements of the International Organization for Standardization (ISO) Guide 65.

Based on information available, the Agency has determined that there are currently 11 State and 33 private organic certifying agencies. These certifying agencies conduct their certification of organic farms and handling operations in a similar manner and have similar recordkeeping systems and business operation practices. The agency also determined that most of the information required under this rule to conduct the assessment process could be collected from certifying agencies' existing materials without creating new forms, and that the information currently used by certifying agencies to certify organic producers and handlers could be adapted to comply with this rule. The PRA also requires the agency to measure the recordkeeping burden. These organic certifying agencies have documented review and auditing procedures and maintain appropriate records and documents for up to 5 years on each certified organic farm or handler of organic products. The recordkeeping burden is the amount of time needed to store and maintain records. The agency estimated the number of program participants who would be required to either create, submit, or store documents as a result of this rule. The estimated annual cost of providing and obtaining the information needed is estimated to be $25,980 or $590 per each certifying agency. Records are required to be retained for 5 years.

The information collection requirements in this interim final rule include: (1) Submission of an application requesting to be assessed to ISO Guide 65, (2) the preparation and submission of a quality manual documenting the procedures that certifying agencies use to provide certification services, and (3) an on-site audit of certifying agencies certification operation programs to determine whether the certifying agencies have implemented the provisions of the quality manual and are in compliance with the requirements of ISO Guide 65. These information collection requirements have been designed to minimize disruption to the normal business practices of organic certifying agencies.

The application form requires the minimal amount of information necessary including: (1) Firm name, address, telephone number, and other information necessary to identify the certifying agency and its location, and (2) other pertinent information to determine that a firm is eligible to apply and receive services available through the program to assess organic certifying agencies. Such information can be supplied without data processing equipment or outside technical expertise.

Based on available information, AMS has determined that all State and private certifying agencies develop and maintain as a normal business practice the records and documents necessary to prepare the quality manual required by ISO Guide 65.

The onsite audit would consist of a review and evaluation of a certifying agency's process for certifying organic farms and handlers. Verifying implementation of the provisions of a certifying agency's quality manual and compliance with the requirements of ISO Guide 65 would include a review and evaluation of existing records and documents described in the quality manual, interviews of certifiers' employees and customers, and observation of certification activities.

1. Application for Service—Form LS–314.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .25 hours per response.

Respondents: State and private organic certifying agencies.

Estimated Number of Respondents: 44.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 11 hours.

Total Cost: $220.

2. Quality Manual.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 23.28 hours per response.

Respondents: State and private organic certifying agencies.

Estimated Number of Respondents: 44.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1024 hours.

Total Cost: $20,480.

3. Maintenance of records for on-site audit.

Estimate of Burden: Public recordkeeping burden for keeping this information is estimated to average 6.0 hours per recordkeeper.

Recordkeepers: State and private organic certifying agencies.

Estimated Number of Recordkeepers: 44.

Estimated Total Recordkeeping Hours: 264 hours.

Total Cost: $5,280.

The total average cost of the estimated annual reporting burden per certifying agency would be approximately $590.

We are soliciting comments from the public (as well as affected certifying agencies) concerning the information collection and recordkeeping requirements contained in this interim final rule. Comments are specifically invited on the following: (1) 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) the accuracy of the agency's burden estimate 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 collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments concerning the information collection and recordkeeping requirements contained in this action should reference OMB number 0581–0183 and the Program to Assess Organic Certifying Agencies, Docket Number LS–99–04, together with the date and page number of this issue of the **Federal Register**. Comments should be sent to Larry Meadows, Chief, Meat Grading and Certification Branch,

Livestock and Seed Program, AMS, USDA, STOP 0248, 1400 Independence Avenue, SW., Washington, D.C. 20250–0248; telephone: (202) 720–1246 or Fax: (202) 690–4119. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503.

All comments received will be available for public inspection during regular business hours at the same address.

All responses to this rule will be summarized and included in the request for OMB approval. All comments will become a matter of public record. Comments are best assured of having full effect if they are received within 30 days after publication of the rule in the **Federal Register**.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register**. This action establishes a voluntary, fee for service program, under the Agricultural Marketing Act of 1946, to assess State and private organic certifying agencies as meeting the requirements prescribed under ISO Guide 65. Providing this assessment, which must be conducted by a competent authority, is necessary to comply with EU requirements that organic certifiers must be compliant with the ISO Guide 65 which EU plans to enforce after June 30, 1999. This assessment will ensure uninterrupted imports of U.S. organic products to countries in the EU.

Accordingly, this rule would benefit certifying agencies as well as producers and handlers of organically produced agricultural commodities (including those involved with wild crop harvesting). This program is similar to other audit-based programs in the Department. Given the current need for an ISO Guide 65 based program at the USDA governmental level and the expectations of EU countries, it is necessary to implement these regulations as soon as possible. A 60-day period is provided for interested persons to comment on this rule.

List of Subjects in 7 CFR Part 37

Administrative practice and procedure, Agriculture, Assessment of organic certifying agencies, Incorporation by reference, Organically produced agricultural commodities, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, Title 7 of Chapter I of the Code of Federal Regulations is amended as follows:

1. Part 37 is added to read as follows:

PART 37—PROGRAM TO ASSESS ORGANIC CERTIFYING AGENCIES

Sec.
37.1 Definitions.
37.2 Services.
37.3 Availability of service.
37.4 How to apply for service.
37.5 Order of furnishing service.
37.6 When application may be withdrawn.
37.7 Authority to request service.
37.8 Financial interest of official.
37.9 Access to establishments or records; record retention.
37.10 Official assessment.
37.11 Publication of program assessment status.
37.12 Reassessment.
37.13 Suspension or denial of program assessment; appeals and termination.
37.14 Fees and other charges.
37.15 Payment of fees.
37.16 OMB assigned numbers.

Authority: 7 U.S.C. 1621–1627.

§ 37.1 Definitions.

Words used in this part in the singular form shall be deemed to impart the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Assessment services. The services provided by the Meat Grading and Certification Branch in accordance with the regulations that may result in assessment of an organic certification program that certifies agricultural commodities to established specifications or standards.

Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. L. 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621–1627).

Agricultural commodity. Any agricultural commodity or product, raw or processed, that is used for human or animal consumption or use.

Agricultural Marketing Service. The Agricultural Marketing Service of the Department.

Applicant. Any person who applies for service under the regulations.

Audit. A systematic review of the adequacy of program or system documentation, or the review of the completeness of implementation of a documented program or system.

Auditor. Person authorized by the Branch to conduct official assessments of agricultural commodity product certification programs.

Branch. The Meat Grading and Certification Branch.

Branch Chief. The Chief of the Branch, or any officer or employee of the Meat Grading and Certification Branch, Livestock and Seed Program, Agricultural Marketing Service, to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his or her stead.

Department. The United States Department of Agriculture.

Deputy Administrator. The Deputy Administrator of the Livestock and Seed Program of the Agricultural Marketing Service or any officer or employee of the Livestock and Seed Program to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated to act in his or her stead.

Legal holiday. Those days designated as legal public holidays in Title 5, United States Code, Section 6103(a).

Livestock and Seed Program. The Livestock and Seed Program of the Agricultural Marketing Service.

Part. The program to assess organic certifying agencies in the regulations.

Person. Any individual, partnership, corporation, or other legal entity, or Government agency.

Quality Manual. A manual documenting an organic certifying agency's quality system and associated quality certification procedures used to certify organic producers and handlers of organically produced agricultural commodities in accordance with established specifications or standards.

Regulations. The regulations in this part.

§ 37.2 Services.

Organic certifying agencies requesting assessment services under this Part shall conform to the provisions of the regulations and the requirements of International Organization for Standardization/International Electrotechnical Commission (ISO/IEC) Guide 65—General Requirements for Bodies Operating Product Certification Systems, Ref. No. ISO/IEC Guide 65:1996, or other internationally recognized guidelines or requirements. The Director of the Federal Register approves the incorporation by reference of ISO/IEC Guide 65 in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. You may obtain a copy from the American National Standards Institute, 11 West 42nd Street, New York, NY 10036. You may inspect a copy at USDA, AMS, LSP, MGCB; STOP 0248, Room 2628–S; 1400 Independence Ave., SW., Washington, DC 20250–0248 or at the Office of the

Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, DC 20488.

(a) Assessment services provided under the regulations shall consist of:

(1) Review of the adequacy of an applicant's quality manual against the requirements of ISO Guide 65; and

(2) Onsite auditing of an applicant's organic certification program to ensure implementation of the provisions of the quality manual and the applicant's compliance with the requirements of ISO Guide 65.

(b) Organic certifying agencies also may request assessment services under other international recognized guidelines or requirements. Developmental assistance in the form of training to explain requirements for quality system assessment is available upon request.

§ 37.3 Availability of service.

Service under these regulations is available to State and private organic certifying agencies.

§ 37.4 How to apply for service.

(a) *Application.* Any organic certifying agency may apply to the Branch Chief, Meat Grading and Certification (MGC) Branch, Livestock and Seed (LS) Program, AMS, P.O. Box 96456, Room 2628-South, Washington, D.C., 20090–6456 for assessment service. The application shall be made on Form LS–314, Application for Service. The applicant shall provide the following:

(1) The name and address of the establishment at which service is desired;

(2) The name and post office address of the applicant;

(3) The financial interest of the applicant in the program, except where application is made by an official of a State Government agency in their official capacity;

(4) The type of business and services provided;

(5) The type of commodity certified; and

(6) the signature of the applicant (or the signature and title of his representative). The application shall indicate the status of the applicant as an individual, partnership, corporation, or other form of entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Department by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant will be notified whether its application is approved, and the request for service deemed made under the regulations. Upon approval of a request for service, the applicant shall provide a copy of its quality manual.

(c) Applicants requiring additional assessment audits who have already submitted Form LS–314 are not required to submit an additional Form LS–314: *Provided that,* the required information on the original Form LS–314 remains unchanged.

§ 37.5 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests for service therefore are received, insofar as consistent with good management, efficiency, and economy.

§ 37.6 When application may be withdrawn.

An application or a request for service may be withdrawn by the applicant at any time before the application is approved or prior to performance of service: provided that, the applicant shall pay any expenses which have been incurred by the Department in connection with such application.

§ 37.7 Authority to request service.

Proof of the interest of an applicant involved in the request for service, or of the authority of any person applying for the service on behalf of another may be required, at the discretion of the reviewing official.

§ 37.8 Financial interest of official.

No auditor or other Department official shall review any programs or documents concerning a certification program in which the official is directly or indirectly financially interested.

§ 37.9 Access to establishments or records; record retention.

The applicant shall cause records and documents, with respect to which service is requested, to be made easily accessible for examination. Supervisors and other employees of the Department responsible for maintaining uniformity and accuracy of service shall have access to all parts of establishments covered by approved applications for service under the regulations, during normal business hours or during periods of production, for the purpose of evaluating systems or processes associated with an approved certification program. Records and documents shall be retained for at least 5 years beyond the date of the applicant's request for service.

§ 37.10 Official assessment.

Official assessment of an applicant's certification program shall be granted upon successful completion of a two-step review process, as provided for in § 37.2.

(a) *Documentation approval.* Documentation approval will be provided by the Branch Chief regarding the adequacy of an applicant's quality manual with respect to ISO Guide 65 requirements upon completion of an adequacy audit by the auditors.

(b) *Program assessment.* Assessment of a certification program will be issued by the Branch Chief by written memorandum or other approved method of assessment upon successful completion of an onsite audit conducted by the auditors of an applicant's organic certification program ensuring that the provisions of the applicant's quality manual have been implemented and that the applicant's certification program complies with the requirements of ISO Guide 65.

(c) *Disapproval and corrections.* An applicant determined not to meet applicable assessment requirements shall be provided by the Branch Chief with a written summary of observed program deficiencies. The applicant may appeal such a determination in accordance with the provisions of § 37.13 or implement required corrective action. After completion of the corrective action, the applicant may contact the Branch Chief to schedule another audit for assessment.

§ 37.11 Publication of program assessment status.

(a) The names of assessed certifying agencies shall be posted for public reference on the Livestock and Seed Program's website at: http://www.ams.usda.gov/lsg/. Such postings shall include: certifier's name and contact information; referenced specification or standard(s) covered under the scope of assessment; effective date of assessment; and control number(s) of official certificate(s), as applicable.

(b) The names of assessed certifying agencies posted on the Livestock and Seed Program's website may be removed from the website upon suspension or termination of assessment for noncompliance with the regulations pursuant to § 37.13.

§ 37.12 Reassessment.

Approved certification programs shall be subject to periodic reassessment to ensure ongoing compliance with the regulations, including the requirements of ISO Guide 65. The frequency of such reassessment shall be based on the relative risk associated with the certification program's integrity, as determined by the Branch Chief.

§ 37.13 Suspension or denial of program assessment; appeals and termination.

(a) *Suspension or denial of assessment.* When a review of a certification program by auditors finds noncompliance with the regulations, including the requirements of ISO Guide 65, the Branch Chief may suspend or deny assessment until subsequent audits show the noncompliance has been corrected.

(b) *Appeals.* Appeals of adverse decisions by an auditor or the Branch Chief may be made in writing to the Livestock and Seed Program Deputy Administrator at Room 2092-South, 1400 Independence Avenue, SW., Washington, D.C. 20250–0249.

(c) *Termination.* If noncompliance with the regulations remains uncorrected beyond a reasonable amount of time, as determined by the Livestock and Seed Program Deputy Administrator, an application may be rejected or program assessment terminated.

(1) *Procedure.* Actions under this subparagraph concerning rejection of an application or termination of assessment shall be conducted in accordance with the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes set forth in §§ 1.130 through 1.151 of this title.

(2) [Reserved]

§ 37.14 Fees and other charges.

Fees and other charges equal as nearly as may be to the cost of the assessment services rendered under the regulations, including reassessments, shall be assessed and collected from applicants in accordance with the following provisions.

(a) *Fees for Service.* Except as otherwise provided in this section, fees-for-service shall be based on the time required to render the service provided calculated to the nearest 15-minute period, including auditor's travel, review and approval of quality manual, the conduct of the onsite audit, and time required to prepare reports and any other documents in connection with the performance of service. The base hourly rate for such service is $42.20 per hour for 8 hours or less of work performed between the hours of 6 a.m. and 6 p.m., Monday through Friday, except on legal holidays. The premium hourly rate for all applicants is $47.80 per hour charged to users of the service for the hours worked in excess of 8 hours per day between the hours of 6 a.m. and 6 p.m.; for the hours worked between 6 p.m. and 6 a.m., Monday through Friday; and for any time worked on Saturday and Sunday, except on legal holidays. The holiday rate for all applicants is $79.60 charged to users of the service for all hours worked on legal holidays.

(b) *Travel charges.* When service is requested at a place so distant from an auditor's headquarters, or place of prior assignment on circuitous routing, that a total of one-half hour or more is required for the auditor to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous routing, the charge for such service shall include mileage charge administratively determined by the Department, and travel tolls, if applicable, or such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the auditor's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the auditor receives per diem reimbursement. The per diem rate will be administratively determined by the Department. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Other costs.* When costs, other than costs specified in paragraphs (a), (b), and (c) of this section are associated with providing the services, the applicant will be charged for these costs. The amount of the costs charged will be determined administratively by the Department. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

§ 37.15 Payment of fees.

Fees and other charges for service shall be paid by the applicant to the Livestock and Seed Program, AMS, P.O. Box 96456, Room 2628-South, Washington, D.C. 20090–6456, with a check made payable to the Agricultural Marketing Service.

§ 37.16 OMB assigned numbers.

The information collection and recordkeeping requirements contained in this part have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act, 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0581–0183.

Dated: June 4, 1999.

Enrique E. Figueroa,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–14688 Filed 6–7–99; 10:53 am]

BILLING CODE 3410–02–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 331

RIN 3064–AC23

Asset and Liability Backup Program

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Interim final rule; request for comment.

SUMMARY: The FDIC is adopting an interim final rule to require asset and liability backup programs (ALBPs) for limited deposit account and loan account information in a limited number of institutions to facilitate timely and accurate restoration of key financial records in the event that an FDIC-insured depository institution (insured depository institution) experiences a Year 2000 (Y2K) computer problem and is placed in receivership. Specifically, this rule requires those insured depository institutions receiving Y2K ratings of less than ''Satisfactory'' on or after July 31, 1999 (affected institutions) to follow specific programs to backup certain information concerning deposit and loan accounts. This information will be retained by each bank or savings and loan (thrift) to which the rule applies and used by the FDIC only if such an institution must be closed. This regulation will automatically sunset on June 30, 2000, and will no longer be applicable after that date. An affected institution will be exempted from the ALBP rule if its primary federal regulator provides a written determination to the Executive Secretary, FDIC, that the ALBP is not needed.

DATES: This interim final rule will be effective July 9, 1999. Comments must be received by July 9, 1999.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 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: Division of Resolutions and Receiverships: James E. Crum, Manager, Information Systems Section (202) 898–6698; Daniel L. Walker, Manager, Franchise Marketing, Dallas Field Office Branch (972) 761–2215; Herbert J. Held, Assistant Director, Institutional Sales (202) 898–7329. Legal Division: Nancy Schucker Recchia, Counsel (202) 898–8885; David Fisher, Counsel (202) 898–3503, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

A. Introduction

Under the auspices of the Federal Financial Institutions Examination Council (FFIEC), the FDIC, the Board of Governors of the Federal Reserve System (Board), the Office of the Comptroller of the Currency (OCC), and the Office of Thrift Supervision (OTS) have provided extensive Y2K-readiness guidance to the banking industry. The banking industry has invested substantial resources to ready itself for the millennium date change. More than 98% of the nation's banks and thrifts have achieved ''Satisfactory'' Y2K-readiness ratings from their primary federal regulators. As time goes by, more institutions achieve this milestone. As a result of these efforts, the FFIEC agencies expect few, if any, insured depository institutions to close because of the Y2K date change. Despite best efforts to prepare for Y2K, however, there is always the possibility that some institutions may not be Y2K ready and may have to be closed. The FDIC must plan for every conceivable event. The FDIC is proposing this rule to ensure that, if an affected institution experiences a Y2K problem and is closed, the FDIC will be able to make federally insured deposits available to depositors expeditiously. The rule also will facilitate the quick acquisition or transfer of servicing of assets and help maintain public confidence in, and minimize any related disruption to, the United States of America's financial system.

The rule requires affected institutions to create standardized backup programs for their deposit and loan accounts, in addition to their own backup systems. In the unlikely event of an affected institution's placement in receivership due to a Y2K-related problem, these standardized backup programs will provide the FDIC access to essential basic account information and eliminate the need to map and convert information for theY2K closing of an affected institution before account reconciliation and deposit insurance determination can begin. The rule will enable depositors to access their accounts quickly and accurately through a deposit transfer or pay-out. The rule will expedite the transfer or sale of the institution's assets to a purchaser, asset manager or service provider. A Y2K problem could make an institution's systems unusable for potential purchasers, making an alternative conversion process essential for an expeditious transfer of assets and liabilities. The rule will reduce the time needed to convert a closed affected institution's information. The rule is critical to the FDIC's ability to determine quickly and accurately deposit and loan account information to permit timely and accurate access of insured depositors to their accounts and effective management of receivership assets.

B. The Rule's Benefits

1. The Rule Will Maintain Confidence in the Industry

Congress created the FDIC in 1933 to restore public confidence in the nation's banking system at a time of severe financial stress. For over 65 years FDIC deposit insurance has helped ensure the stability of the financial system by providing for the timely and accurate funding of insured deposits and the consequent confidence in the U.S. banking system in times of financial stress. The FDIC's ability to make insured deposits available expeditiously, and resolve failed institutions quickly, was critical during the bank and thrift crisis of the 1980s and early 1990s. Despite the many bank and thrift closings during that period, there were no serious runs on, or credit flow disruptions at, FDIC-insured institutions. Most important, no depositors suffered any loss of their insured deposits. The rule ensures that the FDIC will be able to honor its deposit insurance commitments in a timely and accurate manner if an affected insured depository institution should be closed because of a Y2K problem.

One of the potential challenges the FDIC must prepare for is the possible inability to access the business systems and supporting information of an insured depository institution that must be closed because of a Y2K problem. The ultimate safety net will be FDIC deposit insurance and the FDIC's commitment to provide access to insured funds expeditiously. FDIC deposit insurance is absolute—insured deposits are safe. The number of days that it will take the FDIC to provide access to deposits and transfer assets to private sector purchasers, asset managers or service providers will depend upon its ability to transfer basic account information from one institution to another. The FDIC can assure the public that if an affected institution that maintains ALBPs in compliance with the rule should close because of a Y2K problem, depositors will have expeditious access to their insured deposits and the institution will be resolved as quickly as possible.

2. The Rule Assures That Depositors Will have Expeditious Access to Insured Deposits

As the federal insurer of deposits in more than 10,000 banks and thrifts, the FDIC, through the deposit insurance funds it administers, is statutorily required to pay insured deposits as quickly and accurately as possible when an insured bank or thrift is closed.[1] In the event that an insured depository institution is closed, the FDIC would be responsible for providing depositors access to their insured deposits as quickly and accurately as possible. Public confidence in the financial system will depend upon the FDIC's ability to effect such funding as quickly and accurately as possible. Historically, the FDIC has provided depositors with access to their insured deposits within one to three days of an institution closing.

The rule requires affected institutions to create daily extract files of information, beginning on December 24, 1999, concerning deposit accounts following a standard format specified by the rule. The necessary information will be readily available to the FDIC only if an institution's business systems are unable to accurately receive, process and produce deposit balances and transactions because of a Y2K problem. Because the FDIC will not have to convert the information to fit its systems, potential delay in making insurance determinations and returning insured deposits to depositors will be minimized. The FDIC will rely upon the liability backup program to efficiently determine insured account balances, and quickly and accurately transfer or

[1] 12 U.S.C. 1821(f)(1).

pay out such amounts for the benefit of depositors.

3. The ALBP Constitutes an Essential Component of Y2K Contingency Planning

ALBPs are an essential part of Y2K contingency planning worldwide. The Basle Committee on Banking Supervision, in its recent paper on Y2K contingency planning, stated:

As with existing disaster recovery plans, data integrity procedures are critical to ensuring that adequate and consistent data are available in the event of a technological failure. The procedures may address both mission-critical and other systems. They should address the issue of recovery difficulties associated with institutions of all types and should preserve sufficient historical mission-critical data to enable records to be accurately reconstructed after the century date change in the event that data is corrupted.

While all banks will already have back-up procedures that they consider adequate in normal circumstances, there are special features of the Year 2000 challenge that merit extra attention. Supervisors should issue a mandate that banks within their jurisdiction maintain specified back-up records in electronically retrievable media for certain periods or key dates. These records may be a specification of the minimum data elements and format to capture certain assets, liabilities, and income accounts. It is essential that all processes for creating back-up data files are completed before the millennium date change or other potentially sensitive dates and be thoroughly tested. Whatever happens, it is essential to have back-up which has the certainty to provide a clear audit trail and enable the bank, an acquirer, or a receiver to reconstruct corrupt records. Some supervisors may wish to assure depositors and other bank customers that they will verify the safety of banks' back-up arrangements.

Year 2000 The Supervisory Contingency Planning Process, January 1999, at 4, 5. The ALBP rule is consistent with the Basle Committee's recommendation.

4. The Rule Will Minimize Resolution Costs

The FDIC is statutorily required to resolve closed insured depository institutions in the manner that is least costly to the insurance funds.[2] FDIC experience has shown generally that the more quickly an institution can be resolved, the greater the franchise and asset/liability value to be realized from the sale of that institution. Maximization of the value of the closed institution and its assets and liabilities and minimization of resolution costs result in a greater return to the closed institution's creditors and the FDIC insurance funds.[3]

By facilitating the timely resolution of an affected institution and the prompt servicing of any assets not sold at resolution, the rule will maximize the value of the institution and its assets. The value of an institution will be enhanced by this rule because the information will already be available to the FDIC or a purchaser in a pre-defined, useable format. Fewer FDIC or acquiring institution personnel will be needed to receive, interpret, map, and distribute information, thereby further reducing costs of resolution.

5. The Rule Will Expedite the Return of Assets to the Marketplace and Minimize Customer Disruptions

The FDIC is responsible for the sale or liquidation of all assets of a bank or thrift for which it is appointed receiver. It is generally preferable for bank customers and the financial system to keep bank and thrift assets in the private sector where they can continue to perform without disruption. For these reasons, the FDIC attempts to sell as many assets of a closed institution as possible as part of a closed bank or thrift resolution transaction.

The asset backup program will provide the FDIC with the loan information necessary to expeditiously value and sell an institution and its assets in the event that the institution's systems are unable to receive, process and produce loan balances and transactions. This information will enable purchasers to establish communication with borrowers and maintain important account relationships. Without accurate information related to loans, such as the rule requires, purchasers are unlikely to risk acquiring a bank's assets.

Where there are no immediate purchasers for a closed institution's assets, the FDIC acts as quickly as possible to transfer loans to an asset manager or a service provider or to begin servicing the loans itself. To minimize loss to the assets' value, it is critical that such servicing occur with minimal disruption. Both FDIC and private sector asset managers and servicers require loan information similar to that of a purchaser.

Because the acquisition and servicing of assets requires more information than deposit accounts, the rule requires additional standardized fields of information for loans. The information required by the rule is the minimum number of fields necessary for a purchaser or the FDIC to make timely and accurate determinations of estimated asset values, portfolio compositions and for planning conversions to Y2K-ready purchasers, asset managers or service providers. Similarly, before it is placed in receivership, the ALBP files may help an affected institution transfer its loan accounts to a temporary servicer while it repairs its systems.

6. The Rule Facilitates Addressing Y2K Technical Problems

The FDIC has developed, and is adopting, separate standardized backup programs for deposits and loans. Use of these standardized backup programs will make available a consistent set of information, increasing the possibility that the FDIC or an acquiring institution can readily process a closed institution's deposit or loan information.

When ownership of an insured depository institution changes hands, whether in a commercial transaction or a FDIC-assisted transaction, detailed account information is converted from the electronic data processing (EDP) systems of the acquired institution to the EDP systems of the purchaser. Conversion of information from one system to another normally requires several months to accomplish as the process involves extensive research into the manner that information is provided, processed, reported and used. During this time, the two systems continue to be operated side-by-side until such time as the steps are in place for conversion of the information to a purchaser's systems; detailed information as to the programming language and record layout used by the originating EDP systems to store information is also acquired; programs to translate the coded information readable by one system into coded information recognized by another system are written; and the information is transferred and tested before use in the new electronic data processing systems.

Few depository institutions use the same format for their information. The specific information fields, field lengths, and software differ from institution to institution. The mapping process requires time and information code definitions. As part of the conversion process, the FDIC must map the failing institution's information fields to the

[2] 12 U.S.C. 1823(c)(4).

[3] The FDIC's responsibility as insurer is carried out by the assessment and collection of premiums from insured depository institutions, the administration of the deposit insurance fund resulting from such assessments, and the timely and accurate funding of claims for insured deposits in a closed institution. When the FDIC funds insured deposits, it becomes subrogated to the claims of the insured depositors. Proceeds from the sale of the institution and its assets are returned to the FDIC as subrogee to the depositors.

correct information fields in its own systems. In addition, information may be grouped in one field in one system and separated in multiple fields in another system. The information fields must conform to the new system. Use of the ALBPs will expedite this process as programs can be written in advance to convert the ALBP record layouts into the format needed for the various applications used by the FDIC in the resolution process.

The standard layouts of the ALBP will allow purchasers of closed affected institutions to pre-map the incoming file specifications to their own record layouts, thus avoiding delays that would otherwise be necessary if a purchaser had to input account information manually, or map the closed institution's information to its own system and then write a conversion program. In a non-Y2K closing, an acquiring institution would be able to use the closed institution's systems, but this may not be an option in a Y2K closing. Institutions and service bureaus interested in providing short-term and long-term support to institutions with Y2K-related problems can use the ALBP files to facilitate the transfer of account data to their compliant systems. This may provide extra protection for the continuation of financial services before FDIC resolution action is required.

C. The Rule Places Minimal Burden on the Industry

The rule requires affected institutions to be able to provide electronic files of limited fields of information already maintained by those institutions in a standardized format, for a limited period of time. To minimize burden and recognize the efforts of most financial institutions, only those insured depository institutions that have a higher degree of Y2K risk must comply with the rule. Information will be reorganized, not created. There are no new reports required or transmissions of useable information to the FDIC or any other government agency. No confidential records will be released. The FDIC will use ALBPs only if an affected institution is closed and experiences a Y2K problem and to give depositors timely and accurate access to their insured deposits, help maintain loan customer relationships and facilitate the quick resolution of the institution. Once an institution's computer systems are operating successfully in the new millennium to the satisfaction of the institution's primary federal regulator, the rule will no longer be applicable to that institution. The rule will sunset on June 30, 2000.

There will be minimal costs for the programming and processing associated with creating and maintaining the ALBPs. Production of the information may require creating extract files of standard information from multiple systems (e.g., demand deposit account systems and time deposit account systems). Some institutions may have to adjust their electronic data processing production schedules to accommodate these additional tasks. Based upon the results of the FDIC's survey of the industry discussed below, the FDIC believes that these minor costs represent a prudent investment in Y2K contingency planning.

To minimize the burden of this rule, each affected institution is permitted to extract and retain the required information in the manner that is most cost effective for that institution. The institution may choose to extract the requisite information as part of its normal nightly processing production runs or from routine nightly backup programs. In either case, the institution must demonstrate to the FDIC that it has segregated and preserved the information so that it may be obtained using hardware and software located separately from the institution's primary system. If the institution chooses to extract the information as part of its normal nightly processing production runs, the institution must store the files each night beginning December 24, 1999 until the ''termination date.'' Alternatively, if the institution chooses to extract the data from routine nightly backup programs, the institution may choose to store the ALBPs each night as set forth above or demonstrate to the FDIC the ability to produce on demand the files for each night from December 24, 1999, through the termination date. The FDIC has limited the duration of this rule to the shortest time period possible. The termination date for the requirements of this regulation for any affected institution is the earlier of (i) the date on which the institution's primary federal regulator changes the institution's Y2K readiness rating to Satisfactory; or (ii) the date on which the institution establishes to the satisfaction of its primary federal regulator that its deposit and loan systems are fully functional and reliable after December 31, 1999; or (iii) June 30, 2000.

The FDIC estimates the average cost to produce the ALBPs to be $17,500 for institutions under $1 billion in asset size and $190,000 for institutions greater than $1 billion in asset size when using in-house programming and processing. Service providers do the programming for most small institutions. For institutions using service providers or licensed software where the vendor provides the programming service, the FDIC estimates the cost of the ALBPs to be approximately $10,500 per service provider or software vendor customer. Overall, the total cost burden to the 205 institutions rated as less than Satisfactory as of May 21, 1999, is estimated to be $3,000,000. The FDIC assumed that on average each service provider or software vendor offered at least two product lines and serviced five customers affected by this regulation per product line, thus allocating their costs across each affected institution. The FDIC believes that the burden of these costs is far outweighed by the benefits to be obtained.

The FDIC surveyed thirteen financial institutions and five major service providers of software and/or processing support to insured depository institutions (Office of Management and Budget Paperwork control number 3064–0130). The survey addressed: (1) current business practices, including number and types of clients, software development practices and backup procedures; (2) programming costs, including estimates of the hours and labor costs to program their EDP systems to produce the ALBP files; and (3) production costs, including estimates of the additional Central Processing Unit time to run the file extract routines, storage media and impacts on overall production schedules. The FDIC also discussed its proposed rule with representatives of two financial industry trade associations, national clearinghouse authorities, a major financial information publisher and representatives of other federal financial institution regulatory agencies.

The FDIC believes that it is appropriate for affected institutions to pay for their own programming costs because the burden of the rule applies only to those demonstrating the highest risk of not being Y2K ready and therefore present a greater risk to the deposit insurance funds. The rule also provides additional incentives for such institutions to improve their preparedness and soundness to avoid requirements imposed by the ALBPs.

It is necessary that the standardized backup programs be in place pre-millennium in order to ensure that the ALBP data will be available as of January 1, 2000. The rule requires affected institutions to complete programming of the ALBP file formats by September 30, 1999. Programming of the ALBP files must begin by early August 1999, to allow establishment of

the system requirements, analysis and design, and internal testing of the file production programs. No later than October 31, 1999, each affected institution will submit to the FDIC a sample of the deposit and loan files created using the backup programs and containing test data meeting the ALBP specifications. This will allow the FDIC sufficient time to test the accuracy of the file formats and coordinate any required modifications to bring the formats into compliance with the rule. A key benefit of the ALBPs is to allow the FDIC to quickly and accurately make insured deposit determinations, estimate asset valuations and facilitate the transfer of information to the electronic data processing systems of the FDIC or a purchaser of a closed institution. Therefore, it is essential that the file formats be certified as compliant with the rule before January 1, 2000.

II. Discussion

A. Affected Institutions

Section 331.1 of the rule sets forth those insured depository institutions to which the rule applies (affected institutions). The rule applies to all insured depository institutions as that term is defined at section 3(c) of the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) that have received a rating of less than Satisfactory in Y2K readiness by their primary federal regulator as of July 31, 1999. The rule also applies prospectively to any insured depository institution that had received a Satisfactory rating as of July 31, 1999, and subsequently receives a rating of less than Satisfactory. The rule continues to apply to both categories of institutions until the termination date specified in § 331.3(d). Prior to January 1, 2000, if an affected institution's primary federal regulator changes the institution's Y2K readiness rating to Satisfactory, it will not be required to comply with the rule as of the date of the change. This permits institutions that demonstrate improvement in Y2K readiness after July 31, 1999, to avoid the requirements of the rule. After January 1, 2000, an affected institution will not be required to comply with the rule as of the earlier of the date on which the institution's primary federal regulator verifies that the institution's systems are Y2K ready or June 30, 2000.

B. Exemption

Section 331.2 of the rule provides that an affected institution will, without application, be exempted by the FDIC from the rule upon a written determination by its primary federal regulator that the ALBP is not needed for that institution. For example, the primary federal regulator may find that an institution has ensured its systems' readiness during the testing phase and developed adequate business resumption contingency plans, but for less critical reasons was assessed a less than Satisfactory rating. A primary federal regulator's written determination would be submitted to the Executive Secretary of the FDIC. In the case of an FDIC-regulated institution, the determination would be made by the FDIC's Director of the Division of Supervision, or designee, and submitted to the Executive Secretary of the FDIC.

C. Asset and Liability Backup Program Requirements

Sections 331.3(b) and (c) of the rule require all affected institutions to prepare and retain daily extract files of information concerning deposit accounts and loan accounts. The specifications for the deposit ALBPs are contained in appendix A; the specifications for the loan ALBPs are contained in appendix B. The rule requires the institution to segregate and preserve all daily extract files created in compliance with the rule so that they can be obtained using hardware and software located separately from the institution's primary electronic data processing system. This will ensure that the ALBP data will be accessible if the affected institution experiences a Y2K problem. Affected institutions may choose whether to prepare the daily extract file as part of the institution's normal nightly processing production runs or from routine nightly backup programs. If the institution prepares its daily extract files as part of its normal nightly processing production runs, it must store the files each night beginning December 24, 1999, through the termination date. If the institution chooses to prepare its daily extract files from routine nightly backup programs it must either store the files each night as set out above, or it may demonstrate to the FDIC that it is able to produce to the FDIC, upon demand, the daily extract files for each night from December 24, 1999, through the termination date.

Section 331.3(d) of the rule specifies a ''termination date,'' after which the requirements of the rule do not apply to an affected institution. The termination date is (1) the date on which the institution's primary federal regulator changes the institution's Y2K rating to Satisfactory; (2) the date on which the institution establishes to the satisfaction of its primary federal regulator that its deposit and loan systems are fully functional and reliable after December 31, 1999; or (3) June 30, 2000. The first termination date recognizes that an institution that is rated less than satisfactory on July 31, 1999, or thereafter, may improve its readiness so that it is rated Satisfactory. Such an institution would be required to comply with the regulation as long as it was rated less than Satisfactory; however, once the primary federal regulator changed its rating to Satisfactory, the institution would have no further obligations under the rule. For those institutions that enter the millennium with a less than Satisfactory rating, the second termination date requires them to comply with the rule until they establish that their deposit and loan systems are fully functional and reliable in Y2K. The rule will sunset on June 30, 2000, and its requirements will no longer apply to any affected institution.

These ALBP requirements will ensure that information is available if an affected institution's business systems are unable to receive, process, and produce deposit and loan balances and transactions in a timely and accurate manner due to a Y2K problem. The ALBPs include the minimum number of fields necessary for (1) the FDIC to make timely and accurate determinations of estimated insured deposits, asset values and portfolio compositions, and (2) potential purchasers, asset managers and service providers to move quickly to transfer and set up loan and deposit accounts from the closed institution, convert the closed institution's systems to their own, and implement a timely relationship with the new customers.

D. Programming and Testing

Section 331.4 of the rule requires each affected institution to program and test its ALBPs. In order to provide sufficient time to make necessary corrections to the ALBP, the rule requires each institution to complete its programming and testing by September 30, 1999, and to provide a sample output file composed of at least ten test records containing test data meeting the ALBP criteria to be delivered to the FDIC no later than October 31, 1999. The FDIC will use these test files only to verify that the ALBP complies with this rule. If an institution that had been rated Satisfactory in Y2K readiness as of July 31, 1999, receives a less than Satisfactory rating subsequent to that date, the FDIC will determine the timetable by which the institution must complete the programming, testing and correction of the ALBP.

E. Supporting Documentation

Section 331.5 of the rule requires institutions providing ALBPs to the FDIC to also provide narratives

describing the process by which the ALBPs were produced and a trial balance or other hard copy report summarizing the contents of the electronic files. These documents will allow the FDIC to ensure that it is properly interpreting the information provided in the ALBPs.

F. Sunset Date

Section 331.6 of the rule specifies its sunset date as June 30, 2000. The FDIC believes that any Y2K problem posing significant risk will have been manifested and resolved by that time.

III. Authority for the Regulation

This regulation is authorized by the FDIC's general rulemaking authority and pursuant to its fundamental responsibilities to ensure the safety and soundness of insured depository institutions and act as receiver or conservator of those institutions as required by law.

Specifically, 12 U.S.C. 1819(a) Tenth provides the FDIC with general authority to issue such rules and regulations as it deems necessary to carry out the statutory mandates of the Federal Deposit Insurance Act (FDI Act) and other laws that the FDIC is charged with administering or enforcing. 12 U.S.C. 1819(a) Seventh permits the FDIC to exercise incidental powers related to those granted in the FDI Act. One of the FDIC's fundamental powers is to ensure the safety and soundness of insured depository institutions pursuant to 12 U.S.C. 1818(a) and (b). The FDI Act also empowers the FDIC to act as receiver or conservator for insured depository institutions in the event of insolvency and permits the FDIC to promulgate rules related to the conduct of conservatorships or receiverships and implement certain other requirements set forth in section 11 of the FDI Act. (12 U.S.C. 1821).

IV. The Administrative Procedure Act

The FDIC is adopting this regulation as an interim final rule effective thirty days after publication in the **Federal Register** without the usual notice and comment period as provided in the Administrative Procedure Act (APA), 5 U.S.C. 551, *et seq.*, or the delayed effective date as provided in section 302 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), 12 U.S.C. 4802(b). The APA provides that the requirement for such notice and comment periods does not apply ''when the agency for good cause finds * * * that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). Section 302 of CDRI provides that certain new regulations should ''take effect on the first day of a calendar quarter which begins on or after the date on which the regulations are published in final form, unless—(A) the agency determines, for good cause published with the regulation, that the regulation should become effective before such time.'' 12 U.S.C. 4802(b)(1)(A).

The FDIC has found that promulgation of this regulation on an expedited basis is required. This rule is necessary to protect the public's interest in the continued stability of the financial system and to ensure timely and accurate access to deposits in insured depository institutions in the event that such institutions experiencing a Y2K problem are closed. All efforts to create ALBPs must be completed and operational by December 24, 1999, to ensure that public confidence in the financial system continues. The changes required by this rule would be impracticable to implement in less than six months. These backup programs must be in place pre-millennium to ensure that all systems will function as of January 1, 2000. Programming of the backup program files must begin by early August 1999, to allow establishment of the system requirements, analysis and design, and internal testing of the file production programs. Subsequently, the FDIC must have sufficient time to test the sample formats for compliance with the rule and to work with the institutions to correct any deficiencies. Delay in the effective date of this rule would be detrimental to the efforts of the regulatory agencies and the banking industry to prepare for potential problems caused by the Y2K date change.

V. Regulatory Flexibility Analysis

The Regulatory Flexibility Act, 5 U.S.C. 601–612, requires an agency to publish an initial regulatory flexibility analysis, except to the extent provided in 5 U.S.C. 605(b), whenever the agency is required to publish a general notice of proposed rulemaking for a proposed rule. For good cause discussed above, the FDIC is publishing this rule as an interim final rule, for which publication of a general notice of proposed rulemaking is not necessary. No initial regulatory flexibility analysis is required.

VI. Paperwork Reduction Act

The collection of information contained in this interim final rule has been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501, *et seq.* OMB is required to make a decision concerning the collection of information contained in the interim final regulation between 30 and 60 days after the publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of this publication. This does not affect the deadline for the public to comment to the FDIC on the interim final regulation.

Comments are invited on (a) whether the collection of the required information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection, including through the use of automated collection techniques or other forms of information technology. Comments should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer Alexander Hunt, New Executive Office Building, Room 3208, Washington, DC 20503, with copies of such comments to Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), FDIC, Room F–4062, 550 17th Street, N.W., Washington, DC 20429.

Title of the collection: All comments should refer to ''Asset and Liability Backup Program.''

Summary of the collection: This new requirement calls for affected FDIC-insured depository institutions to develop and retain extracts of deposit and loan account information maintained by such institutions, stored in electronic form, beginning December 24, 1999, and continuing until the earlier of approval by the institution's primary federal regulator or June 30, 2000 (12 CFR 331.3); to program and test the required ALBP extract files by September 30, 1999, and to submit a test file of sample information for each ALBP format to the FDIC for validation purposes (12 CFR 331.4); and to submit supporting documentation to the FDIC (12 CFR 331.5).

Need and use of the information: The FDIC needs the information to facilitate timely and accurate restoration of key financial records. The FDIC will use the information only in the event of the closure of an affected institution experiencing a Y2K problem.

Respondents: This rule applies those FDIC-insured depository institutions receiving Y2K ratings from their primary federal regulators of less than ''Satisfactory'' on or after July 31, 1999.

Estimated annual burden resulting from this proposed rulemaking:

Frequency of response: Daily, beginning December 24, 1999 and continuing until released from the rule's requirements or June 30, 2000, whichever occurs first.

Number of respondents: 205.

Average number of hours per respondent: 131.4.

Total annual burden hours: 26,945.

It is noted that the total annual burden includes service bureau and other contractor time, and that the actual burden experienced by individual institutions may range from 70 hours per institution to 2,500 per institution.

VII. Small Business Regulatory Enforcement Fairness Act

The Office of Management and Budget has determined that this interim final rule is not a ''major rule'' within the meaning of the relevant sections of the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 801, *et seq.* As required by SBREFA, the FDIC will file the appropriate reports with Congress and the General Accounting Office so that the interim final rule can be reviewed.

VIII. Assessment of Impact of Federal Regulation on Families

The FDIC has determined that this regulation will not affect family well-being within the meaning of section 654 of the Treasury Department Appropriations Act, 1999, enacted as part of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (Pub. L.105–277, 112 Stat. 2681).

By order of the Board of Directors.

Dated at Washington D.C., this 3rd day of June, 1999.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

List of Subjects in 12 CFR Part 331

Bank deposit insurance, Banks, banking, Reporting and recordkeeping requirements, Savings associations.

For the reasons stated in the preamble, a new part 331 is added to chapter III of title 12 of the Code of Federal Regulations to read as follows:

PART 331—ASSET AND LIABILITY BACKUP PROGRAM

Sec.
331.1 Affected institutions.
331.2 Exemption.
331.3 ALBP requirements.
331.4 Programming and testing required.
331.5 Supporting documentation required.
331.6 Sunset of program.

Appendix A to Part 331—Asset and Liability Backup Program Technical Instructions and Deposit Extract File Format

Appendix B to Part 331—Asset and Liability Backup Program Technical Instructions and Loan Extract File Format

Authority: 12 U.S.C. 1818(a) and (b), 1819(a) (Seventh and Tenth), 1821.

§ 331.1 Affected institutions.

The provisions of this part 331 apply to all insured depository institutions, as defined in 12 U.S.C. 1813(c)(2), that are rated as less than Satisfactory in Y2K readiness by their primary federal regulator on or after July 31, 1999 (affected institutions), until the termination date specified in § 331.3(d).

§ 331.2 Exemption.

An affected institution will, without application, be exempted by the FDIC from the requirements of this part 331 upon a written determination made by, and in the sole discretion of, its primary federal regulator that the asset and liability backup program (ALBP) is not needed for that institution. Such written determination shall be submitted to the Executive Secretary, FDIC. In the case of an FDIC-regulated affected institution, the Director of the Division of Supervision, or designee, shall have the authority to waive the requirements of this part 331 upon a written determination submitted to the Executive Secretary, FDIC, that the ALBP procedures are not needed for that institution.

§ 331.3 ALBP requirements.

(a) ALBPs required. (1) All affected institutions shall prepare and retain daily extract files of information concerning:

(i) Deposit accounts following the ALBP format specified in appendix A to this part 331; and

(ii) Loan accounts following the ALBP format specified in appendix B to this part 331.

(2) All daily extract files shall be segregated and preserved so that they can be obtained using hardware and software located separately from the institution's primary information processing system.

(b) Preparation of the daily extract files. Each affected institution shall prepare its daily extract files either—

(1) As part of the institution's normal nightly processing production runs; or

(2) From routine nightly backup programs.

(c) Retention of daily extract files. Each daily extract file shall be retained in one of three media meeting the specifications contained in appendices A and B to this part 331, until the termination date.

(1) If the institution prepares its daily extract files as part of its normal nightly processing production runs under § 331.3(b)(1), the institution must store the files each night beginning December 24, 1999, through the termination date specified in § 331.3(d).

(2) If the institution prepares its daily extract files from routine nightly backup programs under § 331.3(b)(2), the institution shall either retain the daily extract files each night as set forth in § 331.3(c)(1), or demonstrate to the FDIC its ability to produce to the FDIC, upon demand, the daily extract files for each night from December 24, 1999, through the termination date specified in § 331.3(d).

(d) Termination date. (1) The termination date of the ALBP requirement for any affected institution is the earlier of:

(i) The date on which the institution's primary federal regulator changes the institution's Y2K rating to Satisfactory;

(ii) The date on which the institution establishes to the satisfaction of its primary federal regulator that its deposit and loan systems are fully functional and reliable after December 31, 1999; or

(iii) June 30, 2000.

(2) An affected institution that wishes to receive verification under paragraph (d)(1)(ii) of this section shall make its request to the primary federal regulator in writing.

§ 331.4 Programming and testing required.

Programming and testing of the required ALBP extract files shall be completed by each affected institution by September 30, 1999. A sample output file with at least ten (10) records containing test information meeting the ALBP criteria shall be delivered to the FDIC no later than October 31, 1999, in accordance with the instructions contained in appendices A and B to this part 331. The FDIC will test the sample output file against the specifications contained in appendices A and B of this part 331. Corrections of any identified errors must be made, and a new sample output file provided to the FDIC, within fifteen (15) days of receipt of notice of such errors from the FDIC. For any institution that receives a less than Satisfactory rating after July 31, 1999,

the FDIC will determine the completion and delivery dates under this section.

§ 331.5 Supporting documentation required.

In addition to the files submitted to the FDIC under § 331.4, the institution shall submit the following supporting documentation:

(a) A narrative describing the process by which the daily extract files were produced; and

(b) A trial balance or other hard copy summary of the contents of the electronic files to permit the FDIC to verify the accurate receipt and interpretation of the information transmitted to the FDIC.

§ 331.6 Sunset of program.

The ALBP procedures contained in this part 331 shall not be required after June 30, 2000.

Appendix A to Part 331—Asset and Liability Backup Program Technical Instructions and Deposit Extract File Format

TECHNICAL INSTRUCTIONS

FDIC Standard Deposit Extract File Format

THE FDIC STANDARD DEPOSIT EXTRACT FILE FORMAT

The attached ''Deposit Extract File Format'' is a list of fields developed as a tool for requesting information from an institution for the purposes of insurance estimation and other related functions. Please match your institution's deposit information field names to those on the ''Deposit Extract File Format.'' For your convenience, descriptions of each field are provided.

STANDARD DEPOSIT EXTRACT FILE PREFERENCES:

1. Information must be provided in an ASCII-flat, tab delimited file.

(a) The preferred media is diskette, CD, ZIP Disk or fixed length 9-track tape.

(b) All deposit records should be included in one file. Separate files are acceptable in those cases where the information will not fit on the selected media type.

(c) Diskette and CD files zipped with PKZIP or WINZIP are also acceptable.

If information cannot be provided on preferred media, or you cannot provide the information in ASCII format, please contact Mr. James Murphy, at the FDIC's Dallas Field Operations Branch, Telephone No. (972) 761–2226, for possible alternatives.

2. Please provide ALL requested information where possible.

3. Provide a record layout in a printout accompanying the file. The field order and field names are indicated. The field names are under the column heading 'FDIC NAME.' Your record layout must include field order, field name, type (e.g., Character, Numeric), field length and decimal places (precision).

4. Do not duplicate records within the download.

5. Decimal points should be included in the information provided, not implied (i.e., $10,300.75 should be provided as 10300.75, interest rate of 8.45% should be provided as .0845). Please do NOT include packed or zoned decimals.

6. Date formats should be MM/DD/YYYY (e.g., March 14, 2001 should be provided as 03/14/2001).

Deposit Extract File Format

	Information Field	Definition	FDIC Name	Info Type	Info Length	Dec
1	Account Status	Code defining account status (Open, Closed, Dormant, etc)..	STATUS	C	4	
2	Branch Number	Branch Number	BRANCH	C	4	
3	Account Number	Unique account number. Include all fields required to avoid duplicate account numbers..	ACCTNO	C	16	
4	Tax ID Number	Taxpayer identification number of the primary account holder (ex: 428–78–1992 or 58–2345679 Include Hyphens)..	TAXID	C	11	
5	Customer Short Name	Alpha sort key used to create an alpha list of accounts..	SHORTNAME	C	20	
6	Customer Name	Full name line 1 as it appears on deposit account.	NAME1	C	40	
7	Joint Customer Name	Full name line 2 as it appears on deposit account.	NAME2	C	40	
8	Customer Street Address	The street address as it appears on the statement. May also be provided in multiple fields (provide as ADDR1, ADDR2, ADDR3, etc).	ADDR1	C	40	
9	Customer City	Address city as it appears on statement.	CITY	C	25	
10	Customer State	State postal abbreviation as it appears on statement..	STATE	C	2	
11	Customer Zip	Address zip code as it appears on statement—no hyphens..	ZIP	N	9	
12	Financial Institution's Account Type.	The Financial Institution's account types. Use any pertinent codes relevant to identifying the type of account..	FITYPE	C	4	
13	Account Type Description.	Description of the Financial Institution's account types. May also be used to describe class codes..	FIDESC	C	20	
14	FDIC Account Type	FDIC Claim Types (e.g., DDA, SAV, CD, NOW, MMA, IRA, KEO (KEOGH), TRU (TRUST))..	FDICTYPE	C	4	
15	GL Code	Financial Institution's GL code that the account is aggregated to for GL accounting..	GLCODE	C	6	
16	GL Code Description	Description of Financial Institution's GL code that the account is aggregated to for GL accounting..	GLDESC	C	20	
17	Class Code	All codes identifying deposit account products on bank's system (may be the same as FITYPE)..	CLASS	C	4	

Deposit Extract File Format—Continued

	Information Field	Definition	FDIC Name	Info Type	Info Length	Dec
18	Municipality	Indicates account of state, county or municipal entity..	MUNICIPAL	C	4	
19	Current Account Balance	Current principal account balance.	CURRBAL	N	15	2
20	Accrued Interest	Accrued interest earned but not paid on the account. Enter zero if not interest bearing..	ACCRINT	N	15	2
21	Per Diem	Daily accrual amount or per diem. Enter zero if blank or null..	PERDIEM	N	9	5
22	Interest Paid Year-to-Date.	Interest paid year-to-date. Enter zero if not interest bearing..	INTPYTD	N	15	2
23	Interest Rate	Current interest rate applicable to account on cut-off date. Rate is based on the current balance, not base rate. If minimum balance requirements are not met, rate is zero..	RATE	N	8	5
24	Original Date	Date account opened.	ORIGDATE	D	8	
25	Maturity Date	Maturity date for all CDs and IRA accounts.	MATDATE	D	8	
26	Interest Paid Through Date.	Date interest is paid through.	PDTHRUDT	D	8	
27	Collateral Account Number.	Loan account number for which this deposit account is serving as collateral..	LOANACCT	C	16	
28	Overdraft Account Number.	Overdraft Protection account number this account is tied to..	OPDACCT	C	16	
29	Available Overdraft Protection Amount.	Current available Overdraft Protection Balance	AVAILOD	N	15	
30	Average Daily Balance	Average daily balance, maintained for the current statement period (monthly, quarterly)..	DAILYBAL	N	15	
31	Available Balance	Current available balance	AVAILBAL	N	15	
32	Hold Code	Hold code(s)/flag(s) indicating account secures a loan(s)..	HOLDCODE	C	4	
33	Hold Description	Description of hold code(s)/flag(s) indicating account secures a loan(s) etc..	HOLDDESC	C	20	
34	Hold Amount	Amount of hold(s).	HOLDAMT	N	15	2

Appendix B to Part 331—Asset and Liability Backup Program Technical Instructions and Loan Extract File Format

TECHNICAL INSTRUCTIONS

FDIC Standard Loan Extract File Format

THE FDIC STANDARD LOAN EXTRACT FILE FORMAT

The attached ''Loan Extract File Format'' is a list of fields developed as a tool for requesting information from an institution for the purposes of categorizing, analyzing and transmitting the loan portfolio and other related functions. Please match your institution's loan information field names to those on the ''Loan Extract File Format.'' For your convenience, descriptions of each field are provided.

STANDARD LOAN EXTRACT FILE PREFERENCES:

1. Information must be provided in an ASCII-flat, tab delimited file.

(a) The preferred media is diskette, CD, ZIP Disk or fixed length 9-track tape.

(b) All loan records should be included in one file. Separate files are acceptable in those cases where the information will not fit on the selected media type.

(c) Diskette and CD files zipped with PKZIP or WINZIP are also acceptable.

If information cannot be provided on preferred media, or you cannot provide the information in ASCII format, please contact Mr. James Murphy, at the FDIC's Dallas Field Operations Branch, Telephone No. (972) 761–2226, for possible alternatives.

2. Please provide ALL requested information where possible.

3. Provide a record layout in a printout accompanying the file. The field order and field names are indicated. The field names are under the column heading 'FDIC NAME'. Your record layout must include field order, field name, type (e.g. Character, Numeric), field length and decimal places (precision).

4. Do not duplicate records within the download.

5. Decimal points should be included in the information provided, not implied (i.e., $10,300.75 should be provided as 10300.75, interest rate of 8.45% should be provided as .0845). Please do NOT include packed or zoned decimals.

6. Date formats should be MM/DD/YYYY (e.g., March 14, 2001 should be provided as 03/14/2001).

7. All information for each loan must be contained within one record.

a. Participation sold information should not be provided as a separate record (provide as separate field).

b. Partial charge-off information should not be provided as a separate record (provide as separate field).

c. Completely charged-off loans and paid-off loans should not be included in the download.

d. Loans with partial charge-off should be provided with balances net of partial charge-off.

LOAN EXTRACT FILE FORMAT

	Information Field	Definition	FDIC Name	Info Type	Info Length	Dec
1	Borrower Name	The full legal name (Last Name, First Name, MI) of the borrower (preferred). The information may also be provided in multiple fields (Last Name in field called NAME1, First Name in a field called NAME2, MI in a field called NAME3).	NAME	C	50	
2	Borrower Short Name	Abbreviated name assigned to each borrower	SHORTNAME	C	50	
3	Borrower Street Address	The street address where the borrower's home or head office is located. May also be provided in multiple fields (provide as ADDR1, ADDR2, ADDR3, etc).	ADDR1	C	50	
4	Borrower City	The city where the borrower's home or head office is located.	CITY	C	40	
5	Borrower State	The state where the borrower's home or head office is located.	STATE	C	2	
6	Borrower Zip	The zip code where the borrower's home or head office is located.	ZIP	C	10	
7	CIF Number	Central Information File identifier. The number that links all loan, deposit, and other accounts to the borrower. (This number may be the same as the Borrower ID Number.)	CIF	C	15	
8	Insider	Indicates if the borrower is either an insider of the bank or a related interest of an insider of the bank. If possible, indicate the type of insider (e.g., director, executive officer, principal shareholder, non-executive officer, or employee).	INSIDER	C Y/N	1	
9	Tax ID Number	Taxpayer identification number of the primary account holder (e.g., 428–78–1992 or 58–2345679 Include Hyphens).	TAXID	C	11	
10	Accrued Interest	Total amount of interest accrued and unpaid on a note/credit facility.	ACCRINT	N	14	2
11	Amortizing or Non Amortizing Status.	Indicates if the note/credit facility is amortizing or non-amortizing.	AMORTCD	C Y/N	1	
12	Branch ID	Identifies the branch location where the note/credit facility was originated or is managed. Please indicate in your supporting documentation if this identification number is part of the note/credit facility number.	BRANCH	N	3	
13	Charged-Off Amount	The amount associated with the note/credit facility that has been charged off. If the note/credit facility balances reported elsewhere are not net of charged-off amounts, please indicate this in your supporting documentation.	CHGOFFAMT	N	14	2
14	Co-Maker or Joint Maker	The name of the co-maker(s) or joint maker(s) whose signature(s) appears on the promissory note or loan agreement.	COMAKER	C	50	
15	Current Balance	The portion of the note/credit facility that appears as an asset on the bank's General Ledger. This balance is net of all participations sold, charge-off, and specific reserves.	CURRBAL	N	14	2
16	Number of Days Past Due.	If interest or principal is delinquent, indicate the number of days delinquent. If both are delinquent, indicate the larger of the two numbers.	DAYSLATE	N	4	
17	Dealer Code	The code identifying loans accepted from auto, mobile home, or other sales agents.	DEALERCD	C	5	
18	Dealer Name	Dealer name	DEALNAME	C	50	
19	Dealer Reserve Balance	The amount of the dealer reserve held in conjunction with the applicable account.	DEALERRES	N	14	2
20	Escrow Balance	The amount currently held in escrow for payment to third parties, such as insurance and real estate taxes.	ESCRBAL	N	14	2
21	Guarantor or Endorser Name.	Name of the individual or entity that guarantees, in part or in full, the borrower's note.	GTYNAME	C	50	
22	Index	The specific underlying market index used to calculate the interest rate of an adjustable rate note/credit facility (i.e. LIBOR, Wall Street Prime, Cost of Funds Index, One-Year Treasury Bill).	INDEX	C	10	
23	Interest Rate	The interest rate currently applicable to the note/credit facility. If the interest rate is variable, indicate the current rate (e.g., 7.25%, not Prime + 1).	RATE	N	8	3

LOAN EXTRACT FILE FORMAT—Continued

	Information Field	Definition	FDIC Name	Info Type	Info Length	Dec
24	Interest Paid to Date	Amount of interest collected since origination or other institution-defined time period.	INTPAID	N	14	2
25	Interest Rate Reset Interval.	The time between periodic reset dates for variable or adjustable rate loans.	RTCHGFRQ	N	3	
26	Interest Rate Reset Date	The next periodic reset date for variable or adjustable rate loans.	RESETDTE	D.		
27	Last Payment Date	Date Date the last payment was made	LASTPMT	D.		
28	Last Renewal Date	Date on which the legally binding note/credit facility was extended or renewed, even if principal reductions have been made.	LASTRENEW	D.		
29	Late Charges	Late charges that are currently due	LTCHGBAL	N	14	2
30	Lifetime Interest Rate Cap.	The upper limit on the interest rate that can be charged over the life of the loan.	RTCEIL	N	8	3
31	Lifetime Interest Rate Floor.	The lower limit on the interest rate that can be charged over the life of the loan.	RATEFL	N	8	3
32	Maturity Date	The date on which the legally binding note/credit facility matures.	MATDATE	D.		
33	Mortgage Loan Type	For real estate loans, indicates if the note/credit facility is secured by a first lien on single-family residential real estate.	MTGTYPE	C	15	
34	Next Payment Date	Date the next scheduled payment is due	NXTDUEDT	D.		
35	Non-accrual	Idicates if the note/credit facility is on non-accrual status.	NONACCRCD	C Y/N	1	
36	Note Number or Credit Facility Number.	The number used by the bank to uniquely identify a note/credit facility.	ACCTNO	C	15	
37	Note Type or Credit Facility Type.	A code representing the type of loan May correspond to the FFIEC Report of Condition.	LOANTYPE	C	5	
38	Note Type or Credit Facility Type Description.	A description of the code representing the type of loan.	TYPEDESC	C	15	
39	Number of Payments	The number of payments specified in the loan agreement or note.	PAYNUM	N	3	
40	Number of Extensions	The number of times the loan has been extended beyond original maturity date.	EXTENDS	N	2	
41	Original Balance	The amount of the note or credit facility that has been executed. If a note/credit facility has been renewed one or more times and the original amount is not available, provide the amount most recently executed.	ORIGAMT	N	14	2
42	Original Date	The date your institution extended credit to the borrower. Date should be consistent with the information provided for original balance.	ORIGDATE	D.		
43	Payment Amount	Amount of regularly scheduled payments	PAYAMT	N	14	2
44	P&I Payment	Amount of regularly scheduled P&I payments	PIAMT	N	14	2
45	Payment Frequency	The frequency payments are due to the bank (i.e. monthly, quarterly, annually).	PAYFREQ	C	15	
46	Periodic Interest Rate Cap.	For variable or adjustable rate loans, the maximum percentage points that the rate may change each reset interval.	PRTCAP	N	8	3
47	Basis Code	Day basis on which interest calculations are made (e.g., 3/360, Actual/360, etc.).	BASIS	C	12	
48	Revolving Line of Credit	Indicates if the loan is a revolving line of credit	REVCODE	C	5	
49	Security Perfection Date	The date that the last security interest, lien, or UCC–1 was perfected.	PERFDATE	D.		
50	Times Past Due 30–59 Days.	Number of times the note/credit facility has been past due 30–59 days during the last 12 months of the loan.	LATE30	N	4	
51	Times Past Due 60–89 Days.	Number of times the note/credit facility has been past due 60–89 days during the last 12 months of the loan.	LATE60	N	4	
52	Times Past Due 90+ Days.	Number of times the note/credit facility has been past due 90 or more days during the last 12 months of the loan.	LATE90	N	4	
53	Total Commitment	The sum of the outstanding balance and the undisbursed amount legally available to be drawn upon.	CREDLMT	N	14	2
54	Troubled Debt Restructured Code.	Code indicating if the note/credit facility is considered to be a troubled debt restructure.	RTDCODE	C Y/N	1	
55	Unfunded or Undisbursed Balance.	The amount legally available under a note/credit facility that has not been disbursed.	UNFUNDED	N	14	2
56	Variable Rate Code	Code indicating adjustable, floating, or variable interest rate.	RATECODE	C	5	

LOAN EXTRACT FILE FORMAT—Continued

	Information Field	Definition	FDIC Name	Info Type	Info Length	Dec
57	Variable Rate Description.	Description of code indicating adjustable, floating or variable interest rate.	RATEDESC	C	15	
58	Collateral Code	The code associated with a unique collateral type (i.e. commercial real estate, 1–4 family real estate, UCC filings, marketable securities).	COLLCODE	C	5	
59	Collateral Description	The narrative description of collateral or a description Referencing a collateral code. The collateral code for each description must be included in a separate table.	COLLDESC	C	50	
60	Collateral State	State in which the collateral is located	COLSTATE	C	2	
61	Collateral Value	The total value assigned to the collateral. If the bank has adjusted this value, please indicate this in your supporting documentation.	APPRLAMT	N	14	2
62	Collateral Valuation or Appraisal Date.	Date collateral was last appraised or valued	APPRDATE	D.		
63	Insurance Code/Flag	Code indicating the status of insurance covering collateral for a note/credit facility.	INSCODE	C	5	
64	Insurance Expiration Date.	The date that the related insurance policy covering bank collateral expires.	INSEXP	D.		
65	Lien Status	The priority lien held by this bank (i.e. 1st lien, 2nd lien).	LIENCODE	C	10	
66	Participating Institution Code.	Code indicating the institution participating in the credit. If the credit is sold to multiple institutions, please indicate this in your supporting documentation.	INVESTOR	C	5	
67	Participating Institution Description.	Description of the code indicating the institution participating in the credit. If the credit is sold to multiple institutions, please indicate this in your supporting documentation.	INVDESC	C	50	
68	Participation Amount	The current outstanding dollar amount of the loan sold to or purchased from another institution.	PARTSOLD	N	14	2
69	Participation Code	A code indicating that the loan/credit facility involves a participation purchased or sold. Please identify the purchased and sold codes.	PARTTYPE	C	5	
70	Participation Code Description.	Description of the code indicating that the loan/credit facility involves a participation purchased or sold.	PARTDESC	C	15	
71	Participation Sold Original Amount.	The original amount of the loan participation sold or purchased.	PARTORG	N	14	2
72	Rebate Flag	Flag indicating there is any kind of rebate associated with the account. (i.e. insurance, interest etc.).	REBATE	C Y/N	1	

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FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 902 and 903

[No. 99–34]

RIN 3069–AA86

Procedures

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) has adopted a final rule that establishes procedures governing applications for Approvals or Waivers, requests for No-Action Letters or Regulatory Interpretations, and Petitions for Case-by-Case Determination or Review of Disputed Supervisory Determinations. The Finance Board determined that it was necessary and in the public interest to establish uniform procedural rules to encourage focused presentation of issues, ensure expeditious consideration of submissions, promote clarity and consistency in interpretation and application of the Federal Home Loan Bank Act (Bank Act) and Finance Board rules, regulations, policies, and orders, and minimize the expenditure of staff resources. The rule codifies procedures that currently are in effect.

EFFECTIVE DATE: The final rule will become effective on June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Karen H. Crosby, Director, Office of Strategic Planning, by telephone at 202/408–2983, by electronic mail at crosbyk@fhfb.gov, or by regular mail at the Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

Pursuant to the authority provided by section 2B(a)(1) of the Federal Home Loan Bank Act (Bank Act), 12 U.S.C. 1422b(a)(1), to ''promulgate such regulations and orders as are necessary from time to time to carry out the provisions of'' the Bank Act, the Finance Board in 1998 adopted three sets of procedures governing the submission to and processing by the Finance Board of applications, requests, and petitions. The Finance Board determined that it was necessary and in the public interest to establish uniform procedural rules. The intent of the three sets of procedures is to encourage focused presentation of issues, ensure expeditious consideration of

submissions, promote clarity and consistency in interpretation and application of the Bank Act and Finance Board rules, regulations, policies, and orders, and minimize the expenditure of staff resources. The procedures have functioned effectively since their adoption.

The first set of procedures, adopted on July 10, 1998 and titled *Revised Procedures for Review of Disputed Supervisory Determinations,* governs review by the Board of Directors of the Finance Board of disputes regarding examination findings and other supervisory determinations that cannot be resolved informally. The *Revised Procedures* replaced procedures adopted by the Finance Board on July 30, 1996, and amended on October 24 and December 18, 1996. The second set of procedures, adopted on October 28, 1998 and titled *Procedures for Adjudications by the Finance Board of Issues Other than the Review of Disputed Supervisory Determinations,* establishes a process for the Board of Directors of the Finance Board to reach a decision on matters that in its judgment require a determination, finding, or approval, and for which no controlling statutory, regulatory, or other Finance Board standard previously has been established. The third set of procedures, adopted on October 28, 1998 and titled *Procedures for Requests and Applications,* governs the issuance of Approvals, Waivers, and written interpretations of the Bank Act or Finance Board rules, regulations, policies, or orders issued in the form of No-Action Letters or Regulatory Interpretations.

The final rule codifies the three sets of procedures with minor and technical changes made in the interests of clarity, concision, and consistency. The final rule does not include provisions relating only to internal processes and intended solely for the guidance of Finance Board staff.

II. Analysis of the Final Rule

A. Definitions

Subpart A, § 903.1 of the final rule, sets forth definitions of terms used in the rule. Section 903.1 restates definitions of terms used elsewhere in the Finance Board's regulations and includes definitions of terms used only in part 903. Definitions of terms unique to part 903 are discussed below with the substantive provisions in which the terms are used.

B. Waivers, Approvals, No-Action Letters, and Regulatory Interpretations

Subpart B of the final rule, §§ 903.2–903.7, governs applications for Waivers and Approvals and requests for No-Action Letters and Regulatory Interpretations.

1. Waivers

The term ''Waiver'' is defined in § 903.1(u) of the final rule as a written statement issued to a Federal Home Loan Bank (Bank), a member of a Bank (Member), or the Office of Finance that waives a provision, restriction, or requirement of a Finance Board rule, regulation, policy, or order, or a required submission of information, not otherwise required by law, in connection with a particular transaction or activity. Section 903.2 authorizes the Board of Directors of the Finance Board to issue a Waiver and provides for filing a Waiver application in accordance with the requirements of § 903.6 of the final rule. Section 903.2 replaces § 902.6 of the Finance Board's regulations. *See* 12 CFR 902.6. Issuance of a Waiver is entirely within the Board of Directors' discretion. Thus, the Board of Directors may deny or decline to consider or respond to an application for a Waiver for any reason or without stating a reason. A Waiver is applicable only to a Bank, a Member, or the Office of Finance and the particular transaction or activity it addresses.

2. Approvals

In § 903.1(a) of the final rule, the term ''Approval'' is defined as a written statement approving a transaction, activity, or item that requires Finance Board approval under the Bank Act or a Finance Board rule, regulation, policy, or order. Under § 903.3, the Finance Board may issue an Approval only to a Bank or the Office of Finance. Unlike Waivers, Approvals are not discretionary—the Finance Board must grant or deny each application for an Approval, with or without conditions, based on the governing standard in the Bank Act or Finance Board rule, regulation, policy, or order for the particular category of Approval. Section 903.3(a) provides that an application for Approval generally must be filed in accordance with the requirements of § 903.6 of the final rule. However, under § 903.3(b), the Finance Board retains the authority to prescribe additional or alternative application procedures for Approval of any transaction, activity, or item. An Approval may be issued by the Board of Directors of the Finance Board or, by delegation, by the Chairperson of the Board of Directors or Finance Board staff.

3. No-Action Letters and Regulatory Interpretations

Sections 903.4 and 903.5 of the final rule govern issuance by Finance Board staff of two types of written interpretations of the Bank Act or Finance Board rules, regulations, policies, or orders, with respect to a particular transaction or activity. The two types of interpretations are No-Action Letters and Regulatory Interpretations.

In § 903.1(l), the term ''No-Action Letter'' is defined as a written statement providing that Finance Board staff will not recommend supervisory or other action to the Board of Directors of the Finance Board for failure to comply with a specific provision of the Bank Act or a Finance Board rule, regulation, policy, or order, if the requester undertakes a proposed transaction or activity. Under § 903.4 of the final rule, Finance Board staff may issue a No-Action Letter only to a Bank or the Office of Finance. A No-Action Letter is applicable only to the entity addressed by the letter. Issuance of a No-Action Letter is entirely within the discretion of Finance Board staff, which may deny or decline to consider or respond to a request for a No-Action Letter for any reason or without stating a reason. A No-Action Letter is prospective in nature and must relate to a specific proposed transaction or activity. Finance Board staff will not issue a No-Action Letter based upon a hypothetical situation. A No-Action Letter represents only the position of staff, and may be modified or superseded by the Board of Directors of the Finance Board. All requests for a No-Action Letter must be filed in accordance with the requirements of § 903.6 of the final rule.

In § 903.1(q), the term ''Regulatory Interpretation'' is defined as written guidance issued by the Finance Board with respect to application of the Bank Act or a Finance Board rule, regulation, policy, or order to a proposed transaction or activity. Section 903.5 of the final rule provides that Finance Board staff may issue a Regulatory Interpretation to any person or entity. Issuance of Regulatory Interpretations is entirely within the discretion of Finance Board staff, which may deny or decline to consider or respond to a request for a Regulatory Interpretation for any reason or without stating a reason. A Regulatory Interpretation must relate to a proposed transaction or activity—Finance Board staff will not issue a Regulatory Interpretation based upon a hypothetical situation. A Regulatory

Interpretation is applicable only to the requester and the specific matter addressed in the Interpretation. Like a No-Action Letter, a Regulatory Interpretation represents only the position of staff, and may be modified or superseded by the Board of Directors of the Finance Board. A request for a Regulatory Interpretation must be filed in accordance with the requirements of § 903.6 of the final rule.

4. Submission Requirements and Issuance

Section 903.6 of the final rule sets forth requirements applicable to applications for Waiver or Approval and requests for a No-Action Letter or Regulatory Interpretation. All submissions must comply with the requirements of § 903.6, except those applications for Approval for which the Finance Board has prescribed alternative or additional procedures. Under § 903.6(d), the Managing Director of the Finance Board may waive any submission requirement for a particular submission, subject to review by the Board of Directors.

Section 903.7 of the final rule concerns issuance of Waivers, Approvals, No-Action Letters, and Regulatory Interpretations. Section 903.7(a) requires the Secretary to the Board of Directors of the Finance Board to provide a copy of all staff interpretations other than Waivers to the Board of Directors for review at least three business days prior to transmission to the requester. A Waiver, Approval, No-Action Letter, or Regulatory Interpretation is not effective until the Secretary to the Board has transmitted it in final form to the requester. Oral indications from Finance Board staff are not binding.

Section 903.7(c) of the rule permits the Finance Board to provide an abbreviated response to an application or request. Examples of an abbreviated response include ''Approved;'' ''Denied;'' or ''Finance Board staff agrees with the interpretation stated in the request.''

C. Case-by-Case Determinations; Review of Disputed Supervisory Determinations

Subpart C, §§ 903–8–903.15, establishes procedures governing two categories of Petitions, Petitions for Case-by-Case Determination and Petitions for Review of Disputed Supervisory Determination.

Under § 903.1(e), the term ''Case-by-Case Determination'' means a Final Decision concerning any matter that requires a determination, finding, or approval by the Board of Directors under the Bank Act or Finance Board regulations, for which no controlling statutory, regulatory, or other Finance Board standard previously has been established, and that in the judgment of the Board of Directors is best resolved on a case-by-case basis by a ruling applicable only to the Petitioner and any Intervener, and not by adoption of a rule of general applicability. Section 903.1(g) defines the term ''Final Decision'' as a decision rendered by the Board of Directors on issues raised in a Petition or Request to Intervene that have been accepted for consideration. In order to avoid ambiguity or confusion arising from the use of the term ''adjudication'' in the Administrative Procedure Act, 5 U.S.C. 551–559, the term ''Case-by-Case Determination'' replaces the term ''Adjudication'' as used in the *Procedures for Adjudications by the Finance Board of Issues Other than the Review of Disputed Supervisory Determinations.*

The Finance Board has dealt with most provisions that require a determination, finding, or approval by the Board of Directors in policies or through rulemaking. However, if a matter requiring a determination, finding, or approval affects only a limited number of parties, the Board of Directors may determine that the best way to address the matter is to develop standards on a case-by-case basis prior to or in lieu of promulgating system-wide standards. Case-by-Case Determinations by the Board of Directors are intended to serve as an alternative to rulemaking under these limited circumstances. Under § 903.8(a) of the final rule, a Petition for Case-by-Case Determination must be filed in accordance with the requirements of § 903.10 of the final rule. Decisions as to whether a matter is best addressed through a Case-by-Case Determination, system-wide rulemaking, Approval, Waiver, or some other procedure, lie solely within the discretion of the Board of Directors.

Under § 903.1(t) of the final rule, the term ''Supervisory Determination'' means a Finance Board finding in a report of examination, order, or directive, or a Finance Board order or directive concerning safety and soundness or compliance matters that requires mandatory action by a Bank or the Office of Finance. Section 903.9(a) requires the Office of Finance or a Bank seeking review of a disputed Supervisory Determination by the Board of Directors, to file a Petition within 60 calendar days of the date of the disputed Supervisory Determination in accordance with the requirements of § 903.10 of the final rule. Notwithstanding this provision, the Finance Board expects most disputes to be resolved through voluntary agreement, and Bank, Office of Finance, and Finance Board staffs are encouraged to maintain cooperative communication to resolve disputes informally and expeditiously. Section 903.9(b) makes clear that a disputed Supervisory Determination remains in effect while a Petition is pending.

All Petitions should comply with the requirements of § 903.10 of the final rule. However, § 903.12(c) requires the Managing Director of the Finance Board to afford a Petitioner a reasonable opportunity to cure any defects and bring a Petition into compliance with the requirements. In addition, § 903.15(a) of the rule authorizes the Managing Director to waive any filing requirements or deadlines, subject to review by the Board of Directors.

Section 903.11 of the final rule sets forth requirements applicable to Requests to Intervene, as provided for by §§ 903.8(b) and 903.9(d). As for Petitions, under § 903.15(a) the Managing Director may waive any filing requirements or deadlines, subject to review by the Board of Directors.

Section 903.12 of the final rule sets forth provisions relating to Finance Board processing of Petitions. Section 903.12(a) requires the Finance Board to publish notice of receipt of a Petition for Case-by-Case Determination in the **Federal Register**. This provision does not apply to Petitions for Review of Disputed Supervisory Determinations.

Pursuant to § 903.12(c), the Managing Director may request additional information from a Petitioner to ensure that the matters presented in the Petition are ripe for review and the record contains all information necessary for consideration of the Petition by the Board of Directors. If a Petition is the subject of such a request, the time periods established for Notice of Board Consideration and Final Decision under §§ 903.12(g) and 903.13(c), respectively, will not begin to run until the Managing Director has determined that the Bank has provided the information necessary for the Board of Directors to consider the Petition.

Section 903.12(g) requires the Managing Director, after consultation with the Board of Directors, to provide all parties with a Notice of Board Consideration through the Secretary to the Board that includes: (1) the issues accepted for consideration; (2) any decision to consolidate or sever pursuant to § 903.12(f); (3) whether the Petition will be considered by the Board of Directors on the written record under § 903.13(a)(1) or at a meeting under § 903.13(a)(2); and (4) if the Petition will

be considered by the Board of Directors at a meeting, the date, time and place of the meeting, and a decision as to any Request to Appear filed pursuant to §§ 903.10(d) or 903.11(a)(4). In preparing this Notice, the Managing Director should consult with the Office of Supervision and other Finance Board offices, as appropriate, in addition to the Board of Directors. Under § 903.15(b), all matters contained in the Notice of Board Consideration are subject to modification by the Board of Directors.

Section 903.13(a) permits the Board of Directors to consider a Petition either solely on the basis of the written record or at a meeting. The meeting may be either a regularly scheduled meeting or a meeting convened specifically for the purpose of considering the Petition. The final rule does not establish any deadline or requirement regarding the date of such meeting. Normally the Finance Board will provide at least 30 calendar days notice for consideration of a Petition at a meeting.

Section 903.13(c) provides that the Board of Directors will normally complete consideration of a Petition and issue a Final Decision within 120 calendar days from the date the Managing Director deems the Petition complete. However, the Board of Directors may extend this time period for any additional period they reasonably require to reach a decision.

Section 903.14 of the final rule sets forth the procedures that govern consideration of a Petition at a meeting. The rule provides for the Chairperson of the Board of Directors, or a member of the Board of Directors designated by the Chairperson, to preside at such a meeting. All references to the Chairperson in § 903.14 are deemed also to apply to the Chairperson's designee.

A Final Decision is effective upon adoption by the Board of Directors. Section 903.13(b) provides that a Final Decision is binding upon all parties and is a Final Decision for purposes of obtaining judicial review. Section 903.15(f) makes clear that following the procedures in subpart C is a prerequisite to obtaining judicial review of any Case-by-Case Determination or Review of a Disputed Supervisory Determination. Section 903.15(i) makes clear that the procedures in subpart C are exclusive with regard to Case-by-Case Determinations by the Board of Directors and Review of Disputed Supervisory Determinations.

Section 903.15(d) permits the parties to enter into a settlement agreement resolving issues raised in a Petition while the Petition is pending. The Finance Board expressly encourages parties to discuss possible settlement agreements.

III. Notice and Public Participation

The notice and publication requirements of the Administrative Procedures Act do not apply to this rule of agency procedure and practice. *See* 5 U.S.C. 553(b)(3)(A). In addition, because it is in the public interest to codify these uniform procedural rules governing the submission to and processing by the Finance Board of applications, requests, and petitions, the Finance Board for good cause finds that notice and public procedure are unnecessary. *See* 5 U.S.C. 553(b)(3)(B).

IV. Effective Date

For the reasons stated in part III above, the Finance Board for good cause finds that the final rule should become effective on June 9, 1999. *See* 5 U.S.C. 553(d)(3).

V. Regulatory Flexibility Act

The Finance Board is adding part 903 in the form of a final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act do not apply. *See* 5 U.S.C. 601(2), 603(a).

VI. Paperwork Reduction Act

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

List of Subjects

12 CFR Part 902

Assessments, Federal home loan banks, Government contracts, Minority businesses, Mortgages, Reporting and recordkeeping requirements.

12 CFR Part 903

Administrative practice and procedure, Federal home loan banks.

For the reasons stated in the preamble, the Finance Board hereby amends 12 CFR chapter IX as follows:

PART 902—OPERATIONS

1. The authority citation for part 902 continues to read as follows:

Authority: 12 U.S.C. 1422b and 1438(b).

§ 902.6 [Removed]

2. Remove § 902.6.

3. Add part 903 to read as follows:

PART 903—PROCEDURES

Subpart A—Definitions

Sec.

903.1 Definitions.

Subpart B—Waivers, Approvals, No-Action Letters, and Regulatory Interpretations

903.2 Waivers.
903.3 Approvals.
903.4 No-Action Letters.
903.5 Regulatory Interpretations.
903.6 Submission requirements.
903.7 Issuance of Waivers, Approvals, No-Action Letters, and Regulatory Interpretations.

Subpart C—Case-by-Case Determinations; Review of Disputed Supervisory Determinations

903.8 Case-by-Case Determinations.
903.9 Review of Disputed Supervisory Determinations.
903.10 Petitions.
903.11 Requests to Intervene.
903.12 Finance Board procedures.
903.13 Consideration and Final Decisions.
903.14 Meetings of the Board of Directors to consider Petitions.
903.15 General provisions.

Authority: 12 U.S.C. 1422b(a)(1).

Subpart A—Definitions

§ 903.1 Definitions.

For purposes of this part:

(a) *Approval* means a written statement issued to a Bank or the Office of Finance approving a transaction, activity, or item that requires Finance Board approval under the Bank Act or a Finance Board rule, regulation, policy, or order.

(b) *Bank* means a Federal Home Loan Bank.

(c) *Bank Act* means the Federal Home Loan Bank Act (12 U.S.C. 1421–1449).

(d) *Board of Directors* means the Board of Directors of the Finance Board.

(e) *Case-by-Case Determination* means a Final Decision concerning any matter that requires a determination, finding, or approval by the Board of Directors under the Bank Act or Finance Board regulations, for which no controlling statutory, regulatory, or other Finance Board standard previously has been established, and that, in the judgment of the Board of Directors, is best resolved on a case-by-case basis by a ruling applicable only to the Petitioner and any Intervener, and not by adoption of a rule of general applicability.

(f) *Chairperson* means the Chairperson of the Board of Directors of the Finance Board.

(g) *Final Decision* means a decision rendered by the Board of Directors on issues raised in a Petition or Request to Intervene that have been accepted for consideration.

(h) *Finance Board* means the agency established as the Federal Housing Finance Board.

(i) *Intervener* means a Bank, Member, or other entity that has been granted leave to intervene in the consideration of a Petition by the Board of Directors.

(j) *Managing Director* means the Managing Director of the Finance Board.

(k) *Member* means an institution admitted to membership and owning capital stock in a Bank.

(l) *No-Action Letter* means a written statement issued to a Bank or the Office of Finance providing that Finance Board staff will not recommend supervisory or other action to the Board of Directors for failure to comply with a specific provision of the Bank Act or a Finance Board rule, regulation, policy, or order, if a requester undertakes a proposed transaction or activity.

(m) *Office of Finance* means the joint office of the Banks established pursuant to 12 CFR part 941.

(n) *Party* means a Petitioner, an Intervener, or the Finance Board.

(o) *Petition* means a Petition for Case-by-Case Determination or a Petition for Review of a Disputed Supervisory Determination.

(p) *Petitioner* means the Office of Finance or a Bank that has filed a Petition.

(q) *Regulatory Interpretation* means written guidance issued by Finance Board staff with respect to application of the Bank Act or a Finance Board rule, regulation, policy, or order to a proposed transaction or activity.

(r) *Requester* means an entity or person that has submitted an application for a Waiver or Approval or a request for a No-Action Letter or Regulatory Interpretation.

(s) *Secretary to the Board* means the Secretary to the Board of Directors of the Finance Board.

(t) *Supervisory determination* means a Finance Board finding in a report of examination, order, or directive, or a Finance Board order or directive concerning safety and soundness or compliance matters that requires mandatory action by a Bank or the Office of Finance.

(u) *Waiver* means a written statement issued to a Bank, a Member, or the Office of Finance that waives a provision, restriction, or requirement of a Finance Board rule, regulation, policy, or order, or a required submission of information, not otherwise required by law, in connection with a particular transaction or activity.

Subpart B—Waivers, Approvals, No-Action Letters, and Regulatory Interpretations

§ 903.2 Waivers.

(a) *Authority.* The Board of Directors reserves the right, in its discretion and in connection with a particular transaction or activity, to waive any provision, restriction, or requirement of this chapter, or any required submission of information, not otherwise required by law, if such waiver is not inconsistent with the law and does not adversely affect any substantial existing rights, upon a determination that application of the provision, restriction, or requirement would adversely affect achievement of the purposes of the Bank Act, or upon a showing of good cause.

(b) *Application.* A Bank, a Member, or the Office of Finance may apply for a Waiver in accordance with § 903.6.

§ 903.3 Approvals.

(a) *Application.* A Bank or the Office of Finance may apply for an Approval of any transaction, activity, or item that requires Finance Board approval under the Bank Act or a Finance Board rule, regulation, policy, or order in accordance with § 903.6, unless alternative application procedures are prescribed by the Bank Act or a Finance Board rule, regulation, policy, or order for the transaction, activity, or item at issue.

(b) *Reservation.* The Finance Board reserves the right, in its discretion, to prescribe additional or alternative procedures for any application for Approval of a transaction, activity, or item.

§ 903.4 No-Action Letters.

(a) *Authority.* Finance Board staff, in its discretion, may issue a No-Action Letter to a Bank or the Office of Finance stating that staff will not recommend supervisory or other action to the Board of Directors for failure to comply with a specific provision of the Bank Act or a Finance Board rule, regulation, policy, or order, if a requester undertakes a proposed transaction or activity. The Board of Directors may modify or supersede a No-Action Letter.

(b) *Requests.* A Bank or the Office of Finance may request a No-Action Letter in accordance with § 903.6.

§ 903.5 Regulatory Interpretations.

(a) *Authority.* Finance Board staff, in its discretion, may issue a Regulatory Interpretation to a Bank, a Member, an official of a Bank or Member, the Office of Finance, or any other entity or person, providing guidance with respect to application of the Bank Act or a Finance Board rule, regulation, policy, or order to a proposed transaction or activity. The Board of Directors may modify or supersede a Regulatory Interpretation.

(b) *Requests.* A Bank, a Member, an official of a Bank or Member, the Office of Finance, or any other entity or person may request a Regulatory Interpretation in accordance with § 903.6.

§ 903.6 Submission requirements.

Applications for a Waiver or Approval and requests for a No-Action Letter or Regulatory Interpretation shall comply with the following requirements:

(a) *Filing.* Each application or request shall be in writing. The original and three copies shall be filed with the Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW, Washington, D.C. 20006.

(b) *Authorization*—(1) *Waivers and Approvals.* Applications for Waivers and Approvals shall be signed by an official with authority to sign such applications on behalf of the requester. Applications for Waivers and Approvals from a Bank or the Office of Finance shall be accompanied by a resolution of the board of directors of the Bank or the Office of Finance concurring in the substance and authorizing the filing of the application.

(2) *Requests for No-Action Letters.* The president of the Bank making a Request for a No-Action Letter shall sign the Request. Requests for a No-Action Letter from the Office of Finance shall be signed by the chairperson of the Board of Directors of the Office of Finance.

(3) *Requests for Regulatory Interpretations.* The requester or an authorized representative of the requester shall sign a request for a Regulatory Interpretation.

(c) *Information requirements.* Each application or request shall contain:

(1) The name of the requester, and the name, title, address, telephone number, and electronic mail address, if any, of the official filing the application or request on its behalf;

(2) The name, address, telephone number, and electronic mail address, if any, of a contact person from whom Finance Board staff may seek additional information if necessary;

(3) The section numbers of the particular provisions of the Bank Act or Finance Board rules, regulations, policies, or orders to which the application or request relates;

(4) Identification of the determination or relief requested, including any alternative relief requested if the primary relief is denied, and a clear statement of why such relief is needed;

(5) A statement of the particular facts and circumstances giving rise to the application or request and identifying all relevant legal and factual issues;

(6) References to all relevant authorities, including the Bank Act, Finance Board rules, regulations, policies, and orders, judicial decisions, administrative decisions, relevant statutory interpretations, and policy statements;

(7) References to any Waivers, No-Action Letters, Approvals, or Regulatory Interpretations issued to the requester in the past in response to circumstances similar to those surrounding the request or application;

(8) For any application or request involving interpretation of the Bank Act or Finance Board regulations, a reasoned opinion of counsel supporting the relief or interpretation sought and distinguishing any adverse authority;

(9) Any non-duplicative, relevant supporting documentation; and

(10) A certification by a person with knowledge of the facts that the representations made in the application or request are accurate and complete. The following form of certification is sufficient for this purpose: ''I hereby certify that the statements contained in the submission are true and complete to the best of my knowledge. [Name and Title].''

(d) *Waiver of requirements.* The Managing Director may waive any requirement of this section for good cause. The Managing Director shall provide prompt notice of any such waiver to the Board of Directors. The Board of Directors may overrule any waiver granted by the Managing Director under this paragraph.

(e) *Withdrawal.* Once filed, an application or request may be withdrawn only upon written request. The Finance Board will not consider a request for withdrawal after transmission by the Secretary to the Board to the requester of a response in final form.

§ 903.7 Issuance of Waivers, Approvals, No-Action Letters, and Regulatory Interpretations.

(a) *Board of Directors review.* At least three business days prior to issuance to the requester, the Secretary to the Board shall transmit each Approval, No-Action Letter, or Regulatory Interpretation issued by the Chairperson or Finance Board staff to the Board of Directors for review.

(b) *Issuance and effectiveness.* A Waiver, Approval, No-Action Letter, or Regulatory Interpretation is not effective until the Secretary to the Board has transmitted it in final form to the requester.

(c) *Abbreviated form.* The Finance Board may respond to an application or request in an abbreviated form, consisting of a concise statement of the nature of the response, without restatement of the underlying facts.

Subpart C—Case-by-Case Determinations; Review of Disputed Supervisory Determinations

§ 903.8 Case-by-Case Determinations.

(a) *Petition for Case-by-Case Determination.* A Bank or the Office of Finance may seek a Case-by-Case Determination concerning any matter that may require a determination, finding or approval under the Bank Act or Finance Board regulations by the Board of Directors, and for which no controlling statutory, regulatory or other Finance Board standard previously has been established. The Office of Finance or a Bank seeking a Case-by-Case Determination shall file a Petition for Case-by-Case Determination in accordance with § 903.10.

(b) *Intervention.* A Member, a Bank, or the Office of Finance may file a Request to Intervene in the consideration of the Petition in accordance with § 903.11 if it believes its rights may be affected.

§ 903.9 Review of Disputed Supervisory Determinations.

(a) *Petition for Review of a Disputed Supervisory Determination.* A Bank or the Office of Finance may seek review by the Board of Directors of a Finance Board finding in a report of examination, order, or directive, or a Finance Board order or directive concerning safety and soundness or compliance matters requiring mandatory action by the Bank or Office of Finance. The Office of Finance or a Bank seeking review of a disputed Supervisory Determination shall file a Petition for Review of a Disputed Supervisory Determination within 60 calendar days from the date of the disputed Supervisory Determination in accordance with § 903.10.

(b) *No stay while Petition is pending.* All Supervisory Determinations directed to a Bank or the Office of Finance shall remain in full force and effect while a Petition is pending. That a Petition is pending shall not operate or be deemed to operate as a suspension of the obligation of a Bank or the Office of Finance to take corrective action as required by a Supervisory Determination, except as the Bank or the Office of Finance may be otherwise directed by order of the Board of Directors.

(c) *Notice to affected entities.* With the approval of the Managing Director, a Petitioner may, pursuant to 12 CFR 960.12(d) or otherwise, provide notice of the issuance of a Supervisory Determination or the filing of a Petition for Review of a Disputed Supervisory Determination, to another Bank, the Office of Finance, or a Member or other entity named in 12 CFR 960.12(d), if the Petitioner believes the entity's rights may be affected by the Supervisory Determination or the Petition.

(d) *Intervention.* A Bank, the Office of Finance, a Member, or other entity named in 12 CFR 960.12(d) may file a Request to Intervene in the consideration of a Petition in accordance with § 903.11 if it believes its rights may be adversely affected by a Final Decision on the Petition.

§ 903.10 Petitions.

Each Petition brought pursuant to this subpart shall comply with the following requirements:

(a) *Filing.* The Petition shall be in writing. The original and three copies shall be filed with the Secretary to the Board, Federal Housing Finance Board, 1777 F Street NW, Washington, D.C. 20006.

(b) *Information requirements.* Each Petition shall contain:

(1) The name of the Petitioner, and the name, title, address, telephone number, and electronic mail address, if any, of the official filing the Petition on its behalf;

(2) The name, address, telephone number, and electronic mail address, if any, of a contact person from whom Finance Board staff may seek additional information if necessary;

(3) The section numbers of the particular provisions of the Bank Act or Finance Board rules, regulations, policies, or orders to which the Petition relates, and, if the Petition is for Review of a Disputed Supervisory Determination, identification of the disputed Supervisory Determination;

(4) Identification of the determination or relief requested, including any alternative relief requested if the primary relief is denied, and a clear statement of why such relief is needed;

(5) A statement of the particular facts and circumstances giving rise to the Petition and identifying all relevant legal and factual issues;

(6) A summary of any steps taken to date by the Petitioner to address or resolve the dispute or issue; or, in cases involving safety and soundness or compliance issues, a summary of any actions taken by the Petitioner in the interim to implement corrective action;

(7) The Petitioner's argument in support of its position, including citation to any supporting legal opinions, policy statements, or other relevant precedent and supporting documentation, if any;

(8) References to all relevant authorities, including the Bank Act, Finance Board rules, regulations, policies, and orders, judicial decisions,

administrative decisions, relevant statutory interpretations, and policy statements;

(9) A reasoned opinion of counsel supporting the relief or interpretation sought and distinguishing any adverse authority;

(10) Any non-duplicative, relevant supporting documentation; and

(11) A certification by a person with knowledge of the facts that the representations made in the Petition are accurate and complete. The following form of certification is sufficient for this purpose: ''I hereby certify that the statements contained in the Petition are true and complete to the best of my knowledge. [Name and Title].''

(c) *Authorization.* Each Petition shall be accompanied by a resolution of the Petitioner's board of directors concurring in the substance and authorizing the filing of the Petition.

(d) *Request to Appear.* The Petition may contain a request that staff or an agent of the Petitioner be permitted to make a personal appearance before the Board of Directors at any meeting convened to consider the Petition pursuant to these procedures. A statement of the reasons a written presentation would not suffice shall accompany a Request to Appear. The statement shall specifically:

(1) Identify any questions of fact that are in dispute;

(2) Summarize the evidence that would be presented at the meeting; and

(3) Identify any proposed witnesses, and state the substance of their anticipated testimony.

§ 903.11 Requests to Intervene.

(a) *Filing*—(1) *Date.* Any Request to Intervene in consideration of a Petition under this subpart shall be in writing and shall be filed with the Secretary to the Board within 45 days from the date the Petition is filed.

(2) *Information requirements.* A Request to Intervene shall include the information required by § 903.10(b), where applicable, and a concise statement of the position and interest of the Intervener and the grounds for the proposed intervention.

(3) *Authorization.* If the entity requesting intervention is a Bank or the Office of Finance, the Request to Intervene shall be accompanied by a resolution of the Petitioner's board of directors concurring in the substance and authorizing the filing of the Request. If the entity requesting intervention is not a Bank or the Office of Finance, the Request to Intervene shall be signed by an official of the entity with authority to authorize the filing of the Request, and shall include a statement describing such authority.

(4) *Request to Appear.* A Request to Intervene may include a Request to Appear before the Board of Directors in any meeting conducted under these procedures to consider a Petition. A Request to Appear shall be accompanied by a statement containing the information required by § 903.10(d), and, in addition, setting forth the likely impact that intervention will have on the expeditious progress of the meeting. A Request to Appear shall be filed with the Secretary to the Board either with the Request to Intervene or at least 20 days prior to the meeting scheduled to consider the Petition.

(5) *Intervener is bound.* Any Request to Intervene shall include a statement that, if such leave to intervene is granted, the Intervener shall be bound expressly by the Final Decision of the Board of Directors, as described in § 903.13(b), subject only to judicial review or as otherwise provided by law.

(b) *Grounds for approval.* The Managing Director may grant leave to intervene if the entity requesting intervention has complied with paragraph (a) of this section and, in the judgment of Managing Director:

(1) The presence of the entity requesting intervention would not unduly prolong or otherwise prejudice the adjudication of the rights of the original parties; and

(2) The entity requesting intervention may be adversely affected by a Final Decision on the Petition.

§ 903.12 Finance Board procedures.

(a) *Notice of Receipt of Petition or Request to Intervene.* No later than three business days following receipt of a Petition or Request to Intervene, the Secretary to the Board shall transmit a written Notice of Receipt to the Petitioner or Intervener. In the case of a Petition for Case-by-Case Determination, the Finance Board shall promptly publish a notice of receipt of Petition, including a brief summary of the issue(s) involved, in the **Federal Register**.

(b) *Transmittal of filings.* The Secretary to the Board shall promptly transmit copies of any Petition, Request to Intervene, or other filing under this subpart to the Board of Directors and all other parties to the filing.

(c) *Opportunity to cure defects.* The Managing Director shall afford the Petitioner or Intervener a reasonable opportunity to cure any failure to comply with the requirements of § 903.10.

(d) *Information request.* The Managing Director may request additional information from the Petitioner or Intervener. No later than 20 calendar days after the date of a request under this paragraph, the Petitioner shall provide to the Secretary to the Board all information requested.

(e) *Supplemental information.* Upon good cause shown, the Managing Director may grant permission to a Petitioner or Intervener to submit supplemental written information pertaining to the Petition or Request to Intervene.

(f) *Consolidation and severance*—(1) *Consolidation.* The Managing Director may consolidate any or all matters at issue in two or more meetings on Petitions where:

(i) There exist common parties or common questions of fact or law;

(ii) Consolidation would expedite and simplify consideration of the issues; and (iii) Consolidation would not adversely affect the rights of parties engaged in otherwise separate proceedings.

(2) *Severance.* The Managing Director may order any meetings and issues severed with respect to any or all parties or issues.

(g) *Notice of Board Consideration.* Within 30 calendar days of receipt of a Petition deemed by the Managing Director to be in compliance with the requirements of § 903.10, or, if the Petition has been the subject of a request under paragraph (d) of this section, within 30 calendar days of receipt of a response from the Petitioner deemed by the Managing Director to complete the information necessary for the Board of Directors to consider the Petition, the Managing Director, after consultation with the Board of Directors, through the Secretary to the Board, shall provide all parties with a Notice of Board Consideration containing the following information:

(1) Identification of the issues accepted for consideration;

(2) Any decision to consolidate or sever pursuant to paragraph (f) of this section;

(3) Whether the Petition will be considered by the Board of Directors on the written record pursuant to § 903.13(a)(1), or at a meeting pursuant to § 903.13(a)(2); and

(4) If the Petition will be considered by the Board of Directors at a meeting:

(i) The date, time and place of the meeting; and

(ii) A decision as to any Request to Appear filed pursuant to §§ 903.10(d) or 903.11(a)(4).

§ 903.13 Consideration and Final Decisions.

(a) *Consideration by Board of Directors.* The Board of Directors may

consider a Petition and render a decision:

(1) Solely on the basis of the written record; or

(2) At a regularly scheduled meeting or a meeting convened specifically for the purpose of considering the Petition. Consideration of a Petition at a meeting shall be governed by the procedures described in § 903.14.

(b) *Final Decision.* The Board of Directors shall render a Final Decision on the issue(s) presented in a Petition or Request to Intervene that has been accepted for consideration, based upon consideration of the entire record of the proceeding. The terms and conditions of the Final Decision shall bind the parties as to any issue(s) presented in the Petition or Request to Intervene and decided by the Board of Directors. The decision of the Board of Directors is a final decision for purposes of obtaining judicial review or as otherwise provided by law.

(c) *Time periods.* Subject to extension by such additional time as may reasonably be required, the Board of Directors shall render a Final Decision within 120 calendar days of the date the Petition is received in a form deemed by the Managing Director to be in compliance with the requirements of § 903.10 or, if the Petition has been the subject of a request under § 903.12(d), within 120 calendar days of receipt of a response from the Petitioner deemed by the Managing Director to complete the information necessary for the Board of Directors to consider the Petition.

(d) *Transmittal of Final Decision.* The Secretary to the Board shall transmit the Final Decision of the Board of Directors to all parties to the submission.

§ 903.14 Meetings of the Board of Directors to consider Petitions.

(a) *Full and fair opportunity to be heard.* Any meeting of the Board of Directors to consider a Petition shall be conducted in a manner that provides the parties a full and fair opportunity to be heard on the issues accepted for consideration. Any such meeting shall be conducted so as to permit an expeditious presentation of such issues.

(b) *Participation in meeting.* (1) The presence of a quorum of the Board if Directors is required to conduct a meeting under this section. Members of the Board of Directors are deemed present if they appear in person or by telephone.

(2) An act of the Board of Directors requires the vote of a majority of the members of the Board of Directors voting at a meeting at which a quorum of the Board of Directors is present.

(3) A Final Decision may be reached by a vote of the Board of Directors after the meeting at which the Petition has been considered. Only those members of the Board of Directors present at the meeting at which the Petition was considered may vote on issues presented in the Petition and accepted for consideration. A vote of the majority of the members of the Board of Directors eligible to vote and voting shall be an act of the Board of Directors.

(c) *Chairperson*—(1) *Presiding officer.* The Chairperson, or a member of the Board of Directors designated by the Chairperson, shall preside over a meeting of the Board of Directors convened under this section.

(2) *Authority of the Chairperson.* The Chairperson shall have all powers and discretion necessary to conduct the meeting in a fair and impartial manner, to avoid unnecessary delay, to regulate the course of the meeting and the conduct of the parties and their counsel, and to discharge the duties of a presiding officer.

(3) *Board of Directors may overrule the Chairperson.* Any member of the Board of Directors may, by motion, challenge any action, finding, or determination made by the Chairperson in the course of the meeting, and the Board of Directors, by majority vote, may overrule any action, finding or determination of the Chairperson.

(d) *Meeting may be closed.* A party may request that the meeting, or portion thereof, be closed to public observation. A request to close a meeting shall be processed in accordance with the requirements of the Government in the Sunshine Act (5 U.S.C. 552b) and the Finance Board's implementing regulation (12 CFR part 906).

(e) *Location of meeting.* Unless otherwise specified, all meetings of the Board of Directors will be held in the Board Room of the Finance Board at 1777 F Street, N.W., Washington, D.C., at the time specified in the notice of meeting issued pursuant to 12 CFR 906.6.

(f) *Presentation of issues*—(1) *Stipulations.* Subject to the Chairperson's discretion, the parties may agree to stipulations of law or fact, including stipulations as to the admissibility of exhibits, and present such stipulations at the meeting. Stipulations shall be made a part of the record of the proceeding.

(2) *Order of presentation.* The Chairperson shall determine the order of presentation of the issues, testimony of any witnesses, presentation of any other information or document, and all other procedural matters at the meeting.

(g) *Record.* The meeting shall be recorded and transcribed. Transcripts of the proceedings shall be governed by 12 CFR 906.5(c). The Petition and all supporting documentation shall be made a part of the record, unless otherwise determined by the Chairperson. The Chairperson may order the record corrected, upon motion to correct, upon stipulation of the parties, or at the Chairperson's discretion.

(h) *Admissibility of documents and testimony.* (1) The Chairperson has discretion to admit and make a part of the record documents and testimony that are relevant, material, and reliable, and may elect not to admit documents and testimony that are privileged, unduly repetitious, or of little probative value.

(2) The Board of Directors shall give such weight to documents and testimony admitted and made part of the record as it may deem reasonable and appropriate.

(3) The Chairperson may admit and make a part of the record, in lieu of oral testimony, statements of fact or opinion prepared by a witness. The admissibility of the information contained in the statement shall be subject to the same rules as if the testimony were provided orally.

(i) *Official notice.* All matters officially noticed by the Chairperson shall appear on the record.

(j) *Exhibits and documents*—(1) *Copies.* A legible duplicate copy of a document shall be admissible to the same extent as the original.

(2) *Exhibits.* Witnesses may use existing or newly created charts, exhibits, calendars, calculations, outlines, or other graphic materials to summarize, illustrate, or simplify the presentation of testimony. Subject to the Chairperson's discretion, such materials may be used with or without being admitted into the record.

(3) *Identification.* All exhibits offered into the record shall be numbered sequentially and marked with a designation identifying the sponsor. The original of each exhibit offered into the record or marked for identification shall be retained in the record of the meeting, unless the Chairperson permits substitution of a copy for the original.

(4) *Exchange of Exhibits.* One copy of each exhibit offered into the record shall be furnished to each of the parties and to each member of the Board of Directors. If the Chairperson does not fix a time for the exchange of exhibits, the parties shall exchange copies of proposed exhibits at the earliest practicable time before the commencement of the meeting to

consider the Petition. Parties are not required to exchange exhibits submitted as rebuttal information before the meeting commences if submission of the exhibits is not reasonably certain at that time.

(5) *Authenticity.* The authenticity of all documents submitted or exchanged as proposed exhibits prior to the meeting shall be admitted unless written objection is filed before the commencement of the meeting, or unless good cause is shown for failing to file such a written objection.

(k) *Sanction for obstruction of the proceedings.* The Board of Directors may impose sanctions it deems appropriate for violation of any applicable provision of this subpart or any applicable law, rule, regulation, or order, or any dilatory, frivolous, or obstructionist conduct by any witness or counsel during the course of a meeting.

§ 903.15 General provisions.

(a) *Waiver of requirements.* The Managing Director may waive any filing requirement or deadline in this subpart for good cause shown. The Managing Director shall provide prompt notice of any such waiver to the Board of Directors.

(b) *Actions of the Managing Director subject to the authority of the Board of Directors.* The Board of Directors may overrule any action by the Managing Director under this subpart.

(c) *Withdrawal.* At any time prior to the issuance by the Managing Director of a Notice of Board Consideration pursuant to § 903.12(g), an authorized representative of a Petitioner may withdraw the Petition, or an authorized representative of an Intervener may withdraw the Request to Intervene, by filing a written request to withdraw with the Secretary to the Board. Only the Board of Directors may grant a request to withdraw after issuance by the Managing Director of a Notice of Board Consideration pursuant to § 903.12(g). Unless otherwise agreed, withdrawal of a Petition or Request to Intervene shall not foreclose a Petitioner from resubmitting a Petition, or an Intervener from submitting a Request to Intervene, on the same or similar issues.

(d) *Settlement agreement.* (1) At any time during the course of proceedings pursuant to this subpart, the Finance Board shall give Petitioners and Interveners the opportunity to submit offers of settlement when the nature of the proceedings and the public interest permit. With the approval of the Managing Director, an authorized representative of a Petitioner or Intervener may enter into a proposed settlement agreement with the Finance Board disposing of some or all of the issues presented in a Petition or Request to Intervene.

(2) No proposed settlement agreement shall be final until approved by the Board of Directors. The Board of Directors shall consider any proposed settlement agreement within 30 calendar days of receiving a notice of the proposed settlement agreement. If the Board of Directors disapproves or fails to approve a proposed settlement agreement within 30 days, the proposed settlement agreement shall be null and void and the previously filed Petition or Request to Intervene shall be considered in accordance with this subpart.

(3) A settlement agreement approved by the Board of Directors shall be deemed final and binding on all parties to the agreement. At the time a proposed settlement agreement becomes final, a Petition or Request to Intervene previously filed by a party to the agreement shall be deemed withdrawn as to all issues resolved in the agreement, and the parties to the agreement shall be estopped from raising objection to those issues or to the terms of the settlement agreement.

(e) *No rights created; Finance Board not prohibited.* Nothing in this subpart shall be deemed to create any substantive or discovery right in any party. Nothing in this subpart shall limit in any manner the right of the Finance Board to conduct any examination or inspection of any Bank or the Office of Finance, or to take any action with respect to a Bank or the Office of Finance, or its directors, officers, employees or agents, otherwise authorized by law.

(f) *Exhaustion requirement.* When seeking a Case-by-Case Determination of any matter or review by the Board of Directors of any Supervisory Determination, a Bank or the Office of Finance shall follow the procedures in this subpart as a prerequisite to seeking judicial review. Failure to do so shall be deemed to be a failure to exhaust all available administrative remedies.

(g) *Improper conduct prohibited.* No party shall, by act or omission, unduly burden or frustrate the efforts of the Board of Directors to carry out its duties under the laws and regulations of the Finance Board. A Petitioner or Intervener shall confine its communications with the Board of Directors, or any individual member thereof, concerning issues raised in a pending Petition, to written communications for inclusion in the record of the proceeding, filed with the Secretary to the Board.

(h) *Costs.* Petitioners are encouraged to contain costs associated with the preparation and filing of Petitions and related personal appearances, if any, at any meeting held by the Board of Directors under this subpart. The Petitioner shall be solely responsible for all costs associated with any such Petitions and appearances.

(i) *Procedures are exclusive.* All Case-by-Case Determinations by the Board of Directors and all Reviews of Disputed Supervisory Determinations shall be considered exclusively pursuant to the procedures described in this subpart.

Dated: May 28, 1999.

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

Bruce A. Morrison,

Chairman.

[FR Doc. 99–14240 Filed 6–8–99; 8:45 am]

BILLING CODE 6725–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–21]

RIN 2120–AA66

Establishment of the San Juan High Offshore Airspace Area, PR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes the San Juan High Offshore Airspace Area. This action designates Class A airspace, extending upward from 18,000 feet mean sea level (MSL) to and including flight level (FL) 600, within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. This action provides additional airspace within which domestic air traffic control (ATC) procedures will be used. Establishment of this Class A airspace will enhance the management of air traffic operations and result in more efficient use of that airspace.

EFFECTIVE DATE: 0901 UTC, September 9, 1999.

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

SUPPLEMENTARY INFORMATION:

Background

On March 2, 1993, the FAA published a final rule (58 FR 12128) which, in part, designated the San Juan Low

Offshore Airspace Area. This designation was necessary to comply with the Airspace Reclassification final rule (56 FR 65638; December 17, 1991). The San Juan Low Offshore Airspace Area consists of Class E airspace from 5,500 feet MSL up to, but not including, FL 180 within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. The rule, however, did not affect the status of airspace at and above FL 180 within the San Juan domestic control area, which remains international airspace and wherein International Civil Aviation Organization (ICAO) oceanic ATC separation procedures in Annex 11 apply.

As a result of the rapid growth of air traffic activity in the Bahamas and Caribbean areas, there is a need to designate additional airspace wherein domestic ATC procedures will be used to provide more efficient control of aircraft operations. On January 25, 1999, the FAA proposed to establish the San Juan High Offshore Airspace Area (64 FR 3666). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. In response to the notice, the FAA received one comment from the Air Line Pilots Association supporting this action. This action designates a high-altitude strata that will increase system capacity, enhance safety, and enable more efficient use of the airspace.

Additionally, the number of operational ground-based navigation aids (NAVAIDS) in the region has declined due to the loss of facilities caused by unprecedented storm damage, and the difficulty of replacing aging equipment at remote sites. Establishing the San Juan High Offshore Airspace Area will support the development of additional routes, not dependent on ground-based NAVAIDS, to supplement the current airway system. Except for editorial changes, this rule is the same as that proposed in the notice.

Offshore airspace area designations are published in paragraph 2003 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Offshore airspace area listed in this document will be published subsequently in the Order.

The Rule

This action amends 14 CFR part 71 by establishing the San Juan High Offshore Airspace Area. This area will consist of Class A airspace, extending upward from 18,000 MSL up to and including FL 600, within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport, San Juan, PR. This action will facilitate the application of domestic ATC procedures within that airspace, thereby enhancing the flow of air traffic and increasing system capacity. In addition, this action will enhance safety by providing for the positive control of all aircraft operating in the area. This action will also support the development of a more efficient route system in the Bahamas-Caribbean area and will enable airspace classification and ATC separation procedures to be consistently applied between Florida and Puerto Rico. Finally, this modification will establish the same classification and operating rules that currently apply in adjacent airspace.

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

ICAO Considerations

As part of this rule relates to navigable airspace outside the United States, this notice was submitted in accordance with the ICAO International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of Air Traffic Airspace Management, in areas outside U.S. domestic airspace is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of the document is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices (SARP) in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting this responsibility may apply the International SARP that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Because this amendment involves, in part, the designation of navigable airspace outside of the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 2003-Offshore Airspace Areas

* * * * *

San Juan High, PR [New]

Fernando Luis Ribas Dominicci Airport, PR (Lat. 18°27′25″ N., long. 66°05′53″ W.)

That airspace extending upward from 18,000 feet MSL to and including FL 600 within a 100-mile radius of the Fernando Luis Ribas Dominicci Airport.

* * * * *

Issued in Washington, DC, on June 2, 1999.

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–14601 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No. 29584; Amdt. No. 416]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma city, OK 73125); telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on June 4, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC.

1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

PART 95—[AMENDED]

2. Part 95 is amended to read as follows:

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 416, effective July 15, 1999]

From	To	MEA
COLOR ROUTES		
§ 95.4 Green Federal Airway 8 Is Amended To Read in Part		
Saldo, AK NDB	Nosky, AK FIX	*6000
*4500—MOCA		
Nosky, AK FIX	Kachemak, AK NDB	6100
§ 95.2 Red Federal Airway 99 Is Amended To Read in Part		
Iliamna, AK NDB/DME	Nosky, AK FIX	*6000
*5400—MOCA		
Nosky, AK FIX	Kachemak, AK NDB	6100
§ 95.6001 VICTOR ROUTES—U.S.		
§ 95.6013 VOR Federal Airway 13 Is Amended To Read in Part		
Humble, TX VORTAC	Cleep, TX FIX	3000
Cleep, TX FIX	*Legge, TX FIX	2300
*3000—MRA		
Legge, TX FIX	Lufkin, TX VORTAC	2100
Lufkin, TX VORTAC	Carth, TX FIX	*3800

REVISIONS TO IFR ALTITUDE & CHANGEOVER POINTS—Continued

[Amendment 416, effective July 15, 1999]

From	To	MEA
*2400—MOCA		
Carth, TX FIX	Belcher, LA VORTAC	3000
Belcher, LA VORTAC	*Iddas, LA FIX	2000
*3000—MRA		
Iddas, LA FIX	*Dubow, AR FIX	2000
*4000—MRA		
Dubow, AR FIX	Texarkana, AR VORTAC	2000
Texarkana, AR VORTAC	Deens, AR FIX	2300
Deens, AR FIX	Rich Mountain, OK VORTAC	*4600
*4000—MOCA		
§ 95.6045 VOR Federal Airway 45 Is Amended To Read in Part		
Charleston, WV VORTAC	Henderson, WV VORTAC	3000
Henderson, WV VORTAC	Bremn, OH FIX	*10000
*2700—MOCA		
Bremn, OH, FIX	Appleton, OH VORTAC	*3000
*2400—MOCA		
§ 95.6140 VOR Federal Airway 140 Is Amended To Read in Part		
Goshn, TN FIX	Delha, TN FIX	*7000
*3000—MOCA		
Delha, TX FIX	Nashville, TN VORTAC	3000
§ 95.6196 VOR Federal Airway 196 Is Amended To Read in Part		
Utica, NY VORTAC	*Becks, NY FIX	**5000
*10000—MRA		
**4500—MOCA		
Becks, NY FIX	Saranac Lake, NY VOR/DME	5000
§ 95.6273 VOR Federal Airway 273 Is Amended To Read in Part		
Fallz, NY FIX	Huguenot, NY VOR/DME	3000
Huguenot, NY VOR/DME	Huguenot, NY VOR/DME	3000
Hancock, NY VOR/DME	Oxfor, NY FIX	4000
Oxfor, NY FIX	Georgetown, NY VORTAC	4000
§ 95.6451 VOR Federal Airway 451 Is Amended To Read in Part		
Nessi, CT FIX	Keyed, NY FIX	*2500
*1000—MOCA		
Keyed, NY FIX	Cream, NY FIX	2000
Cream, NY FIX	Groton, CT VOR/DME	*6000
*1500—MOCA		
§ 95.6456 VOR Federal Airway 456 Is Amended To Read in Part		
King Salmon, AK VORTAC	Strew, AK FIX	
SW BND		3000
NE BND		9000
Strew, AK FIX	Bitop, AK FIX	
NE BND		*9000
SW BND		*5000
*4500—MOCA		
Bitop, AK FIX	*Nosky, AK FIX	**9000
*12000—MCA Nosky FIX NE BND		
**5400—MOCA		
Nosky, AK FIX	Tucks, AK FIX	*13000
*12000—MOCA		
Tucks, AK FIX	Kenai, AK VOR/DME	*5000
ı3000—MOCA		
§ 95.6465 VOR Federal Airway 465 Is Amended To Read in Part		
Dunoir, WY VOR/DME	Redlo, MT FIX	*17000
*14200—MOCA		
§ 95.6500 VOR Federal Airway 500 Is Amended To Read in Part		
Glara, OR FIX	*Harzl, OR FIX	
E BND		**10000
W BND		**7200
*7200—MRA		
**6600—MOCA		
Harzl, OR FIX	Ratzz, OR FIX	
E BND		*10000
W BND		*8000
*7300—MOCA		
Ratzz, OR FIX	Gashe, OR FIX	**10000

REVISIONS TO IFR ALTITUDE & CHANGEOVER POINTS—Continued

[Amendment 416, effective July 15, 1999]

From	To	MEA
*10000—MRA **7700—MOCA Gashe, OR FIX *8000—MOCA	Kimberly, OR VORTAC	*9200
§ 95.6595 VOR Federal Airway 595 Is Amended To Read in Part		
Jefsn, OR FIX	*Harzl, OR FIX	
NW BND		8000
SE BND		12600
*9300—MCA Harzl FIX SE BND *7200—MRA		

From	To	MEA	MAA
§ 95.7001 JET ROUTES			
§ 95.7012 Jet Route No. 12 Is Amended To Read in Part			
Twin Falls, ID VORTAC	Salt Lake City, UT VORTAC	22000	45000
§ 95.7015 Jet Route No. 15 Is Amended To Read in Part			
Salt Lake City, UT VORTAC	Twin Falls, ID VORTAC	22000	45000

From	To	Changeover Points	
		Distance	From
§ 95.8003 VOR FEDERAL AIRWAY CHANGEOVER POINTS AIRWAY SEGMENT Is Amended To Modify Changeover Point (V–13)			
Lufkin, TX VORTAC	Belcher, LA VORTAC	64	Lufkin.
Is Amended To Modify Changeover Point (V–15)			
Pulaski, VA VORTAC	Bluefield, WV VORTAC	10	Pulaski.
Is Amended To Modify Changeover Point (V–59)			
Pulaski, VA VORTAC	Beckley, WV VORTAC	10	Pulaski.
Is Amended To Modify Changeover Point (V–214)			
Bellaire, OH VOR/DME	Grantsville, MD VOR/DME	39	Bellaire.
Is Amended To Modify Changeover Point (V–273)			
Hancock, NY VOR/DME	Georgetown NY VORTAC	31	Hancock.
Is Amended To Modify Changeover Point (V–465)			
Dunoir, WY VOR/DME VORTAC	Billings, MT VORTAC	45	Dunoir.
Is Amended To Modify Changeover Point (V–500)			
Newberg, OR VORTAC	Kimberly, OR VORTAC	79	Newberg.
Is Amended To Modify Changeover Point (V–505)			
Gopher, MN VORTAC	Siren, WI VOR/DME	38	Gopher.

[FR Doc. 99–14614 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29581; Amdt. No. 1934]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd, Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

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

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

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or Flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impractical and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 28, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's, effective at 0901 UTC on the dates specified:

. . . *Effective July 15, 1999*

Gambell, AK, Gambell, NDB OR GPS RWY 16, Orig, CANCELLED
Gambell, AK, Gambell, NDB RWY 16, Orig
Gambell, AK, Gambell, NDB/DME OR GPS RWY 34, Amdt 1, CANCELLED
Gambell, AK, Gambell, NDB/DME RWY 34, Orig
Bakersfield, CA, Bakersfield Muni, VOR/DME OR GPS RWY 34, Orig, CANCELLED
Bakersfield, CA, Bakersfield Muni, VOR/DME RWY 34, Orig
Chico, CA, Chico Muni, VOR/DME OR GPS RWY 13L, Amdt 7, CANCELLED
Chico, CA, Chico Muni, VOR/DME RWY 13L, Amdt 7
Chico, CA, Chico Muni, VOR/DME OR GPS RWY 31R, Orig-A, CANCELLED
Chico, CA, Chico Muni, VOR/DME RWY 31R, Orig-A
Marysville, CA, Yuba County, VOR OR GPS RWY 32, Amdt 10C, CANCELLED
Marysville, CA, Yuba County, VOR RWY 32, Amdt 10C
Salinas, CA, Salinas Muni, VOR OR GPS RWY 13, Amdt 11, CANCELLED
Salinas, CA, Salinas Muni, VOR RWY 13, Amdt 11
San Francisco, CA, San Francisco Intl, VOR OR GPS RWY 19L, Amdt 8A, CANCELLED
San Francisco, CA, San Francisco Intl, VOR RWY 19L, Amdt 8A

Santa Rosa, CA, Sonoma County, VOR/DME OR GPS RWY 14, Amdt 2, CANCELLED
Santa Rosa, CA, Sonoma County, VOR/DME RWY 14, Amdt 2
Santa Rosa, CA, Sonoma County, VOR OR GPS RWY 32, Amdt 19, CANCELLED
Santa Rosa, CA, Sonoma County, VOR RWY 32, Amdt 19
Fort Meyers, FL, Page Field, NDB OR GPS RWY 5, Amdt 5B, CANCELLED
Fort Meyers, FL, Page Field, NDB RWY 5, Amdt 5B
Fort Meyers, FL, Page Field, VOR OR GPS RWY 13, Orig-A, CANCELLED
Fort Meyers, FL, Page Field, VOR RWY 13, Orig-A
Toccoa, GA, Toccoa RG Letourneau Field, VOR/DME OR GPS RWY 2, Orig-A, CANCELLED
Toccoa, GA, Toccoa RG Letourneau Field, VOR/DME RWY 2, Orig-A
Mariettta, GA, Cobb County–McCollum Field, VOR/DME OR GPS RWY 9, Orig-B, CANCELLED
Mariettta, GA, Cobb County–McCollum Field, VOR/DME RWY 9, Orig-B
West Union, IA, George L. Scott Muni, NDB OR GPS RWY 35, Amdt 4, CANCELLED
West Union, IA, George L. Scott Muni, NDB RWY 35, Amdt 4
Auburn, IN, De Kalb County, VOR OR GPS RWY 9, Amdt 7, CANCELLED
Auburn, IN, De Kalb County, VOR RWY 9, Amdt 7
Newton, KS, Newton-City-County, NDB OR GPS RWY 17, Amdt 3A, CANCELLED
Newton, KS, Newton-City-County, NDB RWY 17, Amdt 3A
Lexington, KY, Blue Grass, NDB OR GPS RWY 4, Amdt 20A, CANCELLED
Lexington, KY, Blue Grass, NDB RWY 4, Amdt 20A
Bangor, ME, Bangor Intl, VOR OR GPS-A RWY 15, Amdt 2, CANCELLED
Bangor, ME, Bangor Intl, VOR-A RWY 15, Amdt 2
Bangor, ME, Bangor Intl, NDB OR GPS RWY 33, Amdt 5, CANCELLED
Bangor, ME, Bangor Intl, NDB RWY 33, Amdt 5
Flint/Bishop INTL, Flint, MI, NDB OR GPS RWY 9, Amdt 24, CANCELLED
Flint/Bishop INTL, Flint, MI, NDB RWY 9, Amdt 24
Grand Marais, MN, Grand Marais, Cook County, NDB OR GPS RWY 27, Orig-A, CANCELLED
Grand Marais, MN, Grand Marais, Cook County, NDB RWY 27, Orig-A
Oxford, MS, University-Oxford, VOR/DME RNAV OR GPS RWY 9, Amdt 2, CANCELLED
Oxford, MS, University-Oxford, VOR/DME RNAV RWY 9, Amdt 2
Oxford, MS, University-Oxford, VOR/DME RNAV OR GPS RWY 27, Amdt 2, CANCELLED
Oxford, MS, University-Oxford, VOR/DME RNAV RWY 27, Amdt 2
Yazoo City, MS, Yazoo County, VOR/DME OR GPS RWY 17, Orig, CANCELLED
Yazoo City, MS, Yazoo County, VOR/DME RWY 17, Orig
Yazoo City, MS, Yazoo County, VOR/DME OR GPS RWY 35, Orig-A, CANCELLED
Yazoo City, MS, Yazoo County, VOR/DME RWY 35, Orig-A
Lakewood, NJ, Lakewood, VOR OR GPS RWY 6, Amdt 4, CANCELLED
Lakewood, NJ, Lakewood, VOR RWY 6, Amdt 4
Newark, NJ, Newark Intl, VOR/DME OR GPS RWY 22R, Amdt 3, CANCELLED
Newark, NJ, Newark Intl, VOR/DME RWY 22R, Amdt 3
Sante Fe, NM, Santa Fe Muni, VOR/DME OR GPS RWY 33, Amdt 9, CANCELLED
Sante Fe, NM, Santa Fe Muni, VOR RWY 33, Amdt 9
Lumberton, NC, Lumberton Muni, NDB OR GPS RWY 5, Amdt 1B, CANCELLED
Lumberton, NC, Lumberton Muni, NDB RWY 5, Amdt 1B
Lumberton, NC, Lumberton Muni, VOR OR GPS RWY 13, Amdt 9B, CANCELLED
Lumberton, NC, Lumberton Muni, VOR RWY 13, Amdt 9B
Wadesboro, NC, Anson County, NDB OR GPS RWY 17, Amdt 1D, CANCELLED
Wadesboro, NC, Anson County, NDB RWY 17, Amdt 1D
Washington, NC, Warren Field, NDB OR GPS RWY 5, Orig-A, CANCELLED
Washington, NC, Warren Field, NDB RWY 5, Orig-A
Chickasha, OK, Chickasha Muni, VOR/DME RNAV OR GPS RWY 35, Amdt 1, CANCELLED
Chickasha, OK, Chickasha Muni, VOR/DME RNAV RWY 35, Amdt 1
Guymon, OK, Guymon Muni, NDB OR GPS RWY 18, Amdt 5, CANCELLED
Guymon, OK, Guymon Muni, NDB RWY 18, Amdt 5
Ponca City, OK, Ponca City, NDB OR GPS RWY 17, Amdt 4A, CANCELLED
Ponca City, OK, Ponca City, NDB RWY 17, Amdt 4A
Seminole, OK, Seminole Muni, NDB OR GPS RWY 16, Amdt 2A, CANCELLED
Seminole, OK, Seminole Muni, NDB RWY 16, Amdt 2A
Stillwater, OK, Stillwater Muni, VOR OR GPS RWY 17, Amdt 13A, CANCELLED
Stillwater, OK, Stillwater Muni, VOR RWY 17, Amdt 13A
Stillwater, OK, Stillwater Muni, VOR/DME OR GPS RWY 35, Orig-A, CANCELLED
Stillwater, OK, Stillwater Muni, VOR/DME RWY 35, Orig-A
Fayetteville, TN, Fayetteville Muni, VOR/DME OR GPS RWY 2, Orig-B, CANCELLED
Fayetteville, TN, Fayetteville Muni, VOR/DME RWY 2, Orig-B
Fayetteville, TN, Fayetteville Muni, NDB OR GPS RWY 20, Amdt 3B, CANCELLED
Fayetteville, TN, Fayetteville Muni, NDB RWY 20, Amdt 3B
Gallatin, TN, Sumner County Regional, NDB OR GPS RWY 35, Amdt 1A, CANCELLED
Gallatin, TN, Sumner County Regional, NDB RWY 35, Amdt 1A
Jacksboro, TN, Cambell County, NDB OR GPS RWY 23, Amdt 5, CANCELLED
Jacksboro, TN, Cambell County, NDB RWY 23, Amdt 5
Lawrenceburg, TN, Lawrenceburg-Lawrence-County, NDB OR GPS RWY 17, Amdt 4, CANCELLED
Lawrenceburg, TN, Lawrenceburg-Lawrence-County, NDB RWY 17, Amdt 4
Rogersville, TN, Hawkins County, NDB OR GPS RWY 7, Amdt 2, CANCELLED
Rogersville, TN, Hawkins County, NDB RWY 7, Amdt 2
Galveston, TX, Scholes Field, VOR OR GPS RWY 13, Amdt 2, CANCELLED
Galveston, TX, Scholes Field, VOR RWY 13, Amdt 2
Houston, TX, George Bush Intercontinental Arpt/Houston, VOR/DME OR GPS RWY 33R, Amdt 13C, CANCELLED
Houston, TX, George Bush Intercontinental Arpt/Houston, VOR/DME RWY 33R, Amdt 13C
Houston, TX, William P. Hobby, VOR/DME OR GPS RWY 4, Amdt 17, CANCELLED
Houston, TX, William P. Hobby, VOR/DME RWY 4, Amdt 17
Houston, TX, William P. Hobby, VOR OR GPS RWY 12R, Amdt 18, CANCELLED
Houston, TX, William P. Hobby, VOR RWY 12R, Amdt 18
Houston, TX, William P. Hobby, VOR/DME OR GPS RWY 22, Amdt 24, CANCELLED
Houston, TX, William P. Hobby, VOR/DME RWY 22, Amdt 24
Houston, TX, William P. Hobby, VOR/DME OR GPS RWY 30L, Amdt 16, CANCELLED
Houston, TX, William P. Hobby, VOR/DME RWY 30L, Amdt 16
Houston, TX, William P. Hobby, VOR/DME OR GPS RWY 35, Amdt 2, CANCELLED
Houston, TX, William P. Hobby, VOR/DME RWY 35, Amdt 2

Galix/Twin County, Galax/Hillsville, VA, NDB OR GPS–A, Amdt 6, CANCELLED
Galix/Twin County, Galax/Hillsville, VA, NDB–A, Amdt 6

[FR Doc. 99–14611 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29580; Amdt. No. 1933]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

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

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

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

For Purchase—Individual SIAP copies may be obtained from:

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

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

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

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

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 28, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking

Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

FDC Date	State	City	Airport	FDC No.	SIAP
05/01/99	NH	Keene	Dillant-Hopkins	FDC 9/3102	ILS Rwy 2 Amdt 2 this corrects FDC 9/3102 in TL99–12.
05/04/99	IL	Chicago/Aurora	Aurora Muni	FDC 9/2968	VOR/DME RNAV or GPS Rwy 27, Orig.
05/12/99	IA	Dubuque	Dubuque Regional	FDC 9/3147	NDB or GPS Rwy 31, Amdt 8B.
05/12/99	IA	Dubuque	Dubuque Regional	FDC 9/3148	ILS Rwy 31, Amdt 10C.
05/12/99	LA	Hammond	Hammond Muni	FDC 9/3135	ILS Rwy 18, Amdt 2B.
05/12/99	MI	Allegan	Padgham Field	FDC 9/3140	VOR or GPS Rwy 28, Amdt 13.
05/12/99	TX	Brownsville	South Padre Island Intl	FDC 9/3155	ILS Rwy 13R, Amdt 11.
05/12/99	TX	Galveston	Scholes Field	FDC 9/3137	ILS Rwy 13, Amdt 9A.
05/12/99	TX	Harlingen	Valley Intl	FDC 9/3154	ILS Rwy 17R, Amdt 11.
05/12/99	TX	Laredo	Laredo Intl	FDC 9/3136	ILS Rwy 17R, Amdt 8A.
05/12/99	TX	McAllen	McAllen Miller Intl	FDC 9/3159	ILS Rwy 13, Amdt 8.
05/12/99	TX	Waco	TSTC Waco	FDC 9/3157	ILS Rwy 17L, Amdt 11.
05/12/99	TX	Waco	Waco Regional	FDC 9/3158	ILS Rwy 19, Amdt 15.
05/13/99	CA	San Diego	San Diego Intl-Lindbergh Field	FDC 9/3182	LOC Rwy 27 Amdt 2A.
05/13/99	CA	San Diego	San Diego Intl-Lindbergh Field	FDC 9/3188	NDB or GPS Rwy 27 Amdt 1A.
05/13/99	FL	Daytona	Daytona Beach Intl	FDC 9/3172	LOC BC Rwy 25R, Amdt 14A.
05/14/99	MA	Vineyard Haven	Marthas Vineyard	FDC 9/3240	VOR or GPS Rwy 6 Orig-A.
05/14/99	MA	Vineyard Haven	Marthas Vineyard	FDC 9/3241	ILS Rwy 24 Orig-A.
05/14/99	MA	Vineyard Haven	Marthas Vineyard	FDC 9/3242	VOR or GPS Rwy 24 Orig-A.
05/14/99	NM	Hobbs	Lea County/Hobbs	FDC 9/3234	LS Rwy 3, Amdt 5.
05/17/99	DE	Middletown	Summit	FDC 9/3285	VOR/DME RNAV Rwy 35 Amdt 3A.
05/17/99	GA	Dublin	W. H. "Bud" Barron	FDC 9/3280	VOR or GPS–A Amdt 3B.
05/17/99	MO	St. Louis	Lambert-St. Louis Intl	FDC 9/3278	LDA/DME Rwy 30L, Amdt 2A.
05/18/99	OH	Cleveland	Cleveland-Hopkins Intl	FDC 9/3298	ILS Rwy 23L, Amdt 17.
05/20/99	AK	Port Heiden	Port Heiden	FDC 9/3338	NDB/DME Rwy 5, Amdt 2.
05/20/99	CO	Burlington	Burlington/Kit Carson County	FDC 9/3358	Correct U.S. Terminal Publication.
05/20/99	DC	Washington	Ronald Reagan Washington National.	FDC 9/3406	VOR/DME RNAV or GPS Rwy 33 Amdt 5B.
05/20/99	GA	Atlanta	The William B. Hartsfield Atlanta Intl.	FDC 9/3405	ILS Rwy 9L, Amdt 5A.
05/20/99	IN	Indianapolis	Indianapolis Intl	FDC 9/3321	ILS Rwy 5L, Amdt 1.
05/20/99	IN	Terre Haute	Terre Haute Intl-Hulman Field	FDC 9/3322	LOC BC Rwy 23, Amdt 18.
05/20/99	IN	Terre Haute	Terre Haute Intl-Hulman Field	FDC 9/3323	ILS Rwy 5, Amdt 22A.
05/20/99	LA	Lake Charles	Chennault International	FDC 9/3349	VOR or GPS Rwy 33L, Amdt 3.
05/20/99	LA	Lake Charles	Chennault International	FDC 9/3350	ILS Rwy 15R, Amdt 4.
05/20/99	SC	Columbia	Columbia Metropolitan	FDC 9/3359	GPS Rwy 23, Orig.
05/20/99	TX	College Station	Easterwood Field	FDC 9/3344	VOR or TACAN Rwy 10, Amdt 18A.
05/21/99	GA	Sandersville	Kaolin Field	FDC 9/3430	VOR/DME or GPS–A, Amdt. 4.
05/24/99	AL	Birmingham	Birmingham Intl	FDC 9/3481	LOC Rwy 18, Orig.
05/24/99	KS	Topeka	Philip Billard Muni	FDC 9/3478	LOC BC Rwy 31, Amdt 19.
05/24/99	KS	Topeka	Philip Billard Muni	FDC 9/3479	ILS Rwy 13, Amdt 32.
05/24/99	OH	Cleveland	Burke Lakefront	FDC 9/3491	NDB or GPS Rwy 24R, Amdt 1.
12/29/98	SC	Pelion	Pelion Corporate	FDC 8/9076	VOR or GPS–A, Amdt 2A.

[FR Doc. 99–14612 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29579; Amdt. No. 1932]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are

designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

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

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

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

For examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

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

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

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

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

The Rule

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

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

Conclusion

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

List of Subjects in 14 CFR part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on May 28, 1999.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

. . . *Effective June 17, 1999*

Newark, NJ, Newark Intl, VOR/DME OR GPS RWY 22R, Amdt 3
Newark, NJ, Newark Intl, ILS RWY 22L, Amdt 9
Newark, NJ, Newark Intl, GPS RWY 22L, Orig
Teterboro, NJ, Teterboro, ILS RWY 19, Orig

. . . *Effective July 15, 1999*

Bakersfield, CA, Bakersfield Muni, GPS RWY 34, Orig
Salinas, CA, Salinas Muni, GPS RWY 13, Orig
Salinas, CA, Salinas Muni, GPS RWY 31, Orig
Atlanta, GA, The William B. Hartsfield Atlanta Intl, ILS RWY 27L, Amdt 13
Cahokia/St. Louis, IL, St. Louis Downtown—Parks, ILS RWY 30L, Amdt 7

Cahokia/St. Louis, IL, St. Louis Downtown—Parks, NDB RWY 30L, Amdt 1
Cahokia/St. Louis, IL, St. Louis Downtown—Parks, GPS RWY 30L, Orig
Bangor, ME, Bangor Intl, GPS RWY 15, Orig
Bangor, ME, Bangor Intl, GPS RWY 33, Orig
Pascagoula, MS, Trent Lott Intl, GPS RWY 35, Orig
Colstrip, MT, Colstrip, GPS RWY 6, Orig
Colstrip, MT, Colstrip, GPS RWY 24, Orig
Lakewood, NJ, Lakewood, GPS RWY 6, Orig
Lakewood, NJ, Lakewood, GPS RWY 24, Orig
Greensboro, NC, Piedmont Triad International, VOR/DME OR GPS RWY 32, Amdt 3A, CANCELLED
Greensboro, NC, Piedmont Triad International, GPS RWY 32, Orig
Washington, NC, Warren Field, GPS RWY 5, Orig
Wilmington, NC, Wilmington Intl, GPS RWY 6, Amdt 1
Wilmington, NC, Wilmington Intl, GPS RWY 24, Amdt 1
Dublin, VA, New River Valley, GPS RWY 24, Orig
Manitowoc, WI, Manitowoc County, VOR OR GPS RWY 35, Amdt 14

[FR Doc. 99–14613 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

FEDERAL TRADE COMMISSION

16 CFR Part 245

Guides for the Watch Industry

AGENCY: Federal Trade Commission.

ACTION: Rescission of the Guides for the Watch Industry.

SUMMARY: On June 18, 1997, the Federal Trade Commission (''Commission'') published a **Federal Register** Notice seeking public comment on proposed changes to the Guides for the Watch Industry (''Watch Guides'' or ''Guides'') and on the continuing need for the Guides. The Commission has now completed its review and has decided to rescind the Guides. The Commission has concluded that the Guides are no longer needed to resolve uncertainty among businesses over what claims are likely to be considered deceptive, and that in most instances, international standards provide sufficient guidance to industry regarding watch markings and claims.

EFFECTIVE DATE: June 9, 1999.

ADDRESSES: Requests for copies of this **Federal Register** document should be sent to the Consumer Response Center, Room 130, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Washington, DC 20580. This document also is available on the Internet at the Commission's website, <http://www.ftc.gov>.

FOR FURTHER INFORMATION CONTACT: Laura J. DeMartino, Attorney, Federal Trade Commission, 600 Pennsylvania Ave., NW., Washington, DC 20580, (202) 326–3030, e-mail <Ldemartino@ftc.gov>.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Commission announces that it is rescinding the Guides for the Watch Industry, 16 CFR part 245. The Watch Guides address claims for the advertising, marking, and sale of watches, watchcases, watch accessories, and watch bands that are permanently attached to watchcases. The Guides specifically address representations and markings regarding a watch's metallic composition, protective and other special features, movement, and country of origin.

In 1992, the Commission solicited public comment on the Watch Guides and the then-Guides for the Jewelry Industry and Guides for the Metallic Watch Band Industry.[1] After review, the Commission tentatively decided to make numerous changes to the Watch Guides that were not discussed in the original **Federal Register** Notice. The Commission, therefore, solicited further comment regarding these proposed changes, as well as its proposal to delete 9 of the 16 sections in their entirety.[2] The Commission also solicited comment on whether there was a continuing need for the Watch Guides. In particular, the Commission requested comment on whether international standards provide sufficient guidance to industry and whether industry self-regulation and ''market mechanisms,'' such as manufacturer reputation or warranties, are sufficient to protect consumers from misrepresentations about watches.[3] The Commission requested this information to determine whether the Watch Guides should be revised and retained or whether they should be rescinded.

The Commission received eleven comments in response to this second **Federal Register** Notice.[4] The comments favored retaining the Watch Guides, albeit with significant changes.[5] After carefully reviewing the comments and the Guides, however, the Commission has concluded that there is no continuing need for the Watch Guides. Section 5 of the Federal Trade Commission Act (''FTC Act''), 15 U.S.C. 45(a)(1), prohibits ''unfair or deceptive acts or practices in or affecting commerce.'' The purpose of guides is to assist industry members in complying with the Act. Guides are particularly useful if they resolve uncertainty among businesses over what claims are likely to be considered deceptive. The current Watch Guides, however, are in many instances out of date, inconsistent with international standards, or unnecessary. Rather than extensively redrafting the Guides, the Commission has decided that international standards provide guidance to sellers regarding certain acceptable claims and markings. For those claims not addressed by international standards, there does not appear to be any demonstrated uncertainty over what the Commission is likely to consider deceptive. Thus, the Commission has determined to rescind the Watch Guides. In the following sections of this Notice, the Commission summarizes the key points raised by the

[1] 57 FR 24996 (June 12, 1992). The Commission revised the Guides for the Jewelry Industry (renamed Guides for the Jewelry, Precious Metals and Pewter Industries) and rescinded the Guides for the Metallic Watch Band Industry. 61 FR 27178 and 27228 (May 30, 1996).

[2] 62 FR 33316 (June 18, 1997). Comments submitted in response to the earlier Notice stated that certain provisions of the Guides, such as those dealing with gold-plated, water-resistant and shock-resistant watches, were outdated or inconsistent with international standards. Some comments also noted that the Guides failed to address quartz watches. In addition to proposing changes to the Guides, the Commission proposed deleting sections that were the subject of broader, non-industry specific guidance (e.g., guidance regarding use of the word ''free''), that were covered by other parts of the Guides (e.g., admonishing against misrepresentations of watch accessories), or that were no longer necessary (e.g., advising the disclosure of foreign origin).

[3] *Id.*

[4] In the remainder of this Notice, the comments are cited to by an abbreviation of the comment name, the comment number, and the relevant pages of the comment. The following is a list of the comment name, abbreviation and comment number used to identify each commenter. Japan Clock & Watch Association (''JCWA'') #1; European Union Delegation of the Permanent European Horological Committee (''EU'') #2; United States Watch Council, Inc. (''USWC'') #3; Leon M. Newhouse (''Newhouse'') #4; Federation of the Swiss Watch Industry (''Swiss'') #5; Seiko Corporation of America (''Seiko'') #6; Bell & Ross (''Bell'') #7; American Watch Association (''AWA'') #8; U.S. Watch Producers in the US Virgin Islands (''USVI'') #9; Kenneth E. Mapp, Lieutenant Governor, The United States Virgin Islands (''Mapp'') #10; Timex Corporation (''Timex'') #11.

[5] JCWA (1) p.3; EU (2) p.1; USWC (3) p.1; Swiss (5) pp.3–4; Seiko (6) p.1; AWA (8) p.1; USVI (9) p.1; Timex (11) p.2. Although Newhouse (4), Bell (7) and Mapp (10) did not expressly state that they favored retention of the Guides, they recommended changes or additions to the Guides and, therefore, also are considered to favor retention. Timex (11) p.2, stated that there is a continuing need for the Guides ''only if, to the extent the Guides set standards, those standards will be enforced.''

comments and discusses its decision to rescind the Guides.

II. Summary of the Comments

A. Need for the Watch Guides

The comments favored retention of the Guides, stating that they benefit both watch manufacturers and consumers. AWA stated that the Guides ''have served a valuable purpose in assisting industry members in understanding the standards for appropriate marking and labeling of watch products and in avoiding practices that could confuse or deceive consumers.'' [6] This sentiment was echoed in many comments.[7] In addition, the comments indicated that the Guides are a useful source of information for consumers.[8]

B. Adequacy of Self-Regulation and International Standards

The comments stated that industry self-regulation and market mechanisms, such as manufacturer reputation or warranties, were insufficient to protect consumers from misrepresentations about watches.[9] Timex noted that ''it often will not be cost effective for industry members to take action against others who make false or misleading claims.'' [10]

The comments also stated that international standards were not an adequate substitute for the Guides. The international standards applicable to watches are developed by the International Organization for Standardization (''ISO''), ''a worldwide federation of national standards bodies from some 130 countries.'' [11] ''The ISO International Standards relating to clocks and watches are discussed and determined by eight positive participant countries (i.e., Germany, China, France, India, Japan, Mexico, Russia and Switzerland) and 20 observer countries including the U.S.A. These International Standards are regularly reviewed every 5 years to prevent their becoming obsolete.'' [12] ISO has issued standards relating to, among other things, gold alloy coverings on watchcases and accessories,[13] antimagnetic watches,[14] shock-resistant watches,[15] water-resistant watches,[16] divers' watches,[17] chronometers,[18] and functional jewels.[19]

The comments do not consider the ISO standards to be sufficient to protect consumers primarily because the ISO standards are not enforceable in the United States.[20] ISO does not regulate the international watch industry. Instead, each participating member country enforces the ISO standards in accordance with their own laws.[21] Because the United States is not an adherent to the ISO standards, the comments stated that ISO standards are not enforceable in the United States.[22]

Some comments also stated that the guidance provided in the Watch Guides was preferable to the ISO standards. Swiss stated that the Watch Guides are more comprehensive than the ISO standards because the Guides provide definitions of products, and address, among other things, misrepresentations in general, counterfeiting of trademarks, and marking of watches that contain more than one metal.[23] Swiss also noted that the United States is not a participant in ISO, and therefore, is not involved in the formulation of ISO watch standards.[24] In addition, Timex stated that the ISO standards are sometimes inconsistent with existing U.S. practice.[25] For example, an ISO standard states that a watch may be described as a chronometer if it is ''certified by a neutral, official authority, which checks the watch, or if necessary the movement, and issues an official certificate of compliance.'' [26] Timex stated that there is no evidence that consumers believe that chronometers are tested and certified and that current U.S. practices ''do not mandate that only ''certified'' watches be described as chronometers.'' [27] Thus, the comments argued that the Commission should retain the Watch Guides.[28]

C. Harmonization of the Watch Guides With International Standards

Although not necessarily viewed as a substitute for the Guides, harmonizing the Watch Guides with the ISO standards was supported by many comments.[29] The comments contended that harmonization with ISO standards was appropriate because the ISO standards were adopted ''after extensive consideration by technical experts'' from the major watch producing countries of the world.[30] In addition, JCWA added that the standards ''reflect the actual states and the current technical level of watches . . . (and) fully take into consideration the viewpoint of consumer protection.'' [31] Further, the comments noted that ISO standards are reviewed every five years, ensuring that the standards do not become obsolete.[32]

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[6] AWA (8) p.1.

[7] *See, e.g.,* JCWA (1) p.3 (providing guidance as to proper markings serves the purpose of preventing unfair or deceptive markings and benefits both manufacturers and consumers); Swiss (5) pp.3, 5 (the Guides ''assist watch manufacturers in determining what representations can be made concerning the performance and qualities of watches'' and also ''supply a common technical benchmark upon which consumers can rely''); USVI (9) p.1 (the Guides ''serve a valuable purpose in assisting domestic as well as foreign producers in understanding the applicable standards for marking and labeling watches and in avoiding practices that could result in consumer confusion or deception''); Timex (11) p.4 (''by specifying 'safe harbors' the Guides provide industry members with means to ensure that they will not be charged with unfair or deceptive trade practices as a result of making certain claims—a certainty that is of value to those making such claims'').

[8] EU (2) p.1 (stating that the Guides ''define terms and technical features that are necessary for the consumer understanding''); USWC (3) p.1 (stating that the Guides ''serve as a consistent guide for comparison-shopping''); Swiss (5) p.5 (stating that the Guides ''help consumers obtain the information they need to make informed purchasing decisions'' and provide definite standards that consumers can cite to when seeking redress for any misrepresentations).

[9] *See, e.g.,* AWA (8) p.1. Swiss also stated that without the Guides, each manufacturer will ''interpret for itself what any given attribute for a watch should mean.'' Swiss (5) p.8. Consumers will not have the ability to distinguish between competing claims or determine which claims are accurate. *Id.*

[10] Timex (11) p.3.

[11] For information about ISO, see <http://www.iso.ch/infoe/intro.htm>. ISO standards are available from: American National Standards Institute, Customer Service, 11 W. 42nd Street, 13th Floor, New York, NY 10036–8002, Telephone (212) 642–4900; FAX (212) 302–1286.

[12] JCWA (1) p.2.

[13] ISO 3160–1:1998; ISO 3160–2:1992; and ISO 3160–3:1993.

[14] ISO 764:1984.

[15] ISO 1413:1984.

[16] ISO 2281:1990.

[17] ISO 6425:1996.

[18] ISO 3159:1976.

[19] ISO 1112:1974.

[20] EU (2) p.1 (''International Standards are a good reference for the manufacturers, but as they are not compulsory, they sometimes are not sufficient to protect the consumer''); Swiss (5) pp.8, 9; AWA (8) p.1.

[21] Swiss (5) p.9.

[22] *Id.* at 4–5, 8, 9.

[23] *Id.* at 6–7.

[24] *Id.* at 7; *see also* USWC (3) p.1 (stating that international standards are ''written by the Swiss in their best interest,'' and thus, do not provide adequate guidance).

[25] Timex (11) p.3.

[26] ISO 3159.

[27] Timex (11) p.3. Timex notes, however, that chronometers are defined as ''an instrument for measuring time . . . esp. one intended to keep time with great accuracy.'' Timex (11) p.3, citing Webster's Seventh New Collegiate Dictionary. Consumers, therefore, may expect watches described as chronometers to have certain features, such as accuracy. *See* Swiss (5) p.23. As is required for all objective claims about products, sellers must have substantiation for a claim that a watch is a ''chronometer.'' Although certification by a neutral, official authority, as required by the ISO standard, may provide such substantiation, it is not necessarily the only means of substantiating such a claim.

[28] Swiss (5) p.4; AWA (8) p.1; Timex (11) p.3.

[29] JCWA (1) pp.2, 4; EU (2) p.2; Swiss (5) pp.10–11; Seiko (6) p.1; AWA (8) Letter, p.1. *But see* Timex (11) pp.3, 8 (stating that the ISO standard for ''rolled gold'' claims allows watches to have a significantly lesser thickness of gold than currently advised by the Guides and noting the possible need to advise sellers to state the thickness of the gold).

[30] Swiss (5) p.11.

[31] JCWA (1) p.3.

[32] JCWA (1) p.2; Swiss (5) p.11.

The comments further argued that differences between the Watch Guides and the ISO standards would result in undue burdens and costs for watch manufacturers. The cost of complying with two sets of guidelines and producing watches separately for the United States would be passed onto the U.S. consumer, resulting in higher watch prices.[33]

In addition to favoring harmonization generally, some comments recommended that the Guides actually incorporate ISO standards verbatim.[34] The comments noted the difficulty with this suggestion because the ISO standards are reviewed every five years and the Watch Guides would need to be revised if there were any ISO standard changes. Some comments therefore recommended that the Guides include a provision that stated that ''it shall not be considered unfair or deceptive if a watch meets the requirements in International Standard xxxx.'' [35]

In addition to these general matters, the comments also discussed various Guide provisions and proposed changes to the provisions.

III. Reasons for Rescission

After careful consideration, the Commission has determined to rescind the Watch Guides. Sellers must continue to comply with section 5 of the FTC Act, which prohibits unfair or deceptive acts or practices. The Guides, however, are no longer necessary to resolve demonstrated uncertainty regarding what claims are likely to be deceptive. In many instances, ISO standards provide guidance to industry members regarding watch claims. For topics beyond those addressed by the ISO standards, the Guides do not provide substantial guidance regarding deceptive claims, and in certain instances, are outdated. Thus, the Watch Guides are no longer needed.

A. ISO Standards Provide Guidance Regarding Watch Claims

The ISO standards may provide useful guidance to industry members in making watch claims. They provide specifications for many watch attributes, including gold alloy coverings and protective features. For example, the ISO standards specify minimum thicknesses for gold-plated watches and test methods for determining that a watch is ''water-resistant,'' ''shock-resistant,'' and ''anti-magnetic.'' Although the ISO standards are not enforceable in the United States, watch sellers must comply with section 5 of the FTC Act. Thus, objective claims about watches must be truthful and accurate, and substantiated by competent and reliable evidence.

Some of the detailed standards referenced in the existing Guides (such as minimum thicknesses for gold-plated watches and tests to determine water-resistance) may be better established by the ISO or other private standards-setting organizations with expertise in technical issues and industry practices. These organizations also are in a better position to change the standards as technology evolves.[36] As noted by the comments, the ISO standards are developed by technical experts from the major watch producing companies of the world and are reviewed every five years. Thus, it is likely that the ISO standards reflect current technology and industry practice, and, in considering whether marketers have adequately substantiated their claims, the Commission will look to the ISO standards.

As stated in the comments, the Commission recognizes the benefits of harmonizing its guides with international standards and the burdens that would result if the Watch Guides presented differing guidance. The Commission, however, does not believe that it is useful to retain guides that merely reference international standards. Depending on the revision schedule of the ISO standards, the Watch Guides could become quickly outdated and have an unintended effect of burdening technology and watch manufacturers.

B. The Guides Are Not Needed to Address Topics Not Covered by ISO Standards

For those topics not addressed by ISO standards, the Watch Guides (1) provide only limited guidance, (2) do not resolve any demonstrated uncertainty regarding what claims are likely to be deceptive, and (3) provide, in certain instances, outdated, unnecessary guidance.

1. The Guides Provide Limited Guidance to Industry Members

Although Swiss stated that the Watch Guides discuss topics not covered by ISO standards, the Guides provide only limited guidance. For example, the definition of terms in section 245.1 is necessary for the remainder of the Watch Guides, but does not provide essential information to the industry that is not otherwise available.[37] Other sections of the Guides, such as 245.2 and 245.4, merely admonish industry members not to misrepresent various watch features.[38]

The Commission does not believe that it is necessary to retain guides that merely admonish sellers not to misrepresent various items, especially when, as here, there appears to be no lack of understanding that the law forbids such misrepresentations. Instead, guides should assist industry where there is some difficulty in determining compliance.

2. There is No Demonstrated Uncertainty Regarding Deceptive Claims

There do not currently appear to be any particular areas where there is difficulty in determining what is likely to be considered to be deceptive.[39] For

[33] JCWA (1) pp.3–4; Swiss (5) pp.11, 15.

[34] Swiss (5) p.13, n.5.

[35] JCWA (1) p.4; Swiss (5) p.13.

[36] Certain provisions of the Watch Guides have been technologically outdated for some time. For example, section 245.3(f) advises that gold electroplated products contain a minimum thickness of gold alloy of ¾ 1000ths of an inch (approximately 19 microns). Comments indicated that technology permits a thinner, yet durable layer of gold to be deposited electrolytically and that the specified minimum thickness was obsolete. (In its second **Federal Register** Notice, the Commission proposed changing this provision.) Due to the changes in technology, industry members by necessity have referred to sources other than the Watch Guides for guidance on making gold electroplate claims.

[37] Industry members, for example, do not need to rely on the Watch Guides for definitions of a watch (''a timepiece or time-keeping device for measuring or indicating time which is designed to be worn on or about the person'') or watchcase (''any metal case, covering, or housing of any quality or description for a watch . . .''). 16 CFR 245.1(a), 245.1(b).

[38] Section 245.4, for example, advises industry members not to misrepresent a watch's suitability for particular uses, and more specifically, advises that terms such as ''skin divers,'' ''navigators,'' or ''railroad'' should not be used to describe a watch that does not possess the characteristics required of watches used by persons engaged in such activities.

[39] One comment, however, asked the Commission to establish a test and definition for ''waterproof'' watches. Bell (7) p.1. The Watch Guides admonish against the use of the term ''waterproof,'' and the Commission solicited comment on whether that admonition was justified. The comments generally supported the admonition against the use of the term. JCWA (1) p.6; EU (2) p.2 (''The use of the terms . . . ''waterproof'' must be prohibited because they can disclose [sic] the consumer on the right performance of the watch''); USWC (3) p.2 (the word ''proof'' is too strong a term); Swiss (5) p.24 (''The word ''proof'' connotes a measure of absolute protection that unfortunately does not exist with respect to watches, especially over prolonged periods of time''); Timex (11) p.12 (Timex is not aware of a watch where ''immersion in water should have absolutely no effect on the watch whatsoever, regardless of the depth or duration of immersion,'' and notes that consumers are unfamiliar with such terms). The Commission does not possess adequate information to formulate a definition or test for ''waterproof'' claims. Moreover, it is unclear how consumers would interpret the term ''waterproof,'' which has not been used to describe watches. Further, no evidence was submitted indicating appropriate tests that could substantiate such a claim. However, there may be technological advances that would comport with

example, there does not appear to be any lack of understanding that a watch described as having a jeweled movement should contain seven jewels, each of which serves the purpose of protecting against wear from friction by providing a mechanical contact with a moving part at a point of wear. (16 CFR 245.6). In addition, sellers should know, without the Watch Guides, that they may need to qualify a mark indicating a watch's metallic composition, when that mark applies to only certain parts of a watch (e.g., when a watch is made of different metals, but is only marked with its precious metal content, and consumers may be misled that the watch is composed entirely of the precious metal). (16 CFR 245.3(k)). Thus, the Watch Guides do not appear to clarify which representations would be considered deceptive under section 5 of the FTC Act.

3. In Certain Instances, The Guides Contain Outdated, Unnecessary Guidance

Two Watch Guide topics, in particular, are not addressed by ISO standards. These two areas involve the marking of a non-precious metal watch and the marking of foreign origin. As discussed below, these two Guide provisions no longer reflect the Commission's interpretation of the law. Therefore, it is unnecessary for the Commission to retain the Watch Guides for these issues.

a. Non-Precious Metal Markings. The Watch Guides currently advise manufacturers to mark all watches of metallic composition. Section 245.3(j) advises that when the watch does not contain precious metals, it should be marked as ''Base Metal'' or the name of the metal of which it is composed (e.g., ''stainless steel''). The Commission has determined that it may not be necessary, to prevent deception, to advise that all non-precious metal watches be affirmatively marked as ''base metal.'' [40]

Although a ''base metal'' mark may reduce the chance that a seller may misrepresent the watch's metallic composition, the absence of such a mark will not necessarily deceive consumers. A reasonable consumer is unlikely to assume, in the absence of any representation about the watch's metallic composition, that the watch was composed of a precious metal. Instead, it seems likely that consumers would expect that sellers would want to tout the precious metal content of a item and would affirmatively place a quality mark on the piece. In fact, other products made of metals, such as jewelry, are not required to bear a mark indicating their metallic composition. Consumers, therefore, may believe that an unmarked item is composed of non-precious metals.

Any benefits derived from advising the marking of base metal watches do not necessarily outweigh the burdens on manufacturers who need to mark such watches for sale in the United States. Thus, absent specific evidence that consumers are misled that an unmarked watch contains precious metals, the Commission does not believe that it is necessary to advise sellers to mark non-precious metal watches as ''base metal.'' Of course, the Commission encourages manufacturers to provide information to consumers about the products they sell and admonishes sellers against any misrepresentations of a watch's metallic composition that would violate the FTC Act.

b. Foreign Origin Markings. In addition, the Commission does not believe that the current guidance regarding the marking of a watch's country of origin is needed. Section 245.10(a) of the Watch Guides advises that watches containing movements of foreign origin, or movement parts of foreign origin, be marked with the country of origin of the movement. Section 245.10 specifies that the country of origin of the movement depends upon two factors: (1) Where the movement is assembled, and (2) the origin of the parts used in assembling the movement. Using these two factors, the Guides provide specific guidance on how the country of origin is determined. *See* § 245.10(b)(1)–(3).

The Commission proposed deleting this origin marking provision of the Guides in its previous **Federal Register** Notice. The comments received in response to this proposal generally favored deleting the provision entirely, or harmonizing it to be identical to the U.S. Customs Service marking requirements.[41] The comments stated that Customs already has established detailed foreign origin marking requirements and that the Guides do not advise the disclosure of material information beyond these requirements. The comments further advised that in the interests of uniformity, the Watch Guides should not provide for different or inconsistent standards than the Customs requirements.[42] In addition, the comments noted World Trade Organization negotiations to harmonize foreign origin markings internationally.[43]

The Commission recognizes the benefits of harmonizing its guidance with Customs regulations, to the extent possible, and acknowledges the international efforts for harmonization of origin markings. In addition, the Commission has determined that it is no longer necessary to generally advise the marking of foreign origin for watches. The Guides advise the disclosure of foreign origin, in part, because of a presumption that consumers would believe that an unmarked product was manufactured in the United States.[44] However, it is not certain that today a significant minority of consumers would believe that a watch without a country of origin marking is of United States origin. Absent specific evidence regarding consumer perception, the Commission does not believe it is necessary to continue to advise sellers to mark foreign country of origin on watches.[45] Thus, the Watch Guides are not necessary to address these issues.

consumer understanding of the term, and the Commission would not consider its use deceptive so long as the watch in fact met consumer expectations and the claim was substantiated by competent and reliable scientific evidence.

[40] In the previous **Federal Register** Notice, the Commission solicited comment on its proposal to delete the guidance that sellers mark base metal watches. Three comments stated that this provision should be retained, because the ''base metal'' marking provides the consumer information about the watch and reduces the chances that the composition of the watch will be misrepresented. EU (2) p.2; Seiko (6) p.2; AWA (8) p.3. Timex stated that the requirement to mark watches should be eliminated for watches costing less than $100 because it is not likely that consumers will believe that watches in this price range contain precious metals ''absent representations to the contrary.'' Timex (11) p.7. JCWA and Swiss stated that the requirement should be eliminated. JCWA stated that without any markings, ''consumers ought to guess there is no sales point in the product.'' JCWA (1) p.5. In addition, Swiss stated that the U.S. is the only country that requires marking of base metal watches and that removing this requirement will reduce manufacturers' burdens. Swiss (5) p.20.

[41] The Watch Guides advised the disclosure of more information (i.e., the origin of movement parts) than the Customs regulations require.

[42] USWC (3) p.2; Swiss (5) pp.28–29; Seiko (6) p.1; AWA (8) p.1; USVI (9) p.2; Timex (11) p.15.

[43] EU (2); Swiss (5) pp.28–29; AWA (8) p.1.

[44] In its review of Made in the USA claims, the Commission determined to cease using the rebuttable presumption that goods not labeled with any country of origin are understood by consumers to be made in the United States. Instead, the Commission stated that it would require disclosure of foreign origin on unmarked goods only if there was some evidence that a significant minority of consumers views country of origin as material and believes that the goods in question, when unlabeled, are made in the United States. 62 FR 63756, 63763 and 63766 (Dec. 2, 1997).

[45] The Commission notes, however, that any misrepresentation of a watch's origin is a violation of section 5 of the FTC Act. Two comments requested that the Commission allow watches produced partially in the United States Virgin Islands to mark their watches as Made in USA. USVI (9) pp.3–4; Mapp (10) p.1. The Commission's Enforcement Policy Statement on Made in the USA claims is of general applicability and should be used as guidance for watch manufacturers. *See* 62 FR 63756 (Dec. 2, 1997).

C. Other Guidance and Law Enforcement Tools

The rescission of the Watch Guides does not remove the consumer protection laws relating to watch claims. The main reason that the comments argued that the ISO standards were not an appropriate substitute for the Watch Guides was that the ISO standards are not enforceable in the United States. However, section 5 of the FTC Act, prohibiting ''unfair or deceptive acts or practices,'' covers the advertising, marking, and sale of watches.[46] Thus, under the FTC Act, the Commission may seek administrative or federal district court orders against companies or individuals who engage in unfair or deceptive practices, prohibiting future violations and, as appropriate, providing other relief such as consumer redress or disgorgement of ill-gotten gains. The rescission of the Guides does not signal an FTC withdrawal from preventing deception in the advertising and marking of watches. If, in the future, deceptive practices prove to be a problem in this industry, FTC investigations and law enforcement actions may be appropriate and necessary.

The rescission of the Guides also does not leave the industry without guidance as to how to comply with the law. The Commission directs the industry's attention to the principles of law articulated in the FTC's Policy Statement on Deception and pertinent Commission and court decisions on deception, both of which are generally applicable to all industries. As articulated in the Policy Statement on Deception, the Commission ''will find deception if there is a representation, omission, or practice that is likely to mislead the consumer acting reasonably in the circumstances, to the consumer's detriment.'' [47] In addition, sellers are required to possess substantiation for objective claims made about products. That is, advertisers must have a reasonable basis for claims before they are disseminated.[48]

Therefore, sellers must have competent and reliable evidence to substantiate objective claims about watches, such as claims that a watch is water-resistant. In this respect, ISO standards may provide sellers with useful guidance. Other tests, research, or information (besides international standards) also might be used by sellers to substantiate claims.[49] Sellers bear the responsibility of ensuring that such information constitutes competent and reliable evidence in support of their claims. [50] The Commission will evaluate the adequacy of substantiation on a case-by-case basis.

For all of the foregoing reasons, the Commission has decided to rescind the Watch Guides.

List of Subjects in 16 CFR Part 245

Advertising, Labeling, Trade practices, Watches, Watch bands, Watch cases

PART 245—[REMOVED]

The Commission, under the authority of section 18 of the Federal Trade Commission Act, 15 U.S.C. 57a, amends chapter I of title 16 in the Code of Federal Regulations by removing part 245.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 99–14551 Filed 6–8–99; 8:45 am]

BILLING CODE 6750–01–P

[46] In addition, industry members should note that the National Gold and Stamping Act, 15 U.S.C. 291, et seq., regulates the marking of gold or silver content on all products, including watches.

[47] FTC Policy Statement on Deception, *appended to Cliffdale Associates, Inc.,* 103 F.T.C. 110, 174 (1984).

[48] *See* FTC Policy Statement Regarding Advertising Substantiation, 48 FR 10471 (Mar. 11, 1983), *appended to Thompson Medical Co.,* 104 F.T.C. 648, 839 (1984).

[49] Timex, for example, indicated that there may be other equally valid tests, acceptable in the industry, besides those in the ISO standards. Timex (11) p.11.

[50] Sellers also need to ensure that the substantiation supports consumers' interpretations of the claims they make about their products. For example, consumers may have certain expectations regarding a watch claimed to be ''gold-plated.'' If consumers understand such a claim to mean that the gold coating on the watch will last for a certain period of time, sellers would need to ensure that the gold plate is of such thickness and surface coverage to assure that it will be reasonably durable. Although international standards may provide guidance regarding, among other things, the minimum thicknesses of gold to be used, sellers should be sure to take into account United States consumer expectations and understandings of claims.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 10

Rules of Practice; Final Rules; Correction

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules; technical corrections.

SUMMARY: On October 19, 1998, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** (63 FR 55784) final regulations amending its Rules of Practice (''Rules''), 17 CFR Part 10 (1998), which governs most adjudicatory proceedings brought under the Commodity Exchange Act, as amended (''Act''), other than reparations proceedings. Included in the amended Rules was a new Appendix A, which sets out Commission policy relating to the acceptance of settlements from defendants or respondents in Commission enforcement proceedings, specifically, that the Commission will not enter into a settlement if the defendant or respondent wishes to continue to deny the allegations in the complaint. The Commission has determined to make certain technical changes to Appendix A to clarify two points: the Commission will not enter into a settlement if the defendant or respondent wishes to continue to deny the findings of fact and conclusions of law contained in an order settling the matter; and Commission settlement agreements do not affect a defendant's or respondent's subsequent testimonial obligations in any proceeding. In addition, the Commission has made several technical corrections or publication errors in the final Rules.

EFFECTIVE DATE: The effective date is June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen Mihans, Office of Chief Counsel, Division of Enforcement, at (202) 418–5399, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, N.W., Washington, D.C. 20581.

SUPPLEMENTARY INFORMATION: On October 19, 1998, the Commission published its final amended Rules of Practice. This was the first major revision of the Rules in over 20 years. Appendix A was added to the Rules to set out the Commission's policy relating to the acceptance of settlements in Commission enforcement proceedings, specifically, that the Commission will not enter into a settlement if the defendant or respondent wishes to continue to deny the allegations in the complaint. The proposed changes to Appendix A are intended to clarify two points related to this policy. First, in its current form, Appendix A requires an agreement from defendants and respondents as a condition of settlement that they will not deny the allegations in a complaint, but does not address directly a respondent's or defendant's ability to deny the findings of fact or conclusions of law in settlement order entered by the Commission or a court. The proposed changed make clear that settling defendants and respondents cannot continue to deny either the allegations in the complaint or the

findings of fact or conclusions of law in a settlement order that is entered by the Commission or a court.

Second, the proposed changes to Appendix A clarify that Commission settlement agreements do not affect defendants' or respondents' testimonial obligations in proceedings to which the Commission is a party or in any other proceeding. In its current form, Appendix A effectively requires an agreement by a settling respondent or defendant not to give testimony in a Commission proceeding that would tend to deny any allegation in the complaint or create an impression that the complaint lacks a factual basis. This restriction has the potential to conflict with the legal obligation of a respondent or defendant to testify truthfully. Accordingly, the Commission is making technical changes to Appendix A to clarify that a Commission settlement agreement does not affect a settling respondent's or defendant's subsequent testimonial obligations in any proceeding in which the Commission is a party or in any other proceeding. This change will not affect the Commission's ability to protect against respondents or defendants making later statements that are inconsistent with statements upon which the Commission relies in entering into a settlement. In such circumstances, the Commission can condition the settlement upon the truthfulness of such statements and can vitiate the settlement in the event that the respondent or defendant subsequently provides testimony that is inconsistent with the statements. Moreover, the Commission will continue to prohibit settling respondents and defendants from taking legal positions in proceedings to which the Commission is a party that would tend to deny the allegations in the complaint or the findings of fact and conclusions of law in the settlement order or would tend to create the impression that the complaint or order is without a factual basis.

Because Appendix A constitutes a statement of agency policy, the Commission finds that there is no need to provide the public with an opportunity to submit comments before implementing the above changes. 5 U.S.C. 553(b)(A). For the same reason the Commission has determined to make the changes to Appendix A effective immediately upon publication. 5 U.S.C. 553(b)(2). All of the remaining changes to the Rules correct publication errors. Accordingly, the Commission also finds good cause to make these corrections effective immediately upon publication in the **Federal Register**. 5 U.S.C. 553(b)(B), 553(d)(3).

In consideration of the foregoing, the Commission corrects Chapter I of Title 17 of the Code of Federal Regulations as follows:

List of Subjects in 17 CFR Part 10

Administrative practice and procedure, Commodity futures.

PART 10—RULES OF PRACTICE

1. The authority citation for Part 10 continues to read as follows:

Authority: Pub. L. 93–463, sec. 101(a)(11), 88 Stat. 1391; 7 U.S.C. 4a(j), unless otherwise noted.

2. Section 10.1 is amended by revising paragraph (d) to read as follows:

§ 10.1 Scope and applicability of rules of practice.

* * * * *

(d) The assessment of civil penalties pursuant to sections 6(c) and 6b of the Act, 7 U.S.C. 9 and 15 and 13a;

* * * * *

3. Section 10.68 is amended by revising the second sentence in paragraph (a)(2) to read as follows:

§ 10.68 Subpoenas.

(a) * * *

(2 Application for subpoena duces tecum. * * * All requests for the issuance of a subpoena duces tecum shall be submitted in duplicate and in writing and shall be served upon all other parties to the proceeding, unless the request is made on the record at the hearing or the requesting party can demonstrate why, in the interest of fairness or justice, the requirement of a written submission or service on one or more of the other parties is not appropriate. * * *

* * * * *

4. Section 10.92 is amended by revising paragraph (b)(1) to read as follows:

§ 10.92 Shortened procedure.

* * * * *

(b) Filing of Statements—(1) Opening statement. Within 20 days after receipt of notice that the shortened procedure will be used, the Division of Enforcement shall serve upon all other parties and file with the Proceedings Clerk, in triplicate, an opening statement, in support of the complaint;

* * * * *

5. Section 10.101 is amended by revising paragraph (a)(5)(iii) to read as follows:

§ 10.101 Interlocutory appeals.

* * * * *

(a) Scope of review. * * *

(5) * * *

(iii) Subsequent reversal of the ruling would cause unnecessary delay or expense to the parties.

* * * * *

6. Section 10.102 is amended by revising the fifth sentence in paragraph (e)(1) to read as follows:

§ 10.102 Review of initial decisions.

* * * * *

(e) Appendix to briefs—(1) Designation of contents of appendix. * * * In designating parts of the record for inclusion in the appendix, the principal parts of the record relied upon should be designated, but the parties shall have regard to the fact that the entire record is always available to the Commission for reference and examinations and shall not engage in unnecessary designation. * * *

* * * * *

7. Section 10.106 is amended by revising the last sentence in paragraph (b)(3) to read as follows:

§ 10.106 Reconsideration; stay pending judicial review.

* * * * *

(b) Stay pending judicial appeal * * *

(3) Civil monetary penalties and restitution. * * * In the event the Commission denies the applicant's motion for a stay, the Proceedings Clerk shall return the surety bond to the applicant.

* * * * *

8. Appendix A to Part 10 is revised to read as follows:

Appendix A to Part 10—Commission Policy Relating to the Acceptance of Settlements in Administrative and Civil Proceedings

It is the policy of the Commission not to accept any offer of settlement submitted by any respondent or defendant in an administrative or civil proceeding, if the settling respondent or defendant wishes to continue to deny the allegations of the complaint or the findings of fact or conclusions of law to be made in the settlement order entered by the Commission or a court. In accepting a settlement and entering an order finding violations of the Act and/or regulations promulgated under the Act, the Commission makes uncontested findings of fact and conclusions of law. Similarly, in settling a civil proceeding with a defendant the Commission invites the federal court to make conclusions of law and, in some instances, findings of fact. The Commission does not believe it would be appropriate for it to be making or inviting a court to make such uncontested findings of violations if the party against whom the findings and conclusions are to be entered is continuing to deny the alleged misconduct.

The refusal of a settling respondent or defendant to admit the allegations in a

Commission-instituted complaint or the findings of fact or conclusions of law in the settlement order entered by the Commission or a court shall be treated as a denial, unless the party states that he or she neither admits nor denies the allegations or the findings and conclusions. In that event, the proposed offer of settlement, consent or consent order must include a provision stating that, by neither admitting nor denying the allegations, findings or conclusions, the settling respondent or defendant agrees that neither he or she nor any of his or her agents or employees under his authority or control shall take any action or make any public statement denying, directly or indirectly, any allegation in the complaint or findings or conclusions in the order, or creating, or tending to create, the impression that the complaint or the order is without a factual basis; provided, however, that nothing in this provision shall affect the settling respondent's or defendant's—

i. Testimonial obligation, or

ii. Right to take legal positions in other proceedings to which the Commission is not a party.

Issued in Washington, DC on June 1, 1999, by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–14370 Filed 6–8–99; 8:45 am]

BILLING CODE 6351–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–6354–5]

RIN 2060–AI29

Regulation of Fuel and Fuel Additives: Modification of Compliance Baseline

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: With today's action the U.S. Environmental Protection Agency (''EPA'', ''the Agency'', or ''we'') will allow the conventional gasoline emissions, from gasoline that a refiner sells in Puerto Rico in excess of its baseline volume of Puerto Rico gasoline, to be evaluated using only the summer version of the Complex Model. Additionally, the reformulated gasoline program's anti-dumping compliance baseline calculation will be modified. This modification will replace the annual average statutory baseline term with a summer statutory baseline term for purposes of evaluating a refiner's excess Puerto Rico gasoline. Finally, the summer Complex Model, which is more climatically appropriate for evaluating Puerto Rico gasoline, will replace the winter Complex Model for all baseline and compliance calculations for Puerto Rico gasoline. These provisions will apply to any refiner that has Puerto Rico gasoline in its individual baseline, has increased production of gasoline for sale in Puerto Rico above its individual baseline volume of Puerto Rico gasoline, and petitions the Agency to apply the modified compliance baseline to its Puerto Rico gasoline. Any refiner submitting such a petition must recalculate its individual baseline using the summer Complex Model for all Puerto Rico gasoline.

DATES: This action will be effective on July 26, 1999 unless notice is received by July 9, 1999 from someone who wishes to submit adverse or critical comments. If such comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

ADDRESSES: Interested parties may submit written comments in paper form and/or by E-mail. To ensure their consideration by EPA, all comments must be submitted to EPA by the date indicated under **DATES** above. Paper copies of written comments should be submitted (in duplicate if possible) to Public Docket No. A–99–16 at the following address: U.S. Environmental Protection Agency (EPA), Air Docket Section, Room M-1500, 401 M Street, S.W., Washington, D.C. 20460. The Agency requests that a separate paper copy also be sent to either person listed below under **FOR FURTHER INFORMATION CONTACT**. EPA also encourages that an electronic copy of comments (in ASCII format) accompany the submission of a paper copy (by E-mail to A-and-R-Docket@epa.gov or on a 3.5 inch diskette). Public comments may also be submitted by E-mail to the docket at the address listed above without the submission of a paper copy. However, to ensure the clarity of the submission, EPA encourages that a paper copy accompany the E-mail submission. If comments are submitted by E-mail alone, EPA requests that a copy of the E-mail message that contains the comments be sent to either person listed below under **FOR FURTHER INFORMATION CONTACT**.

Materials related to this rulemaking are available for review at EPA's Air Docket at the above address (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. The telephone number for EPA's Air Docket is (202) 260–7548, and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: Christine M. Brunner or Felicia Seals-Buchanan, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734) 214–4287 or x4589, FAX (734) 214–4051, E-mail brunner.christine@epa.gov or seals-buchanan.felicia@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include those involved with the production, distribution and sale of gasoline motor fuel. Regulated categories and entities include:

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To decide whether your organization might be affected by this action, you should carefully examine this action and the existing regulations in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Access to Rulemaking Documents Through the Internet

Today's document is available electronically on the day of publication from the EPA Internet Web site listed

below. Electronic copies of the preamble, regulatory language and other documents associated with today's proposal are available from the EPA Office of Mobile Sources Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for Internet connectivity.

EPA Web Site:
http://www.epa.gov/docs/fedrgstr/epa-air/
(Either select a desired date or use the Search feature.)

Office of Mobile Sources (OMS) Web Site:
http://www.epa.gov/omswww/
(Look in ''what's New'' or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

I. Background

A. Anti-Dumping Standards

Section 211(k) of the Clean Air Act requires the U.S. Environmental Protection Agency (''EPA'' or ''we'') to establish standards for reformulated gasoline (RFG) to be used in specified ozone nonattainment areas. In addition, EPA established standards for non-reformulated, or conventional, gasoline used in the rest of the country. These standards are called the anti-dumping standards. EPA adopted the anti-dumping standards to prevent refiners from dumping into conventional gasoline the dirty gasoline components that are removed when RFG is produced. The anti-dumping standards require refiners to produce conventional gasoline each year that is as clean as the gasoline produced by the refiner in 1990.

In order to be in compliance with the anti-dumping standards, the exhaust toxics and nitrogen oxides (NO_X) emissions performance of a refinery's conventional gasoline can be no dirtier than the refinery's 1990 exhaust toxics and NO_X emissions performance, on an annual average basis. EPA requires refiners to calculate the exhaust toxics and NO_X emissions performance of gasoline using the Complex Model [1], based on measured properties, such as sulfur and benzene content, and Reid vapor pressure (RVP). The Complex Model includes both a summer version and a winter version. The anti-dumping requirements at 40 CFR 80.101(g) require refiners to use the summer Complex Model to evaluate conventional gasoline supplied to an area subject to EPA's gasoline volatility standards when these standards are in effect, and requires them to use the winter Complex Model to evaluate all other gasoline. The regulations also require refiners to evaluate the exhaust toxics and NO_X emissions performance of gasoline sold in areas not subject to those volatility standards, such as Puerto Rico, Hawaii, and Alaska, using the winter Complex Model.

B. Compliance Baseline Calculation

In general, a refiner's standard for compliance is its individual 1990 refiner baseline. However, when a refiner's annual gasoline production volume (including RFG, conventional gasoline and reformulated gasoline blendstock for oxygenate blending) exceeds its baseline volume (the volume of gasoline that the refiner produced in 1990), the refiner's conventional gasoline compliance standard for exhaust toxics and NO_X is different from its individual baseline values for these emissions. The standard is different because EPA requires refiners to compare the excess volume to the statutory baseline instead of their individual baseline. Because the statutory baseline was designed to reflect 1990 gasoline generally, the quality of all the excess gasoline produced approximates the 1990 average national quality.

In order to determine a refiner's compliance standard for the averaging period, the anti-dumping provisions at 40 CFR 80.101(f) require the use of a specified compliance baseline equation. This equation establishes a single compliance baseline that compares a refiner's conventional gasoline with that refiner's individual baseline. However, a portion of the compliance baseline equation compares the emissions of a refiner's excess volume of conventional gasoline to the annual average statutory baseline emissions, a combination of the summer and winter statutory baseline emissions. EPA requires refiners to evaluate the emissions of gasoline sold in areas not subject to EPA's volatility requirements using only the winter Complex Model. Refiners must then compare these emissions to a compliance baseline equation that is based in part on the summertime portion of the statutory baseline. Because different assumptions drive the summer and winter versions of the Complex Model, this may force refiners to make quality changes in their gasoline pools resulting in unintended negative effects for refiners and the environment.

C. Seasonal Impacts of the Complex Model

A detailed discussion of the development of the summer and winter versions of the Complex Model was included in the Final Regulatory Impact Analysis (RIA) for Reformulated Gasoline [2]. Both models are based on MOBILE model outputs. MOBILE model outputs for the summer model assume ambient temperatures of 69°F–94°F. MOBILE model outputs for the winter model assume ambient temperatures of 39°F–57°F. Additionally, MOBILE model outputs show significantly greater ''winter'' emissions due to longer engine and catalyst warm-up times. As a result, for identical fuel compositions (based on those fuel parameters evaluated in the Complex Model), the winter Complex Model results in significantly higher emissions than the summer Complex Model, on a mg/mile basis.

D. July 11, 1997 Proposal

EPA proposed a variety of changes to the reformulated gasoline and anti-dumping regulations on July 11, 1997 (62 FR 37337). Classifying gasoline as summer or winter gasoline was one issue that EPA discussed in that proposal. In that discussion, EPA stated that it would classify all gasoline produced for use outside the continental U.S., where the federal RVP standards do not apply, as winter gasoline year round because:

(1) EPA required refiners to calculate the emissions of all gasoline used outside of the continental U.S. using the winter Complex Model for baseline purposes;

(2) The anti-dumping standards compare the emissions of a refinery's gasoline during an averaging period with the refinery's baseline emissions; and

(3) The comparison of baseline emissions to averaging period emissions is valid only if the refinery uses the same criteria in the baseline and in the averaging period for classifying gasoline as summer or winter.

One commenter, Amerada Hess, stated that it was inappropriate for refiners to use the winter Complex Model to evaluate the gasoline produced for certain areas outside the continental U.S. and not subject to the federal volatility requirements. They offered the following reasons:

(1) In the proposal, ''EPA is acknowledging that the classification of gasoline as winter or summer actually depends on the season in which it is sold'' (and not just its RVP);

[1] 40 CFR 80.45.

[2] December 13, 1993.

(2) EPA's MOBILE model, upon which EPA based the Complex Model, reflects a temperature range of 39°F–57°F when used to evaluate winter emissions;

(3) It is inappropriate for EPA to assign gasoline for tropical climates such as Puerto Rico and Hawaii, to the winter category from a ''seasonal weather gasoline characteristic standpoint';

(4) The RVP of the gasoline sold in these (tropical) areas reflects summertime RVPs rather than wintertime RVPs;

(5) The July 1, 1994 RFG Question and Answer Document states that refiners are to evaluate gasoline which remains seasonably the same throughout the year using the seasonal Complex Model which matches the year round season.

Additionally, when the volume of gasoline sold in such areas increases over baseline levels, under 40 CFR 80.101(f)(4)(ii) EPA requires refiners to calculate the standard for the extra volume using annual exhaust toxics and NOx emissions values which include both summer and winter Complex Model calculations. At the same time, EPA requires calculation of emissions (of gasoline sold in such areas) for compliance purposes using only the winter Complex Model. Consequently, according to the commenter, the refiner is unfairly penalized.

II. Action

A. Summary

With today's action, EPA will allow refiners, upon petition, to replace the winter Complex Model with the summer Complex Model for all anti-dumping baseline and compliance calculations for conventional gasoline sold in Puerto Rico, if the refiner has Puerto Rico gasoline in their individual baseline, and if the refiner currently sells a volume of gasoline in Puerto Rico greater than that refiner's 1990 Puerto Rico baseline volume. We are taking this action in order to address specific circumstances where inconsistencies in the RFG program's anti-dumping provisions have had significant unintended negative impacts.

The anti-dumping regulations currently require conventional gasoline sold in Puerto Rico to be evaluated using the winter Complex Model, for purposes of both compliance calculation and baseline calculation up to a refiner's 1990 baseline volume. However, the current regulations require a refiner to use the statutory baseline for evaluating volumes of Puerto Rico gasoline above that refiner's 1990 baseline volume. The statutory baseline includes both a summer and winter Complex Model component. As a result, for excess gasoline, there is an unintended mismatch between the refiner's baseline calculation (which uses only the winter Complex Model) and the compliance baseline calculation (which uses a combination of the summer and winter Complex Models). This results in the appearance of greater emissions in comparison to an analysis using the same seasonal version of the Complex Model for both of these calculations. For those refiners with Puerto Rico gasoline in their individual baseline, that have increased the volume of gasoline that they sell in Puerto Rico above their 1990 baseline volumes of Puerto Rico gasoline, this incongruence has had a significant adverse economic effect.

To solve this specific problem, EPA is modifying the compliance determination of the gasoline a refiner sells in Puerto Rico above that refiner's 1990 Puerto Rico baseline volume. Refiners will evaluate such gasoline using only a single statutory seasonal term (the summer term) in the compliance baseline determination. Additionally, given Puerto Rico's consistently warm climate, we recognize that the summer Complex Model is the most appropriate model for evaluating emissions in Puerto Rico under the anti-dumping program. Thus, we are also requiring that all of the conventional gasoline sold in Puerto Rico (by a refiner that makes a successful petition under this provision) will be evaluated using the summer Complex Model. The approval of a petition under today's action requires a refiner to recalculate the Puerto Rico component of its individual baseline using the summer Complex Model. As a result, such a refiner will evaluate all of its Puerto Rico gasoline using a single seasonal version of the Complex Model. Today's action applies to each batch of gasoline produced by an eligible refiner and destined for Puerto Rico, even if a small portion of the batch is subsequently sent to other nearby areas with climates similar to Puerto Rico and which are also not subject to EPA's volatility standards.

B. Modified Compliance Baseline Equation

As discussed in section I.B., when refiners sell gasoline in excess of their individual baseline volume in areas such as Puerto Rico, which are not subject to the federal volatility requirements, use of the current compliance baseline equation may have negative economic implications for refiners and unintended negative environmental effects. EPA requires refiners to evaluate such gasoline using the winter Complex Model. However, in the compliance baseline equation, all excess gasoline is compared to the annual average statutory baseline, which is composed of summer and winter components. Because the winter Complex Model predicts higher emissions for exhaust toxics and NO_X than does the summer model, refiners in this situation are forced to meet a more stringent compliance standard in these areas than would be required if the seasonal Complex Models used to evaluate such gasoline were the same. Accordingly, they must divert cleaner gasoline from other areas.

To remedy this situation, EPA is modifying the compliance baseline equation at § 80.101(f)(4)(ii). This modification will ensure that the performance of gasoline sold in Puerto Rico in excess of a refiner's baseline volume of Puerto Rico gasoline is compared to the appropriate corresponding seasonal baseline. We believe that the summer Complex Model is the most appropriate model for evaluating Puerto Rico gasoline.

EPA is including the following equation at 40 CFR 80.101 (f)(4). This equation includes separate terms for evaluating the gasoline subject to the refiner's individual baseline and excess gasoline subject to the summer model-only requirements.

$$CB_i = \left(B_i * \left(\frac{V_{1990} - V_{1990s}}{V_a}\right)\right) + \left(BS_i * \left(\frac{V_{1990s}}{V_a}\right)\right) + \left(DBA_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(1 - \frac{V_{as}}{V_a}\right)\right) + \left(DBS_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(\frac{V_{as}}{V_a}\right)\right)$$

where:

CB_i = the compliance baseline value for emissions performance i

B_i = the refiner's or importer's individual annual baseline for

emissions performance i under § 80.91 for gasoline supplied to areas subject to volatility standards under § 80.27

BS_i = the refiner's or importer's individual baseline as determined under § 80.91 using the summer Complex Model, for gasoline supplied to Puerto Rico, for emissions performance i

DBA_i=annual anti-dumping statutory baseline value for emissions performance i under § 80.91(c)(5)(iv)

DBS_i=the summer statutory baseline value for emissions performance i under § 80.45(b)(3), table 5

V_a=total volume of RFG, conventional gasoline, RBOB, oxygenates and California gasoline as defined under § 80.81(a)(2) produced or imported during the averaging period

V_{1990}=1990 baseline volume under § 80.91(f)(1)

V_{1990s}=1990 baseline volume of gasoline supplied to Puerto Rico

V_{as}=volume of conventional gasoline supplied during the averaging period to Puerto Rico

i=exhaust toxics or NO_X emissions performance

C. Seasonal Re-designation of Puerto Rico Gasoline

The emissions of Puerto Rico gasoline will be evaluated using only the summer Complex Model for any refiner making a successful petition under this provision. As a result of comments in response to the July 11, 1997 NPRM, EPA evaluated the average annual climatic conditions and gasoline RVP levels for Puerto Rico.[3] We have concluded that Puerto Rico's relatively constant year round ambient temperatures, as well as its gasoline RVPs, are more consistent with the conditions under which EPA intended the summer Complex Model to apply than they are with the conditions under which we intended the winter Complex Model to apply. Additionally, Puerto Rico's ambient temperature is consistent with conditions typical of a high ozone season, when summertime gasoline, and thus the summer Complex Model, is meant to be used. Because this action involves the calculation of compliance baselines for gasoline sold by refiners in Puerto Rico, we are taking this opportunity to address the seasonal appropriateness of the Complex Model that refiners must use to evaluate individual batches of gasoline. Accordingly, we will require refiners to evaluate all of their Puerto Rico gasoline using the summer Complex Model for compliance and baseline purposes. We are, however, expressly limiting the applicability of this change to refiners that petition for, and are granted, compliance baseline corrections under the provisions of this rulemaking.

D. Environmental Impact

We are presently aware of only one refiner for which the current regulations have significant unintended negative economic and environmental impacts. Specifically, the current anti-dumping regulations applicable to Puerto Rico gasoline negatively affect the quality of this refiner's mainland reformulated gasoline by requiring the refiner to shift certain production from RFG to conventional gasoline in order to comply with the requirements for its Puerto Rico conventional gasoline. Thus the emissions in areas which most need clean gasoline—ozone nonattainment areas participating in the RFG program—are unnecessarily elevated. Conversely, Puerto Rico, which is in attainment for ozone, is receiving cleaner conventional gasoline due to the unintended results of the current anti-dumping rules.

Today's action helps to provide the cleanest gasoline where it is needed most. It is possible that the gasoline supplied by this refiner to Puerto Rico, and other conventional gasoline areas, could see increases in the emissions regulated under the anti-dumping requirements. However, this action will allow refiners to use the most seasonally-appropriate Complex Model for gasoline sold in Puerto Rico, and will not result in an increase in emissions from conventional gasoline compared to 1990 levels. Thus, the goals of the anti-dumping program will be preserved. Indeed, this adjustment simply works to restore the proper balance to the distribution of environmental benefits under the RFG program.

These requirements apply to gasoline produced for calendar year 1999 and beyond. EPA will need more information from other refiners before proposing to broadly apply similar provisions throughout Puerto Rico and in other areas not subject to EPA's volatility requirement.

E. Economic Impact

EPA expects today's action to have minimal economic consequences. Most affected refiners are operating satisfactorily under the current requirements and are likely to be unaffected by this rule. EPA believes that refiners satisfying the requirements of this provision will petition to re-evaluate the Puerto Rico gasoline in their baseline using the summer Complex Model only if it is economically beneficial for them to do so. Therefore, EPA anticipates no adverse economic impacts as a result of today's rule.

F. Limited Applicability

The provisions discussed above (i.e., the modified compliance baseline equation and the uniform use of the summer Complex Model) apply only to refiners that have Puerto Rico gasoline in their individual baseline, that have increased the volume of gasoline that they sell in Puerto Rico above their 1990 baseline volumes of Puerto Rico gasoline, and that petition the Agency for such a change. Once such a petition is made and granted, the new method for determining compliance would apply from then on, regardless of any future changes in the refiner's Puerto Rico gasoline production or distribution. To date, only one refiner has notified EPA of potential adverse effects due to the application of the current regulations.

While EPA believes that use of the modified compliance baseline equation and seasonally-appropriate Complex Model may be technically appropriate in all areas not subject to the federal volatility requirements, there are a number of factors that EPA is unable to evaluate at this time. Consequently, we believe it best to limit the applicability of this action to refiners of Puerto Rico gasoline that can fulfill the other requirements of this rule. The following section discusses the implications of a broader application of the principles underlying today's action, and highlights the difficulties inherent in evaluating the appropriateness of such a generally applicable provision.

III. Implications for Broader Future Action

Today's action is limited in applicability to Puerto Rico refiners that meet the criteria enumerated in section II of this document. However, we anticipate that a similar but more generally applicable provision may be appropriate in the future. Such a provision would presumably apply to all areas that are not subject to the federal volatility requirements codified at 40 CFR 80.27.[4] The substance and

[3] 30 year average maximum and minimum temperatures by month, and RVP specifications.

[4] EPA believes that gasoline sent to areas such as Puerto Rico and Hawaii (and perhaps Guam, the U.S. Virgin Islands (USVI), the Northern Marianas and American Samoa) might be most appropriately evaluated using only the summer Complex Model. Similarly, EPA believes that gasoline sold in Alaska might be most appropriately evaluated using only the winter Complex Model, as is currently required.

scope of such a generally applicable provision would depend on many considerations, including environmental and economic impacts, industry practices, and the likely consequences for the RFG program in general. Some of the factors that EPA believes warrant additional consideration prior to the broad application of the provisions in today's action include:

(1) *Environmental impacts.* Many refiners which have Puerto Rico gasoline in their baseline aggregate that baseline with baselines of some or all of their other refineries. Currently, they may not actually produce gasoline for Puerto Rico, or may produce a reduced amount relative to their baseline volume of Puerto Rico gasoline. Thus, they may be taking advantage of Puerto Rico gasoline baseline emissions under the current regulations for the compliance of conventional gasoline produced for other locales. If required to re-evaluate the baseline of the Puerto Rico gasoline and to use the modified compliance baseline equation, the gasoline quality in either Puerto Rico or in the conventional or RFG areas of the continental U.S. may deteriorate relative to the current situation. EPA is also unable to evaluate the impact on the environment of the activities of refiners that have no Puerto Rico gasoline in their baseline but would choose to sell gasoline in Puerto Rico if such gasoline were allowed or required to be evaluated using the summer Complex Model. Since the summer Complex Model gives lower emissions for a given composition of gasoline, it would be advantageous for refiners to produce gasoline for Puerto Rico under such circumstances. However, because EPA is unable to anticipate the actions of such refiners (e.g., future gasoline production plans) it is currently impossible for the Agency to determine the overall environmental impacts that such a regulatory provision might have.

(2) *Economic impacts.* EPA expects today's action to have minimal economic consequences. Nonetheless, because of numerous uncertainties, EPA is unable to determine what economic impacts might result from a more general provision applicable to all areas not subject to the federal volatility standards. Specifically, possible reactions by refiners regarding aggregation and refinery changes would play a critical role in assessing the economic consequence of any such Agency action.

EPA understands that refinery aggregation decisions involve precise and costly evaluations, and that changing such decisions might entail another round of concerted deliberation. Thus, while the direct economic impacts of such a broadly applicable provision might actually be small, a refiner's choice to re-evaluate its aggregation decisions might result in significant additional expense. Re-aggregation could not only be time-consuming and costly for the refiner, but could have anti-competitive effects for those refiners without applicable gasoline in their baseline. Thus, EPA's current lack of information regarding the impact that re-consideration of aggregation decisions might have on the RFG and anti-dumping programs is one reason we are limiting the applicability of today's action.

(3) *Disturbing the system.* With the exception of the problems addressed by today's action, the current system for implementing the RFG anti-dumping standards has been successful. Given the concerns discussed above, EPA is unsure whether it would be appropriate to disturb the current system for what may be minimal environmental benefit at potentially high economic costs.

IV. Public Participation

The Agency is publishing this action both as a proposed rulemaking and as a direct final rule because it views these modifications to the anti-dumping program as non-controversial and anticipates no adverse or critical comments. This action will be effective July 26, 1999 unless the Agency receives notice by July 9, 1999 that adverse or critical comments will be submitted. If such comments are received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** informing the public that the rule will not take effect.

V. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735 October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. The Agency has determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order because it does not impose any mandatory obligations on the regulated community beyond those specified in the current regulations.

B. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires federal agencies 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 businesses, small not-for-profit enterprises, and small governmental jurisdictions. This rule will not have a significant impact on a substantial number of small entities because it involves an optional provision intended to promote successful implementation of the RFG anti-dumping requirements and to minimize existing adverse economic impacts. This action may, in fact, reduce the burden of the anti-dumping program on regulated entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

Today's action does not involve the collection of information as defined by the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Therefore, the provisions of that Act do not apply to this action.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory action on State, local, and tribal governments and the private

sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgation an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The EPA has determined that today's rule does not include a Federal mandate because it imposes no enforceable duty on any State, local, and tribal governments, or the private sector. Today's rule implements an optional provision for evaluating the emissions of conventional gasoline sold by certain refiners in Puerto Rico. This action may, in fact, reduce the burden of the anti-dumping program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this action. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

2. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any mandatory duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

3. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13094 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This rule applies exclusively to refiners that sell gasoline in Puerto Rico. The rule does not create any mandates or impose any obligations, and thus does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This rulemaking does not involve technical standards. Therefore, EPA is not requiring the use of any voluntary consensus standards.

F. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

G. Executive Order 13045: Children's Health Protection

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate

effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Additionally, this rule is not subject to E.O. 13045 because it implements specific standards established by Congress in statutes.

VI. Statutory Provisions and Legal Authority

The statutory authority for today's actions is granted to EPA by sections 114, 211 (c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545 (c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 28, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUEL AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. A new paragraph (d) is added to Section 80.93 to read as follows:

§ 80.93 Individual baseline submission and approval.

* * * * *

(d) Requirements for petition applicable to Puerto Rico gasoline.

(1) Any refiner or importer with Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its individual baseline may petition EPA to use the summer Complex Model to evaluate its Puerto Rico and Virgin Islands gasoline for compliance under § 80.101.

(2) The petition must be sent to: U.S. EPA, Fuels and Energy Division, 2000 Traverwood, Ann Arbor, MI 48105.

(3) The petition must include the following:

(i) Identification of the refinery;

(ii) Identification of contact person;

(iii) A revised individual baseline determination, wherein the baseline Puerto Rico and U.S. Virgin Islands gasoline has been evaluated using the summer Complex Model. The calculations should be clearly and fully described and displayed.

(iv) Baseline auditor agreement with the revised baseline.

(4) EPA reserves the right to request additional information. If such information is not forthcoming in a timely manner, the petition will not be approved.

3. Section 80.101 is amended by revising paragraphs (f)(4) and (g)(1)(ii) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(f) * * *

(4)(i) [Reserved].

(ii) [Reserved].

(iii) Any refiner or importer with Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its individual baseline and which has met the requirements specified in paragraph (g)(1)(ii)(B) of this section, and whose total volume of conventional gasoline, RBOB, reformulated gasoline, and California gasoline, as defined in § 80.81(a)(2), produced or imported by the refiner or importer during the averaging period is greater than that refiner's or importer's 1990 baseline volume as determined under § 80.91(f)(1), must calculate the compliance baseline for each parameter or emissions performance according to the following formula:

$$CB_i = \left(B_i * \left(\frac{V_{1990} - V_{1990s}}{V_a}\right)\right) + \left(BS_i * \left(\frac{V_{1990s}}{V_a}\right)\right) + \left(DBA_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(1 - \frac{V_{as}}{V_a}\right)\right) + \left(DBS_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(\frac{V_{as}}{V_a}\right)\right)$$

where:

CB_i = the compliance baseline value for emissions performance i

B_i = the refiner's or importer's individual annual baseline for emissions performance i under § 80.91 for gasoline supplied to areas subject to volatility standards under § 80.27

BS_i = the refiner's or importer's individual baseline as determined under § 80.91 using the summer Complex Model, for gasoline supplied to Puerto Rico and the U.S. Virgin Islands, for emissions performance i

DBA_i = annual anti-dumping statutory baseline value for emissions performance i under § 80.91(c)(5)(iv)

DBS_i = the summer statutory baseline value for emissions performance i under § 80.45(b)(3), table 5

V_a = total volume of RFG, conventional gasoline, RBOB, oxygenates and California gasoline as defined under § 80.81(a)(2) produced or imported during the averaging period

V_{1990} = 1990 baseline volume under § 80.91(f)(1)

V_{1990s} = 1990 baseline volume of gasoline supplied to Puerto Rico and the U.S. Virgin Islands

V_{as} = volume of conventional gasoline supplied during the averaging period to Puerto Rico and the U.S. Virgin Islands

i = exhaust toxics or NO_X emissions performance

(g) * * *

(1) * * *

(ii) Complex Model calculations.

(A) Exhaust benzene, exhaust toxics, and exhaust NO_X emissions performance for each batch shall be calculated in accordance with the applicable model under § 80.45.

(B) A refiner which has Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its baseline shall use the summer Complex Model to evaluate its averaging period Puerto Rico and U.S. Virgin Islands gasoline provided it has petitioned the Agency, per § 80.93(d), and has received Agency approval on the petition, and has revised its individual baseline, such that the Puerto Rico and U.S. Virgin Islands gasoline in its individual baseline has

been evaluated using the summer Complex Model.

* * * * *

[FR Doc. 99–14475 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6344–4]

Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 17, 1998, the EPA published a proposal to identify ten additional ozone areas where the 1-hour standard is no longer applicable. The 30-day comment period ended on January 19, 1999. A total of six comment letters were received in response to the proposal. This final rule summarizes the comments, includes responses, and finalizes the determination that the 1-hour standard no longer applies for ten additional areas identified in this final rule. Furthermore, today's final rule stops any sanctions or Federal implementation plan (FIP) clocks that may have been started in these ten areas and that related to the planning requirements of section 182. With finalization of this rule, the Code of Federal Regulations (CFR) is amended to reflect such changes. On July 18, 1997, EPA provided by rule that the 1-hour ozone standard would no longer apply to an area based on an EPA determination that the area has attained that standard. Since the 1-hour standard no longer applies to these areas, designations for that standard also no longer apply. The 1-hour standard and designations for that standard will continue to apply to areas for which EPA has not made a determination through rulemaking. The EPA has promulgated final rules regarding the applicability of the 1-hour standard for other areas on June 5, 1998 and July 22, 1998. The ten additional areas identified in today's final rule where EPA has determined the 1-hour standard no longer applies, based on the most recent air quality data available from 1996–1998, are: Boston-Lawrence-Worcester (E.MA), Massachusetts-New Hampshire; Memphis, Tennessee; Muskegon, Michigan; Portland, Maine; Portsmouth-Dover-Rochester, New Hampshire; Providence (All RI), Rhode Island; Allegan County, Michigan; Oceana County, Michigan; Mason County, Michigan; Door County, Wisconsin.

EFFECTIVE DATE: This action will be effective June 9, 1999.

ADDRESSES: Copies of the public comments and EPA's responses are available for inspection at the following address: Air and Radiation Docket and Information Center (6101), Attention: Docket No. A–98–48, U.S. Environmental Protection Agency, 401 M Street SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548, between 8:00 a.m. and 5:30 p.m., Monday through Friday, excluding legal holidays. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Questions concerning this final rule should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5246/5238. In addition, the following Regional contacts may be called for individual information regarding monitoring data and policy matters specific for each Regional Office's geographic area:

Region I—Richard P. Burkhart, (617) 918–1664

Region IV—Kay Prince, (404) 562–9026

Region V—Todd Nettesheim, (312) 353–9153.

SUPPLEMENTARY INFORMATION: *Electronic Availability*—The official record for this final rule, as well as the public version, has been established under docket number A–98–48 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information, is available for inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. The official final rulemaking record is located at the address in **ADDRESSES** at the beginning of this document.

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J. Submission to Congress and the General Accounting Office

I. Background

On July 16, 1997, President Clinton issued a memorandum (62 FR 38421, July 18, 1997) to the Administrator of the EPA which indicates that within 90 days of promulgation of the new 8-hour standard, the EPA will publish an action identifying ozone areas to which the 1-hour standard will cease to apply. The memorandum states that for areas where the air quality does not currently attain the 1-hour standard, the 1-hour standard will continue in effect. The provisions of subpart 2 of title I of the Clean Air Act (Act) would also apply to currently designated nonattainment areas until such time as each area has air quality meeting the 1-hour standard.

On July 18, 1997 (62 FR 38856), EPA promulgated a regulation replacing the 1-hour ozone standard with an 8-hour standard at a level of 0.08 parts per million (ppm). The form of the 8-hour standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new primary standard, which became effective on September 16, 1997, will provide increased protection to the public, especially children and other at-risk populations. On July 18, 1997, EPA also promulgated regulations providing that revocation of the 1-hour ozone national ambient air quality standard (NAAQS) would occur on an area-by-area basis when EPA determined that an area was meeting the 1-hour NAAQS. This was done in order to facilitate continuity in public health protection during the transition to the new NAAQS.

Therefore, on January 16, 1998, in accordance with the President's memorandum and the regulations promulgated on July 18, 1997, the Agency issued a direct final rule (63 FR 2726) which identified ozone areas to which the 1-hour standard will cease to apply because they have not measured a current violation of the 1-hour standard. For all other areas, the 1-hour standard will continue to apply. However, due to the receipt of adverse comments, the direct final action was withdrawn on March 16, 1998 (63 FR

12652) and converted to a proposed rule that had previously been published on January 16, 1998 (63 FR 2804). The Agency summarized and addressed all relevant public comments in a subsequent final rule, published and effective on June 5, 1998 (63 FR 31014). According to the final rule, the Agency intended to publish, in early 1998, a subsequent document which takes similar action to revoke the 1-hour standard in additional areas that have air quality that does not violate the 1-hour standard and to take similar action each year thereafter.

Again, on July 22, 1998, the EPA published a final rule to approve the identification of six additional ozone areas attaining the 1-hour standard and to which the 1-hour standard no longer applies (63 FR 39432).

On December 17, 1998, the EPA published a proposal to approve the identification of ten additional ozone areas attaining the 1-hour standard and to which the 1-hour standard is no longer applicable (63 FR 69598). Comments were received on the proposal during the comment period ending on January 19, 1999.

II. Summary of Today's Action

The purpose of this document is to respond to comments received on the December 17th proposed rule and finalize the identification of the ten additional areas that EPA has determined are not violating the 1-hour standard and, therefore, with respect to which the 1-hour standard no longer applies. The newly identified areas are: Boston-Lawrence-Worcester (E.MA), Massachusetts-New Hampshire; Memphis, Tennessee; Muskegon, Michigan; Portland, Maine; Portsmouth-Dover-Rochester, New Hampshire; Providence (All RI), Rhode Island; Allegan County, Michigan; Oceana County, Michigan; Mason County, Michigan; Door County, Wisconsin.

III. Public Comments and EPA Responses

The following discussion summarizes and responds to the comments received on the proposal published on December 17, 1998 (63 FR 69598).

Comment: The commenter raised concerns that upon finalization of the revocation of the 1-hour standard, the areas would no longer be subject to any sanctions or FIP clocks started pursuant to sections 110 or 179 of the Clean Air Act (CAA) and 40 CFR 52.31 with respect to planning requirements under section 182. Furthermore, the commenter states that finalization of such revocation actions for Massachusetts, New Hampshire, Maine, and Rhode Island pose questions as to the validity of the section 126 petitions that have been filed by these States. Accordingly, the commenter believes that the section 126 petitions should be denied and supports today's final rule to revoke the 1-hour standard in the listed States' areas where the data demonstrate the 1-hour standard has been attained.

Response: Today's final rule is simply a determination by EPA that the 1-hour standard no longer applies in these ten listed areas where attainment of the 1-hour standard has been demonstrated. Therefore, it does not address the issue of whether section 126 petitions filed on behalf of the above States should or should not be granted. Final decisions regarding the section 126 petitions, filed by States affected by today's action, were promulgated on April 30, 1999. The FIP and sanctions obligations under sections 110 and 179 of the CAA are triggered with respect to ''required submissions.'' At the time that EPA revokes the 1-hour standard for an area, the area is no longer designated for that standard and the nonattainment planning requirements of section 182, which are exclusively linked to that standard are no longer ''required'' for the area. Thus, there is no longer a need for EPA to promulgate a FIP for the area or to impose sanctions for the purpose of encouraging the State to submit a section 182 State implementation plan (SIP). The EPA previously has taken this identical interpretation of the CAA in the redesignation context. *See e.g.*, 62 FR 32204, 32206 (June 13, 1997).

Comment: Several commenters voiced opposition to the determination that the 1-hour standard no longer applies to the ten areas since the areas did not follow the redesignation process under section 107(d)(3)(E) of the CAA, particularly, the requirements for permanent and enforceable reductions in emissions and maintenance plans. In addition, the commenters believe that EPA's action is arbitrary, capricious, an abuse of discretion, and contrary to required procedures. They are fearful that important programs such as reasonably available control technology and enhanced inspection and maintenance may be opposed in certain Ozone Transport Region (OTR) States. Moreover, they are concerned that conformity determinations, as required under section 176, whereby highway and other transportation programs are evaluated based on the area's current and long-term air quality goals would no longer be performed due to the lack of maintenance plans with definite budgets. They advocate that areas should prepare maintenance plans to ensure continued improvement in air quality. The commenters also claim that EPA violated the procedural requirements of section 307 of the CAA and the Administrative Procedure Act. In addition, the commenters assert that this rule is contrary to EPA's proposed interim implementation policy on the new or revised ozone and particulate matter national ambient air quality standards (NAAQS), which was published at the same time as the proposed revision to the ozone NAAQS.

Response: The Agency has previously addressed these concerns in earlier final actions on the determination that the 1-hour standard no longer applies (i.e., 63 FR 31014, June 5, 1998 and 63 FR 39432, July 22, 1998). The EPA's final ozone rule, which was promulgated after the proposed interim policy, provided EPA's final position on the revocation of the 1-hour standard. Therefore, procedurally, EPA is acting consistently with its rule establishing the procedure for revoking the 1-hour standard. In addition, the commenters are incorrect regarding the substance of the proposed interim policy. The commenters contend that the proposed interim policy identified a procedure whereby areas would need to meet the requirements of section 107(d)(3)(E) as a prerequisite to a change in an area's attainment status. In that policy, EPA provided that ''designations remain in effect after promulgation of the new NAAQS until new designations are undertaken after promulgation of the new NAAQS.'' 61 FR 65752, 65754 (Dec. 13, 1996). The EPA also discussed the ability of areas to seek redesignation while the 1-hour standard (and related designations) remain in effect, but did not state that the redesignation criteria of section 107(d)(3)(E) needed to be met for designations to be removed where the 1-hour standard is no longer applicable.

Comment: Several commenters voiced concerns that today's final rule would in effect result in reduction of Federal funds to Massachusetts via the Congestion Mitigation and Air Quality Improvement Program (CMAQ) since the Massachusetts areas would no longer be in nonattainment and would not have a maintenance plan in place. They noted that the Federal Highway Administration's Interim CMAQ Guidance does not provide for continued funding for areas where the standard is revoked, and the Transportation Equity Act for the 21st Century (TEA–21) does not provide for CMAQ funding for areas under the new 8-hour standard. The commenters wish to explore ways to keep CMAQ funding under the current and proposed Federal regulations. They offered a suggestion

for remedying the situation which included allowing the State of Massachusetts to voluntarily submit a maintenance plan. They believe that such a maintenance plan would ensure proper planning for mobile source emissions during the transition from the 1-hour standard to the 8-hour standard.

Response: The purpose of today's final rule is to determine where areas have attained the 1-hour standard. Today's final rule does not address eligibility for funding under CMAQ. The EPA acknowledges that current transportation policies, as well as the recent TEA–21 legislation, do not adequately address the issue of continued funding under CMAQ. However, EPA does not believe the suggestion for voluntary submittal of maintenance plans would resolve the issue. The TEA–21 provides CMAQ monies only for nonattainment and maintenance areas. Maintenance areas are defined as areas which have been redesignated from nonattainment to attainment under 107(d) of the CAA. Having made the determination that these Massachusetts areas have air quality that attains the 1-hour standard and that the 1-hour standard therefore no longer applies to those areas, EPA believes it no longer has the authority to make any designations, either of attainment or nonattainment, with respect to that standard for those areas. Since redesignation is necessary for a former nonattainment area to become an attainment area and subject to requirements for maintenance plans, the voluntary submittal of a maintenance plan in the absence of a redesignation to attainment would not create a maintenance area under TEA–21. The Agency understands the commenters' concerns with respect to loss of CMAQ funding in these areas and we will be working with the Federal Highway Administration to explore options for future funding.

Comment: One commenter supported the Agency's assessment that Door County, Wisconsin, is attaining the 1-hour ozone standard based on data for the period of 1996–1998.

Response: The Agency acknowledges receipt of this letter of support for today's final rule.

Comment: One commenter states that designations must be based on the status of the area with regard to all applicable standards ''for the pollutant.'' The commenter believes that an area is designated nonattainment if either of its multiple NAAQS for a particular pollutant is violated.

Response: EPA has historically designated areas based on the existing health-based standard or standards for a pollutant. Thus, for purposes of PM–10, EPA has typically had one designation though there are two health-based standards—an annual and a 24-hour standard. For ozone, there has historically been one health-based standard and only one designation for the health-based ozone standard. At the time that EPA promulgated a revised health-based standard for ozone—the new 8-hour standard—EPA determined to retain the 1-hour standard to facilitate the transition to the revised standard; however, EPA did not retain the 1-hour standard as a health-based standard. At that time, EPA indicated that it would follow the initial designation process for designating areas for the 8-hour standard, 62 FR 38421, 38424–25 (July 18, 1997) and provided the process for revoking the 1-hour standard and removing the designations for that standard. 62 FR 38856, 38873 (July 18, 1997).

The approach EPA chose in 1997 is supported by the language of the CAA. Section 107(d)(1) of the CAA requires EPA to designate areas ''after promulgation of a new or revised national ambient air quality standard for any pollutant.'' For newly promulgated or revised standards, this provision contemplates new designations rather than redesignations (see 107(d)(3)) or the continuation of an existing designation (see 107(d)(4)). In addition, the provisions in section 107 and elsewhere in the CAA refer to designations for the ''national ambient air quality standard for any pollutant.'' *See e.g.*, CAA section 107(d)(1)(A). The phrase quoted by the commenters, ''for the pollutant,'' modifies the clause requiring designations for NAAQS. Thus it is appropriate for EPA to have designations for the revised health-based NAAQS separate from those for the 1-hour NAAQS, which was retained to facilitate the transition to the 8-hour standard but not as a standard necessary to protect the public health or the environment.

IV. Final Rulemaking Action

The ozone tables codified in today's final rule are significantly different from the tables now included in 40 CFR part 81 for these ten areas. The current 40 CFR part 81 designation listings (revised November 6, 1991; June 5, 1998; and July 22, 1998) include, by State and NAAQS pollutant, a brief description of areas within the State and their respective designations. Today's final rule includes completely new entries for the ten ozone areas covered by today's rule.

V. Other Regulatory Requirements

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the E.O. The OMB has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. This final rule will not have a significant impact on a substantial number of small entities because the determination that the 1-hour standard ceases to apply does not subject any entities to any additional requirements.

C. Unfunded Mandates

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

Today's final rule will 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 imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045 entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This final rule is not subject to E.O. 13045 because this is not an economically significant regulatory action as defined by E.O. 12866, and it implements a previously promulgated health or safety-based Federal standard.

E. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under E.O. 12875, EPA may not issue a regulation that is not required by statute, and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of the affected State, local and tribal governments; the nature of their concerns; copies of any written communications from the governments; and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's final rule does not create a mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. The identified areas are not located in tribal lands, and this final rule does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Paperwork Reduction Act

This final rule does not contain any information collection requirements which requires OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

H. Executive Order 12898: Environmental Justice

Under E.O. 12898 each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's final rule (identifying additional ozone areas where the 1-hour standard is no longer applicable) does not adversely affect minorities and low-income populations because the new, more stringent 8-hour ozone standard is in effect and provides increased protection to the public, especially children and other at-risk populations.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this proposed action. Today's final rule does not require the public to perform activities conducive to the use of VCS.

J. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Issued in Washington, D.C. on May 12, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

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

2. In § 81.320, the table entitled ''Maine—Ozone (1-Hour Standard)'' is amended by revising the entry for ''Portland Area'' and revising footnote 2 to read as follows:

§ 81.320 Maine.

* * * * *

MAINE—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * * * * * *				
Portland Area:				
Cumberland County	June 9, 1999	1 hr.std.N.A.[2]		
Sagadahoc County	June 9, 1999	1 hr.std.N.A.[2]		
York County	June 9, 1999	1 hr.std.N.A.[2]		
* * * * * * *				

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

3. In § 81.322, the table entitled ''Massachusetts-Ozone (1-Hour Standard'' is amended by revising the entry for ''Boston-Lawrence-Worcester (E.Mass) Area'' and adding footnote 2 to read as follows:

§ 81.322 Massachusetts.

* * * * *

MASSACHUSETTS—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Boston-Lawrence-Worcester (E.Mass) Area:				
Barnstable County	June 9, 1999	1 hr.std.N.A.[2]		
Bristol County	June 9, 1999	1 hr.std.N.A.[2]		
Dukes County	June 9, 1999	1 hr.std.N.A.[2]		
Essex County	June 9, 1999	1 hr.std.N.A.[2]		
Middlesex County	June 9, 1999	1 hr.std.N.A.[2]		
Nantucket County	June 9, 1999	1 hr.std.N.A.[2]		
Norfolk County	June 9, 1999	1 hr.std.N.A.[2]		
Plymouth County	June 9, 1999	1 hr.std.N.A.[2]		
Suffolk County	June 9, 1999	1 hr.std.N.A.[2]		
Worcester County	June 9, 1999	1 hr.std.N.A.[2]		
* * * * * * *				

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

4. In § 81.323, the table entitled ''Michigan—Ozone (1-Hour Standard)'' is amended by revising the entries for ''Allegan County Area'', ''Mason County Area'', ''Muskegon Area'', and ''Oceana County Area'' to read as follows:

§ 81.323 Michigan.

* * * * *

MICHIGAN—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Allegan County Area:				
Allegan County	June 9, 1999	1 hr.std.N.A.[2]		
* * * * * * *				
Mason County Area:				
Mason County	June 9, 1999	1 hr.std.N.A.[2]		
* * * * * * *				
Muskegon Area:				
Muskegon County	June 9, 1999	1 hr.std.N.A.[2]		
Oceana County Area:				
Oceana County	June 9, 1999	1 hr.std.N.A.[2]		

MICHIGAN—OZONE—Continued

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

5. In § 81.330, the table entitled ''New Hampshire—Ozone(1-Hour Standard)'' is amended by revising the entry for ''Boston-Lawrence-Worcester Area'' and ''Portsmouth-Dover-Rochester Area'' to read as follows:

§ 81.330 New Hampshire.

* * * * *

NEW HAMPSHIRE—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Boston-Lawrence-Worcester Area:				
Hillsborough County (part)	June 9, 1999	1 hr.std.N.A.[2]		
Pelham Town, Amherst Town, Brookline Town, Hollis Town, Hudson Town, Litchfield Town, Merrimack Town, Milford Town, Mont Vernon Town, Nashua City, Wilton Town.				
Rockingham County (part)	June 9, 1999	1 hr.std.N.A.[2]		
Atkinson Town, Brentwood Town, Danville Town, Derry Town, E Kingston Town, Hampstead Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, Newton Town, Plaistow Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town, Windham Town.				
* * *	*	*	*	*
Portsmouth-Dover-Rochester Area:				
Rockingham County (part)	June 9, 1999	1 hr.std.N.A.[2]		
Exeter Town, Greenland Town, Hampton Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, North Hampton Town, Portsmouth City, Rye Town, Stratham Town.				
Strafford County	June 9, 1999	1 hr.std.N.A.[2]		
* * *	*	*	*	*

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

6. In § 81.340, the table entitled ''Rhode Island—Ozone (1-Hour Standard)'' is revised to read as follows:

§ 81.340 Rhode Island.

* * * * *

RHODE ISLAND—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Providence (all of RI) Area:				
Bristol County	June 9, 1999	1 hr.std.N.A.[2]		

RHODE ISLAND—OZONE—Continued

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Kent County	June 9, 1999	1 hr.std.N.A.[2]		
Newport County	June 9, 1999	1 hr.std.N.A.[2]		
Providence County	June 9, 1999	1 hr.std.N.A.[2]		
Washington County	June 9, 1999	1 hr.std.N.A.[2]		

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

7. In § 81.343, the table entitled ''Tennessee—Ozone (1-Hour Standard)'' is amended by revising the entry for ''Memphis Area'' to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
*	*	*	*	*
Memphis Area:				
Shelby County	June 9, 1999	1 hr.std.N.A.[2]		
*	*	*	*	*

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

8. In § 81.350, the table entitled ''Wisconsin—Ozone (1-Hour Standard)'' is amended by revising the entry for ''Door County Area'' to read as follows:

§ 81.350 Wisconsin.

* * * * *

WISCONSIN—OZONE

[1-Hour Standard]

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
Door County Area:				
Door County	June 9, 1999	1 hr.std.N.A.[2]		
*	*	*	*	*

[1] This date is June 5, 1998, unless otherwise noted.
[2] 1 hour standard Not Applicable.

* * * * *

[FR Doc. 99–14595 Filed 6–7–99; 10:42 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket Nos. 96–45 and 96–262; FCC 99–119]

Federal-State Joint Board on Universal Service; Access Charge Reform

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The document Federal-State Joint Board on Universal Services; Access Charge Reform establishes the framework for a new forward-looking high-cost universal service support mechanism. The new mechanism will have a two-part methodology that considers both the relative costs of providing supported services and the states' ability to support those costs using their own resources. In taking these steps, we are moving closer to bringing to fruition the work of the Joint Board and this Commission to render universal service support mechanisms explicit, sufficient, and sustainable as local competition develops. The federal support mechanism would provide support for costs that exceed both the

national benchmark and the individual state's resources to support those costs.

DATES: Effective June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on May 28, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C. 20554.

I. Introduction

1. The Telecommunications Act of 1996 (1996 Act) has fostered and accelerated the development of competition in local telecommunications markets across the nation. The 1996 Act also, for the first time, wrote into law the Commission's long-standing policy of supporting universal service. In codifying this federal policy, Congress sought to ensure that universal service remains achievable and sustainable as local competition develops.

2. In this Order, based on recommendations from the Federal-State Joint Board on Universal Service (Joint Board), we take action to achieve this Congressional goal and to ensure that mechanisms exist so that non-rural carriers' rates for services supported by universal service mechanisms remain affordable in all regions of the nation and reasonably comparable to those prevalent in urban areas. In taking these steps, we are moving closer to bringing to fruition the work of the Joint Board and this Commission to render universal service support mechanisms explicit, sufficient, and sustainable as local competition develops.

3. In this Order, we adopt broad revisions to the federal support mechanisms, in light of the Joint Board's most recent recommendations, to permit rates to remain affordable and reasonably comparable across the nation, consistent with the 1996 Act and the competitive environment that it envisions. To accomplish these goals, as recommended by the Joint Board, we establish a methodology for determining non-rural carriers' support amounts, based on forward-looking costs estimated using a single, national model, and a national cost benchmark. We explicitly reconsider and repudiate any suggestion in the *First Report and Order*, 62 FR 32862 (June 17, 1997), that federal support should be limited to 25 percent of the difference between the benchmark and forward-looking cost estimates, in favor of the more nuanced balancing of federal and state responsibilities outlined by the Joint Board. To the extent a state's resources are deemed inadequate to maintain affordable and reasonably comparable rates, the federal mechanism will provide the necessary support. We also adopt today the hold-harmless and portability principles recommended by the Joint Board.

A. The Purpose of Support

4. We agree with the Joint Board that a primary focus in reforming the federal high-cost universal service support mechanism is to enable intrastate rates to remain both affordable and reasonably comparable across high-cost and urban areas. We also agree with the Joint Board that the Commission bears the responsibility to ensure that interstate rate structures comply with the Congressional mandates expressed in the Communications Act of 1934, as amended (the Act). In this section, we adopt the majority of the Joint Board's conclusions and recommendations concerning affordability, reasonable comparability, explicit interstate support, and explicit intrastate support. Pursuant to the Joint Board's recommendation, we are leaving the existing support mechanism in place for non-rural carriers for an additional six months. We anticipate adopting the permanent methodology for calculating and distributing support for non-rural carriers, based on forward-looking economic costs, this fall for implementation on January 1, 2000.

1. Enabling Reasonably Comparable Rates

5. We agree with the Joint Board that a central purpose of federal universal service support mechanisms is to enable rates in rural areas to remain reasonably comparable to rates in urban areas, and we adopt the Joint Board's interpretation of the reasonable comparability standard to refer to ''a fair range of urban/rural rates both within a state's borders, and among states nationwide.'' This does not mean, of course, that rate levels in all states, or in every area of every state, must be the same. In particular, as the local exchange market becomes more competitive, it would be unreasonable to expect rate levels not to vary to reflect the varying costs of serving different areas. The Joint Board and the Commission have concluded that current rate levels are affordable. Therefore, we interpret the goal of maintaining a ''fair range'' of rates to mean that support levels must be sufficient to prevent pressure from high costs and the development of competition from causing unreasonable increases in rates above current, affordable levels. When we use the term ''reasonably comparable'' throughout this Order, we are referring to this definition of the term.

6. We find that, once we have resolved several implementation issues and further verified the forward-looking cost model, the Joint Board's recommended methodology largely will be an appropriate means for the federal mechanism to ensure that states have the ability to achieve reasonable comparability. Specifically, the Joint Board's proposed methodology will ensure that any state with per-line costs substantially above the nationwide average will receive federal support for those intrastate costs, unless the state has the ability to maintain reasonably comparable rates without such support. States, of course, retain primary responsibility for local rate design policy and, as such, bear the responsibility to marshall state and federal support resources to achieve reasonable comparability of rates.

7. This approach does not consider rates directly. Instead, it uses costs as an indicator of a state's ability to maintain reasonable comparability of rates within the state and relative to other states. We conclude that the underlying assumption in the Joint Board's recommendation—that a relationship exists between high costs and high rates—is a sound one, because rates are generally based on costs. We adopt this approach, in part, because states possess broad discretion in developing local rate designs. State rate designs may reflect a broad array of policy choices that affect actual rates for local service, intrastate access, enhanced services, and other intrastate services. A state facing costs substantially in excess of the national average, however, may be unable through any reasonable combination of local rate design policy choices to achieve rates reasonably comparable to those that prevail nationally. Through an examination of the underlying costs, instead of the resulting rates, we can evaluate the cost levels that must be supported in each state in order to develop reasonably comparable rates. Because responsibility for such support is shared at the federal and state levels, determining the federal portion based on costs rather than rates allows the federal jurisdiction to help accomplish the goal of rate comparability without having to evaluate states' policy choices affecting those rates.

8. By providing support for costs in any state that exceed a benchmark level,

the Joint Board's recommended methodology ensures that the cost levels net of support that must be recovered through intrastate rates—and, by analogy, its assumed rate levels—must substantially exceed the national average. By taking account of the cost levels that must be supported in each state in order to enable reasonable comparability of rates, the Joint Board's methodology ensures that federal support is targeted to areas where it is necessary to achieve its intended purpose—enabling reasonable comparability of rates—and also that overall support levels are no higher than necessary to achieve this goal. We agree with the Joint Board that this methodology will result in federal support levels for each state that are appropriate to achieve the statutory principle of reasonable comparability of rates.

9. In the *First Report and Order*, the Commission concluded that the share of support provided by the federal mechanism should initially be set at 25 percent of the difference between the forward-looking cost of providing the supported services and a national benchmark. In adopting the Joint Board's recommended methodology, we reconsider the Commission's conclusions in the *First Report and Order* regarding the federal share of support. The Joint Board's recommended methodology for enabling reasonable comparability of rates will define the sharing of responsibility between the federal and state jurisdictions for high-cost intrastate universal service support in a way markedly different from the 25 percent federal share methodology adopted in the *First Report and Order*. Instead of allocating responsibility for universal service support based on fixed percentages, the Joint Board's recommended methodology recognizes the states' primary role in enabling reasonable comparability of rates. Under this recommendation, to the extent a state possesses the ability to support its high-cost areas wholly through internal means, the methodology we adopt recognizes that no federal support is required in that state to enable reasonably comparable local rates. Conversely, to the extent that a state faces larger rate comparability challenges than can be addressed internally, our forward-looking methodology places no artificial limits on the amount of federal support that is available, thus resulting in sufficient support as required by the 1996 Act.

10. We find that section 254(b)(3) supports the use of federal support to enable reasonable rate comparability among states. By specifying that ''[c]onsumers in all regions of the Nation'' should have rates and services reasonably comparable to rates and services in urban areas, we believe that Congress intended national, as opposed to state-by-state, comparisons. Some commenters dispute the Joint Board's interpretation of reasonable comparability. For example, the California Commission asserts that using federal universal service support to enable rate comparability among states would impermissibly expand the scope of section 254(b)(3), and that support should merely seek to enable the reasonable comparability of rates within each state. Similarly, the Maryland Commission claims that the Joint Board's interpretation would lead to the comparison of rural rates in all states to some fictional national urban rate, with the potentially anomalous result that rural rates in a state could be lower than urban rates in that state. The Joint Board's approach for enabling rate comparability relies not on a national urban rate, as the Maryland Commission asserts, but rather on a methodology that ensures that no state will face per-line costs that substantially exceed the costs faced by other states, taking into account the individual state's ability to support its own universal service needs. In this way, the Joint Board sought to ensure that every state has the means at its disposal to achieve reasonable comparability of rates in that state. We agree that the Joint Board's approach is an appropriate way for federal support mechanisms to enable ''consumers in all regions of the Nation'' to have access to ''reasonably comparable'' rates. We emphasize again, however, that, because states establish local rates, each state's policies will determine the level of urban rates relative to rural rates in that state.

2. Enabling Affordable Rates

11.We decline to adopt the proposals suggested by the D.C. Commission and Ad Hoc. We continue to believe, consistent with the Joint Board's recommendation, that rates for local service are generally affordable. Indeed, since March 1989, at least 93 percent of all households in the United States have had telephone service, and as of November 1998, the subscribership rate was 94.2 percent. While affordability encompasses more than subscribership, the Joint Board and the Commission agree that the states are better equipped to determine which additional factors can and should be used to measure affordability.

12.The principle of ensuring reasonably comparable rates, set forth in section 254(b)(3), does not specify an income component. To the contrary, although affordability may vary with individual subscriber income, section 254(b)(3)'s statement that consumers in rural and high-cost areas of the country should have access to telecommunications services at rates that are reasonably comparable to rates in urban areas is not qualified. Therefore, we find no congressional mandate for the Commission to implement or to require that states implement means-testing in conjunction with mechanisms designed to provide support to high-cost areas and to enable reasonable comparability of rates nationwide. Affordability problems, as they relate to low-income consumers, raise many issues that are unrelated to the need for support in high-cost areas, and section 254(b)(3) reflects a legislative judgment that all Americans, regardless of income, should have access to the network at reasonably comparable rates. The specific affordability issues unique to low-income consumers, including all factors that may be relevant to means-testing or other need-based inquiries, are best addressed at the federal level through programs specifically designed for this purpose. Indeed, the Commission already has such programs in place, namely, the Lifeline and Link-Up programs, which provide assistance for low-income consumers to get connected and stay connected to the telecommunications network. As discussed in the *First Report and Order*, we believe that the impact of household income on subscribership is more appropriately addressed through programs designed to help low income households obtain and retain telephone service, rather than as part of the federal high-cost support mechanism.

13. Moreover, forcing states to adopt means testing or limits on rates of return in order to receive federal high-cost support would be contrary to the Joint Board's recommendations. Although it may be within the Commission's jurisdiction to condition federal support on specific state action, the Joint Board recommended against our doing so in the high-cost context. Individual state commissions are in a position to evaluate specific affordability issues facing their respective states, and we believe that individual states should retain the primary responsibility to decide questions of affordability and to weigh the relative importance of factors such as consumer income and local rate design. Therefore, we decline to require means testing for federal high-cost support. An individual state, however,

could voluntarily adopt an explicit support mechanism using means testing or other cost-of-living data, as suggested by the D.C. Commission and Ad Hoc. Although the states retain discretion to adopt such a mechanism, we will continue to monitor the issue of rate affordability, and we will take remedial action, to the extent we have jurisdiction to do so, if it becomes necessary.

3. Making Interstate Support Explicit

14. We agree with the Joint Board that the Commission has the jurisdiction and responsibility to identify support for universal service that is implicit in interstate access charges. Moreover, we agree with the Joint Board that it is part of our statutory mandate that any such support, to the extent possible, be made explicit. In this proceeding and in our pending *Access Charge Reform*, 62 FR 31040 (June 6, 1997), proceeding, we are endeavoring to identify the types of implicit support in interstate access charges and the amount of that support. As we move forward with our efforts to reform interstate access charges, we will develop additional information on the costs of interstate access necessary to evaluate the Joint Board's recommendations in this area and the associated record. The overwhelming majority of commenters addressing the Joint Board's recommendations, however, agree that interstate access rates contain implicit support that should be made explicit. These commenters differ only as to the amount of their estimate of implicit support presently in access rates and the method for making it explicit. We anticipate taking action in the fall of 1999 to resolve the issue of making interstate support explicit, and we will address the Joint Board's recommendations at that time. Although, as explained, the statutory goal of making explicit the support that is currently implicit in interstate access charges is distinct from the statutory goal of ensuring reasonably comparable intrastate rates, we nevertheless recognize the close relationship between the implementation of the permanent revised support mechanism on January 1, 2000 and the *Access Charge Reform* proceeding. We therefore intend to move ahead with access reform in tandem with the implementation of the revised methodology.

4. Making Intrastate Support Explicit

15. Historically, states have ensured universal service principally through implicit support mechanisms, such as geographic rate averaging and above-cost pricing of vertical services, such as call waiting, voice mail, and caller ID. We agree with the Joint Board that the 1996 Act does not require states to adopt explicit universal service support mechanisms. Section 254(e) does not specifically mention state support mechanisms. Section 254(b)(5) declares that ''[t]here should be specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service.'' Section 254(f) provides that states ''may adopt regulations not inconsistent with the Commission's rules to preserve and advance universal service.'' The permissive language in both of these sections demonstrates that Congress did not require states to establish explicit universal service support mechanisms. Accordingly, our actions today are consistent with the directives of the 1996 Act.

16. As the Joint Board acknowledged, however, the development of competition in local markets is likely to erode states' ability to support universal service through implicit mechanisms. We agree with the Joint Board that the erosion of intrastate implicit support does not mean that federal support must be provided to replace implicit intrastate support that is eroded by competition. Indeed, it would be unfair to expect the federal support mechanism, which by its very nature operates by transferring funds among jurisdictions, to bear the support burden that has historically been borne within a state by intrastate, implicit support mechanisms. The Joint Board stated that states ''possess the jurisdiction and responsibility to address these implicit support issues through appropriate rate design and other mechanisms within a state,'' and it concluded that states ''should bear the responsibility for the design of intrastate funding mechanisms.'' The Joint Board's position is consistent with the methodology that it recommended for determining federal support levels. That methodology does not mandate any particular state action, but assumes that states will take some action, whether through rate design or through an explicit support mechanism, to support universal service within the state, and provides for federal support where such state efforts would be insufficient to achieve reasonable comparability of rates. We will continue to monitor state efforts at eliminating implicit support and will consider additional measures should state efforts be insufficient in this regard.

B. Methodology for Estimating Costs and Computing Support

17. We are adopting the majority of the Joint Board's recommendations for a revised methodology for estimating costs and calculating federal support levels to enable reasonably comparable local rates for non-rural carriers. We are seeking further comment, however, on specific implementation issues in an Further Notice of Proposed Rulemaking (*FNPRM*). We conclude that the revised universal service high-cost support mechanism shall take effect on January 1, 2000. We anticipate that by January 1, 2000, the Commission will have made final determinations on all outstanding issues raised, and all verification of the cost model that will be used to estimate the forward-looking costs of providing supported services will have been completed.

18. Specifically, we adopt the Joint Board's recommendation that forward-looking economic costs should be used to estimate the costs of providing supported services. We also adopt the Joint Board's general recommendation that the methodology should rely primarily on states to achieve reasonably comparable rates within their borders while providing support for above-average costs to the extent that such costs prevent the state from enabling reasonable comparability of rates. We further adopt the Joint Board's recommendations that this explicit federal support mechanism should not be significantly larger than the current explicit federal mechanism.

1. Forward-Looking Economic Costs

19. We adopt the Joint Board's recommendation that support calculations be based on forward-looking costs, and that those costs be estimated using a single national model. As we stated in the *First Report and Order*, a methodology based on forward-looking economic costs will ''send the correct signals for entry, investment, and innovation in the long run.'' Many commenters support the use of forward-looking economic costs as the basis for estimating the costs of providing the supported services, because the use of forward-looking economic costs will encourage efficient entry and investment. The use of a carrier's book costs, by contrast, would not allocate support in a competitively neutral manner among potentially competing carriers. Instead, such a system would tend to distort support payments because current book costs are influenced by a variety of carrier-specific factors, such as the age of the plant, depreciation rates, efficiency of

design, and other factors. Support based on forward-looking models will ensure that support payments remain specific, predictable, and sufficient, as required by section 254, particularly as competition develops. To achieve universal service in a competitive market, support should be based on the costs that drive market decisions, and those costs are forward-looking costs.

20. Although we believe that forward-looking costs will set support levels most efficiently, we decline to adopt a suggestion of the Ohio Consumers' Counsel that carriers should receive the lesser of either current amounts of high-cost support or a forward-looking economic cost model-based amount. The hold-harmless provision set forth in of this Order is intended to prevent dislocation and rate shocks as we make the transition to a support system based on forward-looking costs. As noted, we intend for the Joint Board and the Commission to re-evaluate non-rural carriers' support mechanisms, including the hold-harmless provision, three years from the date that the revised mechanism is implemented.

21. Although some commenters have expressed concerns about the accuracy of the outputs of the cost model, we agree with the Joint Board that a national forward-looking model will provide a more consistent approach by which to develop a method for measuring rate comparability than would individual state cost studies. We believe state cost studies could rely on differing forward-looking cost methodologies, including differing assumptions or input data elements that would prevent meaningful comparisons of the resulting forward-looking cost estimates, and thus would provide a less accurate and consistent picture by which we could evaluate the cost levels that must be supported in each state to develop reasonably comparable rates. Therefore, we reject the use of state cost studies for the purpose of developing our method for rate comparability. States, of course, retain the flexibility to design state-level support mechanisms using other indicators of cost.

22. At this time, however, there has not been adequate time to verify the results of the cost model and to verify that certain input data elements are accurate. Thus, we cannot implement immediately a revised high-cost support mechanism based on forward-looking economic costs. We anticipate that the model and the input data will be verified and ready for use by January 1, 2000.

23. The Joint Board recommended that, if the Commission did not implement a forward-looking support mechanism on July 1, 1999 to enable the reasonable comparability of non-rural carriers' rates, the Commission should provide interim relief to high-cost states served primarily by non-rural carriers. In formulating this Order, we have continued to consult with the state Joint Board members, and they recently filed a letter stating that the Commission should not adopt an interim mechanism, given the brevity of the implementation delay that we adopt today. The state Joint Board members state that they have been unable to develop a workable interim solution, and that the administrative complexity of overlaying changes in collection and disbursement onto the existing system for only six months does not appear prudent. In light of the state members' position on this issue, and the reasons they present in their letter, we conclude that we should not adopt an interim support mechanism at this time.

2. Shared Federal-State Responsibility for Reasonably Comparable Rates

24. We agree with the Joint Board that the states share responsibility for universal service, and that states should have ''specific, predictable, and sufficient'' mechanisms in place to maintain and advance universal service. We further agree with the Joint Board that, because rates are generally affordable, and subscribership is high in most parts of the country, federal involvement may be limited to instances where states face significant obstacles in maintaining reasonably comparable rates. Because affordability is closely tied to local rate levels, established and regulated by the states, we conclude that states are well-positioned to adopt local rate structures and intrastate universal service support mechanisms that maintain affordable and reasonably comparable rates on a statewide basis. Federal mechanisms, in contrast, will assure that these goals are met nationally by providing support to those states where the cost of providing the supported services substantially exceed the national average. We find that the appropriate balance of responsibility for enabling reasonably comparable local rates can be struck through the methodology recommended by the Joint Board. Accordingly, we reconsider and reject the decision in the *First Report and Order* that the federal share of support should be limited to 25 percent of the difference between the forward-looking cost of providing the supported services and a national benchmark, and directed only to the interstate jurisdiction.

3. Determination of Federal Support Amounts

(1) Determining the National Benchmark. 25. We adopt the Joint Board's recommendation that federal high-cost intrastate support should be determined using a cost-based benchmark and should be provided where states are unable to provide sufficient intrastate universal service support to non-rural carriers with costs that exceed a national benchmark. In so doing, we reconsider and reject the determination in the *First Report and Order* that federal support for rate comparability should be determined using a revenue-based benchmark. Given the focus of the *Second Recommended Decision,* 63 FR 67837 (December 9, 1998), on rate comparability, and its recommendation that the Commission should rely on the cost of providing the supported services when determining support amounts, rather than local rates, we believe that a cost-based benchmark is more appropriate. We agree with the Joint Board's re-examination of this issue and its departure in the *Second Recommended Decision* from its original recommendation that a cost-based benchmark should not be used. We have continued to coordinate with the Joint Board in developing specific details of the methodology for determining high-cost support for non-rural carriers.

26. In the first step of the revised support methodology, areas will be identified where the forward-looking cost of providing the supported services exceeds the benchmark amount. We agree with the Joint Board that a cost-based benchmark provides a better gauge with which to identify areas in need of support to enable reasonably comparable rates than would a revenue benchmark. Contrary to the assertions of some commenters, revenues may not accurately reflect the level of need for support to enable reasonably comparable rates because states have varying rate-setting methods and goals.

(2) Determining a State's Ability to Support its High-Cost Areas. 27. We further agree with the Joint Board that federal support should be available to enable local rate comparability if the state cannot do so on its own, and thus that federal support for this purpose should be determined based, in part, on a state's ability to support its universal service needs internally. Given the difficulties in determining a state's ability to support its high-cost areas, and after extensive consultation with the Joint Board, we have concluded that a set dollar amount per line is an

appropriate method by which to ascertain a state's internal ability to achieve rate comparability. We agree with the Maine Commission that a fixed dollar amount per line is a reasonably specific and certain method by which to determine a state's share of responsibility for universal service support. We also believe that using a fixed dollar amount per line is an administratively simple methodology that can be applied in a consistent manner to all states. In this Order, however, we have not set a specific per-line dollar amount.

28. We agree in principle with those commenters that assert that using a fixed percentage of each state's intrastate revenues as the level of the state's responsibility for its universal service needs could unduly burden high-cost states that also have high intrastate revenues because they currently have high rates due to high costs. However a state chooses to bear its universal service burden (*i.e.,* through existing, implicit rate designs or through an explicit support mechanism), the ability to spread the burden over a larger number of lines will make the burden easier for a state to bear. In contrast, using the ratio of high-cost to low-cost lines, one method suggested by the Joint Board, may not be as predictable as using a fixed dollar amount per line, because the number of high-cost to low-cost lines may fluctuate over time. Using the ratio of high-cost to low-cost lines also would be an administratively difficult method of determining a state's internal ability to achieve rate comparability, given the fact that supporting data would need to be obtained from a variety of sources in each state. Finally, the Joint Board's recommendation that intrastate support be calculated as a percentage of intrastate telecommunications revenues was based in part on its judgment that intrastate telecommunications revenues provide a rough measure of the funds available to support intrastate mechanisms. Because we have decided to adopt a cost-based benchmark rather than a benchmark that is based on revenues, we do not believe that a percentage-based cap on intrastate responsibility would in every case provide a meaningful measure of a state's ability to fund intrastate support.

29. We emphasize that states are not, through the adoption of this approach, required to impose a per-line charge to support universal service, nor are carriers necessarily entitled to recover this amount from new or explicit state mechanisms. As the Joint Board explained, this amount reflects a reasonable estimate of the state's ability to achieve reasonably comparable rates on a statewide basis and establishes a level above which federal support, consisting of funds transferred from other jurisdictions, should be provided to assist the state in achieving rates that are reasonably comparable to those in other states. States largely are already making use of this ability by providing carriers with substantial universal service support, often through rate averaging and other rate design methodologies, and states are best positioned to determine how and whether these mechanisms need to be altered to ensure that carriers do not double-recover universal service support. Given the substantial amounts of universal service support already built into state rate designs, we agree with the Joint Board that providing the full amount of support determined by the federal methodology from federal mechanisms, without any estimate of state support, is likely to lead to carrier double-recovery.

30. Thus, in the second step of the revised support methodology, an assessment will be made as to whether the perceived support need, as established in the first step of the methodology, exceeds the state's ability to achieve reasonable comparability of rates. The state's ability will be estimated by multiplying a dollar figure by the number of lines served by non-rural carriers in the state. Any needed support that exceeds this estimate of the state's ability to support its own high-cost areas will be provided by the federal mechanism. In this way, the mechanism will ensure that every state will have adequate resources to ensure reasonably comparable rates.

4. Size of the Federal Support Mechanism and Hold-Harmless

31. In this Order, we adopt the recommendation of the Joint Board that a hold-harmless provision should be implemented to prevent substantial reductions of federal support and potentially significant rate increases. Adoption of a hold-harmless provision will both serve to avoid any potential rate shock when the new federal support mechanism goes into effect, and to prevent undue disruption of state rate designs that may have been constructed upon, and thus are dependent upon, current federal high-cost support flows. We agree with the Joint Board that the hold-harmless amounts should be provided in lieu of the amounts computed by the two-step forward-looking methodology described, whenever the hold-harmless amount exceeds the amount indicated by the forward-looking methodology.

32. In determining the size of the new federal mechanism to enable reasonably comparable local rates, we must fulfill our statutory obligation to assure sufficient, specific, and predictable universal service support without imposing an undue burden on carriers and, potentially, consumers to fund any increases in federal support. Because increased federal support would result in increased contributions and could increase rates for some consumers, we are hesitant to mandate large increases in explicit federal support for local rates in the absence of clear evidence that such increases are necessary either to preserve universal service, or to protect affordable and reasonably comparable rates, consistent with the development of efficient competition. Rather, we agree with the Joint Board that current conditions do not necessitate substantial increases in federal support for local rates. We believe that limiting the amount of new support that each state receives under the new mechanism is consistent with the Joint Board's recommendation that the amount of such federal support should not increase significantly.

33. The Joint Board initially recommended that having the federal mechanism calculate support using study-area average costs would be one way roughly to maintain the current size of the federal mechanism. Indeed, the current system calculates costs using study area-averaged costs. While we agree with the Joint Board that there is no current need for large increases in the size of the federal support mechanism for local rates, we are seeking further comment in an *FNPRM* on whether it is equally important, even at this early stage in the development of local competition, to provide support that is calculated at a more granular level. Given that telephone service currently is largely affordable, and any significant increase in the size of federal support for local rates appears unnecessary, we conclude that we should limit the size of the federal mechanism, as recommended by the Joint Board.

5. Portability of Support

34. In the *Second Recommended Decision,* the Joint Board recommended that the Commission maintain the policy established in the *First Report and Order* of making high-cost support available to all eligible telecommunications carriers, whether they be incumbent LECs, competitive carriers, or wireless carriers. The Joint Board stated that portable support is consistent with the principle of competitive neutrality, and expressed

its continued support for competitive neutrality as a guiding principle of universal service reform. GTE and USTA expressed general support for this recommendation.

35. We conclude, consistent with the Joint Board's recommendation, that the policy the Commission established in the *First Report and Order* of making support available to all eligible telecommunications carriers should continue. All carriers, including commercial mobile radio service (CMRS) carriers, that provide the supported services, regardless of the technology used, are eligible for ETC status under section 214(e)(1). We reiterate that the plain language of section 214(e)(1) prohibits the Commission or the states from adopting additional eligibility criteria beyond those enumerated in section 214(e)(1). We also reaffirm that under section 214(e), a state commission must designate a common carrier, including carriers that use wireless technologies, as an eligible carrier if it determines that the carrier has met the requirements of section 214(e)(1). We re-emphasize that the limitation on a state's ability to regulate rates and entry by wireless service carriers under section 332(c)(3) does not allow the states to deny wireless carriers ETC status.

36. We agree with the Joint Board that competitive neutrality is a fundamental principle of universal service reform, and that portability of support is necessary to ensure that universal service support is distributed in a competitively neutral manner. We also agree with US West that ''portability'' of support should not be used to divert federal funds from high-cost areas to other areas. For this very reason, we conclude that all carriers, both incumbent LECs and competitive LECs, must use high-cost support in a manner consistent with section 254.

37. Although we adopt a hold-harmless provision we do not believe that the Joint Board intended incumbent LECs to be held harmless for federal high-cost support amounts that they lose when a customer elects to switch carriers and begins taking service from a competitive LEC. Such a conclusion would contravene the Joint Board's desire that competitive neutrality be a driving force behind universal service reform. Moreover, it would eviscerate the concept of ''portable'' support if the loss of customers to a competitor did not change the incumbent's support amounts. We conclude, therefore, that incumbent LECs will not be held harmless for reductions in their federal high-cost support amounts that result from competitive LECs capturing that incumbent LEC's customers. In addition, a competitive LEC or other carrier that gains an incumbent LEC's customers, and hence any high-cost support that the incumbent LEC had received for those customers, may only use that support in a manner consistent with section 254.

6. Use of Support

38. We conclude that carriers must apply federal high-cost universal service support in a manner consistent with section 254. Specifically, section 254(e) requires carriers to use universal service support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.''

39. We also conclude that, if we find that a carrier has not applied its universal service high-cost support in a manner consistent with section 254, we have the authority to take appropriate enforcement actions. States or other parties may petition the Commission, pursuant to section 208 of the Act, if such parties believe that a common carrier has misapplied its high-cost universal service support. States or other parties should avail themselves of the Commission's formal complaint procedures if they believe that a common carrier is not using its federal universal service high-cost support in accordance with the directions we have set forth in this Order. Because the Commission's statutory authority under section 208 extends to violations of the Act by all common carriers, we conclude that all potential recipients of high-cost support would be subject to our enforcement jurisdiction. Depending on the nature of the complaint, furthermore, a complaint filed by a party against a common carrier alleging misapplication of universal service high-cost support could qualify for resolution under the Commission's ''accelerated docket'' procedures.

C. Carrier Recovery of Universal Service Contributions from Consumers

40. Because we have resolved, or are resolving, all of the carrier recovery issues in the *Truth-in-Billing* proceeding, we need not revisit them here. We continue to believe that the ongoing *Truth-in-Billing* proceeding, with the detailed record being developed there, is the correct forum to resolve these issues. We wish to emphasize, however, that prior to the adoption in the *Truth-in-Billing* proceeding of any final standardized label for universal service charges on consumer bills, we will not hesitate to take enforcement action against carriers who engage in unjust or unreasonable practices in violation of section 201(b).

D. Assessing Contributions from Carriers

41. The Fifth Circuit has not yet issued a decision in *Texas Public Utility Counsel* v. *FCC.* While we acknowledge the Joint Board's observation that changing the assessment base to include both interstate and intrastate end-user telecommunications revenues would ease burdens on carriers that would not otherwise have to separate revenues on a jurisdictional basis and that a broader revenue base would result in a lower assessment rate, these recommendations are contingent upon the Fifth Circuit's decision in *Texas Public Utility Counsel* v. *FCC.* Accordingly, pending further resolution of this matter by the Fifth Circuit, the assessment base and the recovery base for contributions to the high-cost and low-income universal service support mechanism that we adopted in the *First Report and Order* shall remain in effect.

E. Unserved Areas

42. During the proceedings that led to the *Second Recommended Decision,* the Arizona Corporation Commission submitted a proposal to use a portion of federal support to address the problem of unserved areas and the inability of low-income residents to obtain telephone service because they cannot afford to pay line extension or construction charges. In the *Second Recommended Decision,* the Joint Board expressed its interest in ensuring that telephone service is provided to unserved areas, and recognized that states other than Arizona may have unserved areas that may need to be examined. Because providing service to unserved areas has historically been addressed by the states, the Joint Board concluded that the states should continue to address unserved area problems, to the extent they are able to do so. The Joint Board recognized, however, that there may be some circumstances that warrant federal universal service support for line extensions to unserved areas. The Joint Board recommended that the Commission investigate the question of unserved areas in a separate proceeding and determine, in consultation with the Joint Board, whether there are unserved areas that warrant any federal universal service consideration.

43. We agree with the Joint Board that, while the states have historically addressed the issue of providing service to unserved areas, there may be unserved areas, or inadequately-served areas characterized by extremely low density, low penetration, and high costs

that warrant additional federal universal service support. Commenters who addressed this issue agree with the Joint Board that the Commission should investigate this issue further. Bringing service to these areas is clearly within the goal of the 1996 Act to accelerate deployment of services to ''all Americans.'' In accordance with the Joint Board's recommendations, therefore, we will initiate a separate proceeding in July of 1999 to more fully develop the record on this issue, and investigate the nature and extent of the ''unserved area'' issue in the nation. We anticipate that, as a result of this separate proceeding, and in consultation with the Joint Board, we will be better able to determine whether any of these unserved areas should receive federal universal service support.

F. Periodic Review

44. In the *Second Recommended Decision,* the Joint Board noted that the 1996 Act contemplates that the Joint Board may periodically make recommendations to the Commission regarding modifications in the definition of services supported by the federal universal service support mechanism. In addition to recommending that the Commission continue to consult with the Joint Board on matters addressed in the *Second Recommended Decision,* the Joint Board specifically recommended that the Joint Board and the Commission broadly reexamine the high cost universal service mechanism no later than three years from the implementation date of the revised universal service high-cost mechanism.

45. We affirm our commitment to consulting with the Joint Board on an ongoing basis on issues addressed in this Order. We agree with the Joint Board that both ongoing and periodic review is necessary in light of the fact that the telecommunications industry is rapidly changing, and both competition and technological change may affect universal service needs in rural, insular, and high cost areas. We conclude that, in addition to ongoing consultation with the Joint Board, the Commission and the Joint Board shall, on or before January 1, 2003, comprehensively examine the operation of the high cost universal service mechanism implemented in this Order, including the hold-harmless mechanism.

II. Procedural Matters

A. Regulatory Flexibility Act

46. The Regulatory Flexibility Act (RFA) requires an Initial Regulatory Flexibility Analysis (IRFA) whenever an agency publishes a notice of proposed rulemaking, and a Final Regulatory Flexibility Analysis (FRFA) whenever an agency promulgates a final rule, unless the agency certifies that the proposed or final rule will not have ''a significant economic impact on a substantial number of small entities,'' and includes the factual basis for such certification. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. The Small Business Administration (SBA) defines a ''small business concern'' as an enterprise that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.

47. We conclude that neither an IRFA nor a FRFA are required here because the foregoing *Report and Order* adopts a final rule affecting only the amount of high-cost support provided to non-rural LECs. Non-rural LECs generally do not fall within the SBA's definition of a small business concern because they are usually large corporations, affiliates of such corporations, or dominant in their field of operations. Therefore, we certify, pursuant to section 605(b) of the RFA, that the final rule adopted in the *Report and Order,* will not have a significant economic impact on a substantial number of small entities. The Office of Public Affairs, Reference Operation Division, will send a copy of this certification, along with this *Report and Order,* to the Chief Counsel for Advocacy of the SBA in accordance with the RFA. In addition, this certification, *Report and Order* (or summaries thereof) will be published in the **Federal Register**.

B. Effective Date of Final Rules

48. We conclude that the amendments to our rules adopted herein shall be effective upon publication in the **Federal Register**. Pursuant to our rules, our existing high-cost support mechanism is scheduled to be phased out on July 1, 1999. In this Order, however, we conclude that the new forward-looking high-cost support mechanism should be implemented on January 1, 2000, instead of July 1, 1999, as previously planned. The amendments we adopt in this Order extend the present high-cost support mechanism from July 1, 1999, until January 1, 2000, when the new forward-looking high-cost support mechanism will be implemented. Thus, the amendments must become effective before July 1, 1999. Making the amendments effective 30 days after publication in the **Federal Register** would jeopardize the required July 1, 1999 effective date. Accordingly, pursuant to the Administrative Procedure Act, we find good cause to depart from the general requirement that final rules take effect not less than 30 days after their publication in the **Federal Register**.

III. Ordering Clauses

49. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 214, 254, 303(r), 403, and 410, the Report and Order is adopted, June 9, 1999.

50. It is further ordered that part 36 of the Commission's rules, 47 CFR 36, is amended as set forth, effective immediately upon publication of the text thereof in the **Federal Register**.

List of Subjects in 47 CFR Part 36

Reporting and recordkeeping requirements and Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

Rule Changes

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR Part 54 as follows:

PART 36—JURISDICTIONAL SEPARATIONS PROCEDURES; STANDARD PROCEDURES FOR SEPARATING TELECOMMUNICATIONS PROPERTY COSTS, REVENUES, EXPENSES, TAXES AND RESERVES FOR TELECOMMUNICATIONS COMPANIES

1. The authority citation for part 36 continues to read as follows:

Authority: 47 U.S.C. 151, 154(i) and (j), 205, 221(c), 254, 403, and 410.

§ 36.601 [Amended]

2. In 47 CFR 36.601(c) remove the date ''July 1, 1999'' and add, in its place each place it appears, the date ''January 1, 2000.''

[FR Doc. 99–14698 Filed 6–8–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 990513131–9153–02; I.D. 051299B]

RIN 0648–AM69

Atlantic Tuna Fisheries; Regulatory Adjustments

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

ACTION: Final rule.

SUMMARY: NMFS amends the regulations governing the Atlantic bluefin tuna fisheries to establish, for 1999 only, a deadline of 4:00 P.M. on June 11 for requesting Atlantic Tunas permit category changes. NMFS had previously suspended the normally applicable deadline of May 15 to provide vessel owners the opportunity to consider category changes after publication of a final rule to implement the Highly Migratory Species Fishery Management Plan (HMS FMP) and the final 1999 bluefin tuna (BFT) quota specifications and after publication of a proposed rule on the use of spotter aircraft since these actions could affect the allowable operations of several fishing categories. Now that the final rule and quota specifications have been issued and the proposed spotter aircraft rule has been published, vessel owners are able to make an informed choice of fishing category.

DATES: Effective 4:00 p.m. on June 11, 1999.

ADDRESSES: Requests for copies of the final rule and information on obtaining an Atlantic tunas permit should be directed to Rebecca Lent, Chief, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3282. Send comments regarding the burden-hour estimates or other aspects of the collection-of-information requirement contained in this rule to Rebecca Lent and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

FOR FURTHER INFORMATION CONTACT: Mark Murray-Brown, 978–281–9260.

SUPPLEMENTARY INFORMATION: The Atlantic tuna fisheries are managed under the authority of the Atlantic Tunas Convention Act (ATCA). ATCA authorizes the Secretary of Commerce (Secretary) to issue such regulations as may be necessary to carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT). The authority to issue regulations to carry out ICCAT recommendations has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

NMFS previously issued an interim final rule to suspend the deadline for BFT permit category selection for the 1999 fishing season (64 FR 27207, May 19, 1999). The normal deadline for BFT fishing category selection of May 15 was suspended in response to comments received on a proposed rulemaking to implement the HMS FMP (64 FR 3154, January 20, 1999) and proposed BFT quota specifications (64 FR 9298, February 25, 1999), particularly with respect to the use of spotter aircraft in the commercial BFT categories. Certain aspects of the final rule to implement the HMS FMP and final BFT quota specifications, as well as any new regulations governing the use of spotter aircraft, would, in combination, affect catch limits, gear restrictions, and fishing opportunities in several permit categories. NMFS received comment that it would be impossible to make a rational choice of permit category until final rules and quota specifications are issued.

NMFS has since issued a final rule to implement the HMS FMP (64 FR 29090, May 28, 1999) and final BFT quota specifications and effort controls (64 FR 29806, June 3, 1999). Additionally, NMFS has published a proposed rule to address issues related to the use of spotter aircraft in the BFT fisheries (64 FR 29984, June 4, 1999). Given this information, vessel owners and operators are able to make an informed choice of BFT fishing category for the 1999 fishing year.

Comments and Responses

NMFS received several comments regarding a permit category deadline for 1999. Comments were generally in favor of establishing a deadline as early as possible after the start of the General and Harpoon category fisheries on June 1. A number of commenters noted that a prior suspension of the deadline in the 1997 fishing year resulted in a disruption of the fisheries as many vessel operators switched categories after the fisheries opened, especially once the Harpoon category quota was reached. These commenters noted that NMFS must establish the deadline early enough in the 1999 fishing year to avoid the problems associated with switching categories after any one category quota is reached and that fishing category is closed.

NMFS notes that the objective of the deadline continues to be to prevent vessel operators from fishing in more than one category in a single fishing year. NMFS, therefore, agrees that the deadline must be established as soon as possible to achieve consistency with the objective. Although the proposed spotter plane rule has a comment period which extends through June 22, 1999, establishing a deadline after that date would substantially increase the likelihood that the Harpoon category quota will have reached and the category closed prior to the deadline. NMFS agrees that the disruptions in the BFT fisheries caused by category switching in 1997 should be avoided to the extent possible. Given that the final HMS FMP rule and BFT quota specifications have been issued and that the proposed spotter plane rule has been published for public review and comment, NMFS has determined that sufficient information is available to vessel operators to enable a reasoned decision as to what permit category they should select for 1999.

NMFS, therefore, establishes a deadline of 4:00 P.M. on June 11, 1999, for permit category selection. Given the amount of public comment on the deadline during the comment periods associated with the proposed HMS FMP regulations and the proposed 1999 BFT quota specifications and on the interim final rule that suspended the deadline, NMFS has determined that a deadline of June 11 provides sufficient public notice while maintaining consistency with fishery management objectives. NMFS will rapidly communicate the deadline to fishery participants through its FAX network and Atlantic tunas information line.

Vessel operators wishing to change fishing categories should renew permits as soon as possible prior to the deadline by calling NMFS Northeast Region at 978–281–9260. After the deadline, vessel operators may continue to renew permits in the same category or obtain new (first-time) permits through the automated permitting system at 1–888–USA-TUNA or through the internet at *http://www.usatuna.com*.

No requests for changes to Atlantic tunas permit categories will be accepted after 4:00 PM on June 11, 1999, and vessel operators who have not renewed permits for 1999 will be allowed to renew only in the same category as that issued in 1998. Vessel operators who have previously renewed permits for the 1999 fishing year will not be afforded any additional opportunity to request a

change of permit category after 4:00 PM on June 11, and such restriction will apply for the remainder of the calendar year regardless of change in ownership of the vessel.

Please note that regulations require that Atlantic tunas permits be carried on board the vessel and be displayed to dealers purchasing tunas. Therefore, changes in permit category are not effective until the new permit has been issued and is carried on board the vessel. Upon receipt of a new Atlantic tunas permit, any previously-issued Atlantic tunas permit is rendered invalid.

Under NOAA Administrative Order 205-11, 7.01, dated December 17, 1990, the Under Secretary for Oceans and Atmosphere has delegated to the Assistant Administrator for Fisheries, NOAA, the authority to sign material for publication in the **Federal Register**.

Classification

This final rule is published under the authority of the ATCA, 16 U.S.C. 971 *et seq*. The AA has determined that these regulations are necessary to implement the recommendations of ICCAT and are necessary for management of the Atlantic tuna fisheries.

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This rule involves a collection of information requirement subject to the PRA and approved by OMB under Control Number 0648–0327. The burden associated with Atlantic tunas vessel permits is estimated at 30 minutes per initial permit application and 6 minutes per renewal, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed , and completing and reviewing the collection of information. Send comments regarding this burden estimate, or any other aspect of this data collection, including suggestions for reducing the burden, to NMFS and OMB (see **ADDRESSES**).

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

NMFS has determined that, under 5 U.S.C. 553(d)(3), there is good cause to waive partially the requirement for a 30-day delay in effective date as such would be contrary to the public interest. The intent of the permit category selection deadline is to ensure that vessels are used to fish in only one category during a single fishing year. The 1999 BFT fishery is underway and it is possible that the quota for the Harpoon fishing category could be filled prior to the end of a 30-day delay in effective date. Thus, a 30-day delay would likely allow some vessel operators to switch categories after one category has been closed. NMFS has received comment that further postponement of the deadline in 1999 would adversely impact those fishermen in the categories that remain open. As previously stated, NMFS will rapidly communicate the deadline to fishery participants through its FAX network and HMS Information Line.

This final rule follows from an interim final rule for which prior notice and opportunity for public comment was not required by 5 U.S.C. 553 or by any other law. Therefore, under 5 U.S.C. 603 it is not subject to the analytical requirements of the Regulatory Flexibility Act. Accordingly, no regulatory flexibility analysis was prepared.

List of Subjects in 50 CFR Part 285

Fisheries, Fishing, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: June 4, 1999.

Andrew Kemmerer,

Acting Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 285 is amended as follows:

PART 285—ATLANTIC TUNA FISHERIES

1. The authority citation for part 285 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq*.

2. In § 285.21, paragraph (b)(7) is revised to read as follows:

§ 285.21 Vessel permits.

* * * * *

(b) * * *

(7) Except for purse seine vessels for which a permit has been issued under this section, an owner may change the category of the vessel's Atlantic tunas permit to another category by application on the appropriate form to NMFS or by dialing 1–888–USA-TUNA before the specified deadline. After the deadline, the vessel's permit category may not be changed to another category for the remainder of the calendar year, regardless of any change in the vessel's ownership. In 1999, the deadline for category changes is 4:00 PM on June 11. In years after 1999, the deadline for category changes is 11:59 PM on May 15.

* * * * *

[FR Doc. 99–14655 Filed 6–4–99; 4:31 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 060499A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the second seasonal apportionment of pollock total allowable catch (TAC) in this area.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), June 7, 1999, until 1200 hours, A.l.t., September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486-6919 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The second seasonal apportionment of pollock TAC is equal to 20 percent of the annual TAC (§ 679.20(a)(5)(ii)(C)). The Administrator, Alaska Region, NMFS (Regional Administrator), has determined that any amount of unharvested first seasonal apportionment of TAC or any amount of TAC harvested in excess of the first seasonal apportionment shall be proportionately added to or subtracted from subsequent seasonal apportionments throughout the remainder of the fishing year, with the provision that no seasonal apportionment shall exceed 30 percent

of the annual TAC (§ 679.20(a)(5)(ii)(C)). This action is consistent with the manner in which underages and/or overages of seasonal apportionments of pollock TAC have been managed in previous years. The pollock TAC in Statistical Area 610 was established by the Final 1999 Harvest Specifications (64 FR 12094, March 11, 1999) as 23,120 metric tons (mt) for the entire 1999 fishing year. In accordance with § 679.20(a)(5)(ii)(C), the second seasonal apportionment of pollock TAC in the Statistical Area 610 is 4,180 mt. This is 444 mt less than the 1999 allocation of 4,624 mt because a 22 percent overage in the previous season's catch has been deducted for this seasonal allowance.

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the second seasonal apportionment of pollock TAC in Statistical Area 610 has been reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,980 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610.

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

Classification

This action responds to the second seasonal TAC limitations and other restrictions on the fisheries established in the final 1999 harvest specifications for groundfish in the GOA. It must be implemented immediately to prevent overharvesting the second seasonal apportionment of pollock TAC in Statistical Area 610 of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: June 4, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–14632 Filed 6–4–99; 4:19 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 060499B]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the second seasonal allowance of the 1999 total allowable catch (TAC) of Pacific cod allocated for vessels using hook-and-line and pot gear in this area. Fishing with hook-and-line gear was previously prohibited under halibut mortality bycatch restrictions.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 9, 1999, until 1200 hrs, A.l.t., September 1, 1999.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the second seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI during the time period May 1 to August 31 as 8,500 metric tons (mt). See § 679.20(c)(3)(iii) and § 679.20(a)(7)(i)(A).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the second seasonal allowance of the TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,400 mt, and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance will soon be reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to prevent overharvesting the second seasonal allowance of the 1999 TAC of Pacific cod allocated to vessels using hook-and-line and pot gear in the BSAI. A delay in the effective date is impracticable and contrary to the public interest. The Pacific cod directed fishing second seasonal allowance established for vessels using hook-and-line and pot gear will soon be reached. Further delay would only result in overharvest which would disrupt the FMP's objective of providing sufficient Pacific cod to support bycatch needs in other anticipated groundfish fisheries throughout the year. NMFS finds for good cause that the implementation of this action can not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

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

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

Dated: June 4, 1999.

Richard W. Surdi,

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

[FR Doc. 99–14631 Filed 6–4–99; 4:19 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 110
Wednesday, June 9, 1999

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 71

[Airspace Docket No. 99–AEA–06]

Amendment to Class E Airspace; Ossining, NY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class E airspace at Ossining, NY. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP), 014 helicopter Point in Space approach, has been developed for General Electric Company, Ossining, NY. Controlled airspace extending upward from 700 feet to 1200 feet Above Ground Level (AGL) is needed to contain aircraft executing the approach. This action proposes to establish Class E airspace to include the Point in Space approach to General Electric Company. The area would be depicted on aeronautical charts for pilot reference.

DATES: Comments must be received on or before July 9, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–06, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy Int'l Airport, Jamaica, NY 11430.

The official docket may be examined in the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430.

An informal docket may also be examined during normal business hours in the Airspace Branch, AEA–520, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430.

FOR FURTHER INFORMATION CONTACT: Mr. Francis T. Jordan, Jr., Airspace Specialist, Airspace Branch, AEA–520 F.A.A.Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, New York 11430; telephone: (718) 553–4521.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 99–AEA–06.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with the FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Office of the Regional Counsel, AEA–7, F.A.A. Eastern Region, Federal Building #111, John F. Kennedy International Airport, Jamaica, NY 11430. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish Class E airspace area at Ossining, NY. A GPS Point in Space Approach (SIAP) has been developed for General Electric Company Heliport, Ossining, NY. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface are published in Paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document would be published subsequently in the Order.

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

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

PART 71—[AMENDED]

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

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

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9F dated

September 10, 1998, and effective September 16, 1998, is proposes to be amended as follows:

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

* * * * *

AEA NY E5 Ossining NY [New]

General Electric Company, Ossining NY
(Lat. 41°11′16″ N., long. 73°35′05″ W.)
General Electric Company Heliport
(Lat. 41°11′16″ N., long. 73°35′05″ W.)

That airspace extending upward from 700 feet above the surface within a 6 mile radius of General Electric Heliport

* * * * *

Issued in Jamaica, New York on May 27, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–14217 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 922

Regulation of the Operation of Motorized Personal Watercraft in the Gulf of the Farallones National Marine Sanctuary

AGENCY: Marine Sanctuaries Division (MSD), Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Extension of comment period.

SUMMARY: On April 23, 1999, NOAA published a proposed rule and notice of availability of a Draft Environmental Assessment (DEA) restricting the use of motorized personal watercraft in the Gulf of the Farallones National Marine Sanctuary (FR Volume 64, Number 78, pages 19945–19952). On May 20, 1999, NOAA published a notice of public meeting and extension of the comment period. This notice further extends the commend period.

DATES: Comments on the proposed rule or DEA must be received by July 1, 1999.

ADDRESSES: Comments should be sent to Ed Ueber, Sanctuary Manager, Gulf of the Farallones National Marine Sanctuary, Ft. Mason, Building 201, San Francisco, California 94123; fax: (415) 561–6616; email: ed.ueber@noaa.gov. Comments received will be available for public inspection at the above address.

FOR FURTHER INFORMATION CONTACT: Ed Ueber at (415) 561–6622.

SUPPLEMENTARY INFORMATION: NOAA proposed to amend the regulations governing the Gulf of the Farallones National Marine Sanctuary (Sanctuary) to prohibit the operation of motorized personal watercraft (MPWC) in the nearshore waters of the Sanctuary. Specifically, the operation of MPWC would be prohibited from the mean high-tide line seaward to 1,000 yards (approximately 0.5 nautical mile), including seaward of the Farallon Islands. The proposed rule would ensure that Sanctuary resources and qualities are not adversely impacted and would help avoid conflicts among various users of the Sanctuary.

The original notice of proposed rule, published on April 23, 1999, had a 30 day comment period, which closed on May 24. On May 16, 1999, NOAA submitted a notice to the **Federal Register**, which was published on May 20, 1999, extending the comment period until June 11, 1999. On May 17, 1999, NOAA received a request to extend the comment period for at least an additional 30 days beyond the original comment period. This extension of comment period until July 1, 1999, is in response to that request.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Ted Lillestolen,

Deputy Assistant Administrator, Ocean Services and Coastal Zone Management.

[FR Doc. 99–14547 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–08–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 151

RIN 1076—AD90

Acquisition of Title to Land in Trust

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This notice extends the comment period for the proposed rule published at 64 FR17574–17588, April 12, 1999 on the Acquisition of title to land in trust.

DATES: The comment period is extended from July 12, 1999 to September 12, 1999.

ADDRESSES: You may mail comments to the Office of Trust Responsibilities, Bureau of Indian Affairs, 1849 C Street, NW, MS–4513–MIB, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Terry Virden, Director, Office of Trust Responsibilities, Bureau of Indian Affairs, MS–4513, Main Interior Building, 1849 C Street, NW, Washington, DC 20240; by telephone at (202) 208–5831; or by telefax at (202) 219–1065.

SUPPLEMENTARY INFORMATION: On Monday, April 12, 1999, the Bureau of Indian Affairs published a proposed rule, 64 FR 17574–17588, concerning the Acquisition of title to land in trust. The deadline for receipt of comments was July 12, 1999. The comment period is extended for sixty days to allow additional time for comment on the proposed rule. Comments must be received on or before September 12, 1999.

Dated: June 3, 1999.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 99–14587 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–02–P

POSTAL SERVICE

39 CFR Part 265

Release of Information

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The Postal Service is changing the prohibition in § 265.6(d)(8) of title 39 of the Code of Federal Regulations (CFR) against disclosure of information contained in PS Form 1583, Application for Delivery of Mail Through Agent, to conform to recent changes in the Domestic Mail Manual. Under the rule change, the recorded business name, address, and telephone number of the addressee using a Commercial Mail Receiving Agency (CMRA) private mailbox (PMB) for the purpose of doing or soliciting business with the public will be furnished to any person upon request without charge.

DATES: Comments must be received on or before July 9, 1999.

ADDRESSES: Written comments should be mailed to Manager, Administration and FOIA, United States Postal Service, 475 L'Enfant Plaza SW, Room 8141, Washington, DC 20260–5202. Copies of all written comments will be available for inspection and photocopying between 8 a.m. and 4 p.m., Monday through Friday, at the above address.

FOR FURTHER INFORMATION CONTACT: Roy E. Gamble (202) 268–3197.

SUPPLEMENTARY INFORMATION: The Postal Service has adopted rules amending sections D042.2.5 through D042.2.7 of the Domestic Mail Manual (DMM) to update and clarify procedures for delivery of an addressee's mail to a CMRA.

Section D042.2.6 (b) of the DMM, as recently amended, requires an applicant for delivery of mail through an agent to indicate on PS Form 1583 whether the PMB will be used for the purpose of doing or soliciting business with the public. If so, certain information about the applicant that is contained in PS Form 1583 may be available to the public upon request.

Previous postal policy concerning the disclosure of information from PS Form 1583, as set out in 39 CFR 265.6(d)(8), prohibited disclosure except for the purpose of identifying a particular address as the address of a CMRA. Section 265.6(d)(8) is being changed to permit disclosure of certain information from PS form 1583 upon request, when the PMB is being used for the purpose of doing or soliciting business with the public. This is consistent with disclosure policy applicable to post office boxholders, as set out in 39 CFR 265.6(d)(3), Post office boxholder information. Information from Form 1093, Application for Post Office Box or Caller Number.

List of Subjects in Part 265

Administrative practice and procedure, Courts, Freedom of information, Government employees, Release of information.

For the reasons set out in the preamble, the Postal Service proposes to amend 39 CFR part 265 as follows:

PART 265—RELEASE OF INFORMATION

1. The authority citation for part 265 continues to read as follows:

Authority: 5 U.S.C. 552; 5 U.S.C. App. 3; 39 U.S.C. 401, 403, 410, 1001, 2601.

2. In § 265.6 the heading for paragraph (d) is republished and paragraph (d)(8) is revised to read as follows:

§ 265.6 Availability of records.

* * * * *

(d) Disclosure of names and addresses of customers.

* * * * *

(8) PS Form 1583, Application for Delivery of Mail Through Agent. Information contained in PS Form 1583, Application for Delivery of Mail Through Agent, may not be disclosed to the public, except as follows:

(i) For the purpose of identifying a particular address as an address of an agent to whom mail is delivered on behalf of other persons. No other information, including, but not limited to, the identities of persons on whose behalf agents receive mail, may be disclosed from PS Form 1583.

(ii) When the delivery address is being used for the purpose of doing or soliciting business with the public, as indicated on PS Form 1583 or by other evidence furnished by the requester (such as an advertising circular). Disclosure will be limited to the recorded business name, street address, and telephone number of the addressee. When the postmaster is unable to determine whether a business use is involved, he shall refer the request to managing counsel of the appropriate field legal office for advice. Only if the addressee's business and home address are the same, will the home address be provided pursuant to this provision.

* * * * *

Stanley F. Mires,

Chief Counsel, Legislative.

[FR Doc. 99–13724 Filed 6–8–99; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[AMS–FRL–6354–4]

RIN 2060–AI29

Regulation of Fuel and Fuel Additives: Modification of Compliance Baseline

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: With today's action the U.S. Environmental Protection Agency (''EPA'', ''the Agency'', or ''we'') proposes to evaluate the conventional gasoline emissions, from gasoline that a refiner sells in Puerto Rico in excess of its baseline volume of Puerto Rico gasoline, using only the summer version of the Complex Model. Accordingly, we propose to modify the reformulated gasoline program's anti-dumping compliance baseline calculation. This modification will replace the annual average statutory baseline term with a summer statutory baseline term for purposes of evaluating a refiner's excess Puerto Rico gasoline. We also propose to replace the winter Complex Model with the more climatically appropriate summer Complex Model for all baseline and compliance calculations for Puerto Rico gasoline. The proposed provisions would apply to any refiner that has Puerto Rico gasoline in its individual baseline, has increased production of gasoline for sale in Puerto Rico above its individual baseline volume of Puerto Rico gasoline, and petitions the Agency to apply the proposed modified compliance baseline to its Puerto Rico gasoline. EPA will require any refiner submitting such a petition to recalculate its individual baseline using the summer Complex Model for all Puerto Rico gasoline.

We anticipate that today's action will affect only a single refiner. We have not yet fully evaluated the implications of a general shift toward a climate-sensitive use of the summer and winter Complex Models for other Puerto Rico refiners or gasoline suppliers, or for similarly situated refiners in other regions. However, we request comment from other refiners that produce gasoline for sale in areas not subject to EPA's volatility requirements. Based on the comments we receive, we may or may not proceed with similar future rulemaking action.

DATES: Written comments on this notice must be submitted by July 9, 1999.

ADDRESSES: Interested parties may submit written comments in paper form and/or by E-mail. To ensure their consideration by EPA, all comments must be submitted to EPA by the date indicated under **DATES** above. Paper copies of written comments should be submitted (in duplicate if possible) to Public Docket No. A–99–16 at the following address: U.S. Environmental Protection Agency (EPA), Air Docket Section, Room M–1500, 401 M Street, S.W., Washington, D.C. 20460. The Agency requests that a separate paper copy also be sent to the person listed below under **FOR FURTHER INFORMATION CONTACT.** EPA also encourages that an electronic copy of comments (in ASCII format) accompany the submission of a paper copy (by E-mail to A-and-R-Docket@epa.gov or on a 3.5 inch diskette). Public comments may also be submitted by E-mail to the docket at the address listed above without the submission of a paper copy. However, to ensure the clarity of the submission, EPA encourages that a paper copy accompany the E-mail submission. If comments are submitted by E-mail alone, EPA requests that a copy of the E-mail message that contains the comments be sent to the contact person listed below.

Materials related to this rulemaking are available for review at EPA's Air Docket at the above address (on the ground floor in Waterside Mall) from 8:00 a.m. to 5:30 p.m., Monday through Friday, except on government holidays. The telephone number for EPA's Air

Docket is (202) 260–7548, and the facsimile number is (202) 260–4400. A reasonable fee may be charged by EPA for copying docket materials, as provided in 40 CFR part 2.

FOR FURTHER INFORMATION CONTACT: Christine M. Brunner or Felicia Seals-Buchanan, U.S. EPA, National Vehicle and Fuels Emission Laboratory, 2000 Traverwood, Ann Arbor, MI 48105; Telephone (734) 214–4287 or x4589, FAX (734) 214–4051, E-mail brunner.christine@epa.gov or seals-buchanan.felicia@epa.gov.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Entities potentially affected by this action include those involved with the production, distribution and sale of gasoline motor fuel. Regulated categories and entities include:

Category	NAICS [1] codes	SIC [2] codes	Examples of potentially regulated entities
Industry	324110	2911	Petroleum Refiners.

[1] North American Industry Classification System (NAICS).
[2] Standard Industrial Classification (SIC) system code.

This table is not intended to be exhaustive, but provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To decide whether your organization might be affected by this action, you should carefully examine the proposed and existing regulations in 40 CFR part 80. If you have any questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Access to Rulemaking Documents Through the Internet

Today's notice is available electronically on the day of publication from the EPA Internet Web site listed below. Electronic copies of the preamble, regulatory language and other documents associated with today's proposal are available from the EPA Office of Mobile Sources Web site listed below shortly after the rule is signed by the Administrator. This service is free of charge, except any cost that you already incur for Internet connectivity.

EPA Web Site:

http://www.epa.gov/docs/fedrgstr/epa-air/

(Either select a desired date or use the Search feature.)

Office of Mobile Sources (OMS) Web Site:

http://www.epa.gov/omswww/

(Look in ''what's New'' or under the specific rulemaking topic.)

Please note that due to differences between the software used to develop the document and the software into which the document may be downloaded, changes in format, page length, etc., may occur.

I. Background

A. Anti-Dumping Standards

Section 211(k) of the Clean Air Act requires the U.S. Environmental Protection Agency (''EPA'' or ''we'') to establish standards for reformulated gasoline (RFG) to be used in specified ozone nonattainment areas. In addition, EPA established standards for non-reformulated, or conventional, gasoline used in the rest of the country. These standards are called the anti-dumping standards. EPA adopted the anti-dumping standards to prevent refiners from dumping into conventional gasoline the dirty gasoline components that are removed when RFG is produced. The anti-dumping standards require refiners to produce conventional gasoline each year that is as clean as the gasoline produced by the refiner in 1990.

In order to be in compliance with the anti-dumping standards, the exhaust toxics and nitrogen oxides (NO_X) emissions performance of a refinery's conventional gasoline can be no dirtier than the refinery's 1990 exhaust toxics and NO_X emissions performance, on an annual average basis. EPA requires refiners to calculate the exhaust toxics and NO_X emissions performance of gasoline using the Complex Model,[1] based on measured properties, such as sulfur and benzene content, and Reid vapor pressure (RVP). The Complex Model includes both a summer version and a winter version. The anti-dumping requirements at 40 CFR 80.101(g) require refiners to use the summer Complex Model to evaluate conventional gasoline supplied to an area subject to EPA's gasoline volatility standards when these standards are in effect, and requires them to use the winter Complex Model to evaluate all other gasoline. The regulations also require refiners to evaluate the exhaust toxics and NO_X emissions performance of gasoline sold in areas not subject to those volatility standards, such as Puerto Rico, Hawaii, and Alaska, using the winter Complex Model.

[1] 40 CFR 80.45.

B. Compliance Baseline Calculation

In general, a refiner's standard for compliance is its individual 1990 refiner baseline. However, when a refiner's annual gasoline production volume (including RFG, conventional gasoline and reformulated gasoline blendstock for oxygenate blending) exceeds its baseline volume (the volume of gasoline that the refiner produced in 1990), the refiner's conventional gasoline compliance standard for exhaust toxics and NO_X is different from its individual baseline values for these emissions. The standard is different because EPA requires refiners to compare the excess volume to the statutory baseline instead of their individual baseline. Because the statutory baseline was designed to reflect 1990 gasoline generally, the quality of all the excess gasoline produced approximates the 1990 average national quality.

In order to determine a refiner's compliance standard for the averaging period, the anti-dumping provisions at 40 CFR 80.101(f) require the use of a specified compliance baseline equation. This equation establishes a single compliance baseline that compares a refiner's conventional gasoline with that refiner's individual baseline. However, a portion of the compliance baseline equation compares the emissions of a refiner's excess volume of conventional gasoline to the annual average statutory baseline emissions, a combination of the summer and winter statutory baseline emissions. EPA requires refiners to evaluate the emissions of gasoline sold in areas not subject to EPA's volatility requirements using only the winter Complex Model. Refiners must then compare these emissions to a compliance baseline equation that is based in part on the summertime

portion of the statutory baseline. Because different assumptions drive the summer and winter versions of the Complex Model, this may force refiners to make quality changes in their gasoline pools, resulting in unintended negative effects for refiners and the environment.

C. Seasonal Impacts of the Complex Model

A detailed discussion of the development of the summer and winter versions of the Complex Model was included in the Final Regulatory Impact Analysis (RIA) for Reformulated Gasoline.[2] Both models are based on MOBILE model outputs. MOBILE model outputs for the summer model assume ambient temperatures of 69 °F–94 °F. MOBILE model outputs for the winter model assume ambient temperatures of 39 °F–57 °F. Additionally, MOBILE model outputs show significantly greater ''winter'' emissions due to longer engine and catalyst warm-up times. As a result, for identical fuel compositions (based on those fuel parameters evaluated in the Complex Model), the winter Complex Model results in significantly higher emissions than the summer Complex Model, on a mg/mile basis.

D. July 11, 1997 Proposal

EPA proposed a variety of changes to the reformulated gasoline and anti-dumping regulations on July 11, 1997 (62 FR 37337). Classifying gasoline as summer or winter gasoline was one issue that EPA discussed in that proposal. In that discussion, EPA stated that it would classify all gasoline produced for use outside the continental U.S., where the federal RVP standards do not apply, as winter gasoline year round because:

(1) EPA required refiners to calculate the emissions of all gasoline used outside of the continental U.S. using the winter Complex Model for baseline purposes;

(2) The anti-dumping standards compare the emissions of a refinery's gasoline during an averaging period with the refinery's baseline emissions; and

(3) The comparison of baseline emissions to averaging period emissions is valid only if the refinery uses the same criteria in the baseline and in the averaging period for classifying gasoline as summer or winter.

One commenter, Amerada Hess, stated that it was inappropriate for refiners to use the winter Complex Model to evaluate the gasoline produced for certain areas outside the continental U.S. and not subject to the federal volatility requirements. They offered the following reasons:

(1) In the proposal, ''EPA is acknowledging that the classification of gasoline as winter or summer actually depends on the season in which it is sold'' (and not just its RVP);

(2) EPA's MOBILE model, upon which EPA based the Complex Model, reflects a temperature range of 39° F–57° F when used to evaluate winter emissions;

(3) It is inappropriate for EPA to assign gasoline for tropical climates such as Puerto Rico and Hawaii, to the winter category from a ''seasonal weather gasoline characteristic standpoint;''

(4) The RVP of the gasoline sold in these (tropical) areas reflects summertime RVPs rather than wintertime RVPs;

(5) The July 1, 1994 RFG Question and Answer Document states that refiners are to evaluate gasoline which remains seasonably the same throughout the year using the seasonal Complex Model which matches the year round season.

Additionally, when the volume of gasoline sold in such areas increases over baseline levels, under 40 CFR 80.101(f)(4)(ii) EPA requires refiners to calculate the standard for the extra volume using annual exhaust toxics and NO_X emissions values which include both summer and winter Complex Model calculations. At the same time, EPA requires calculation of emissions (of gasoline sold in such areas) for compliance purposes using only the winter Complex Model. Consequently, according to the commenter, the refiner is unfairly penalized.

II. Proposal

A. Summary

With today's action, EPA proposes to allow refiners, upon petition, to replace the winter Complex Model with the summer Complex Model for all anti-dumping baseline and compliance calculations for conventional gasoline sold in Puerto Rico, if the refiner has Puerto Rico gasoline in their individual baseline, and if the refiner currently sells a volume of gasoline in Puerto Rico greater than that refiner's 1990 Puerto Rico baseline volume. We are taking this action in order to address specific circumstances where inconsistencies in the RFG program's anti-dumping provisions have had significant unintended negative impacts.

The anti-dumping regulations currently require conventional gasoline sold in Puerto Rico to be evaluated using the winter Complex Model, for purposes of both compliance calculation and baseline calculation up to a refiner's 1990 baseline volume. However, the current regulations require a refiner to use the statutory baseline for evaluating volumes of Puerto Rico gasoline above that refiner's 1990 baseline volume. The statutory baseline includes both a summer and winter Complex Model component. As a result, for excess gasoline, there is an unintended mismatch between the refiner's baseline calculation (which uses only the winter Complex Model) and the compliance baseline calculation (which uses a combination of the summer and winter Complex Models). This results in the appearance of greater emissions in comparison to an analysis using the same seasonal version of the Complex Model for both of these calculations. For those refiners with Puerto Rico gasoline in their individual baseline, that have increased the volume of gasoline that they sell in Puerto Rico above their 1990 baseline volumes of Puerto Rico gasoline, this incongruence has had a significant adverse economic effect.

To solve this specific problem, EPA is proposing a provision under the anti-dumping regulations that would change the compliance determination of the gasoline a refiner sells in Puerto Rico above that refiner's 1990 Puerto Rico baseline volume. Refiners would evaluate such gasoline using only a single statutory seasonal term (the summer term) in the compliance baseline determination. Additionally, given Puerto Rico's consistently warm climate, we recognize that the summer Complex Model is the most appropriate model for evaluating emissions in Puerto Rico under the anti-dumping program. Thus, we are also proposing to evaluate all of the conventional gasoline sold in Puerto Rico (by a refiner that makes a successful petition under this provision) using the summer Complex Model. The approval of a petition under this proposed provision would require a refiner to recalculate the Puerto Rico component of its individual baseline using the summer Complex Model. As a result, such a refiner will evaluate all of its Puerto Rico gasoline using a single seasonal version of the Complex Model. Today's action applies to each batch of gasoline produced by an eligible refiner and destined for Puerto Rico, even if a small portion of the batch is subsequently sent to other nearby areas with climates similar to Puerto Rico and which are also not subject to EPA's volatility standards.

[2] December 13, 1993.

B. Modified Compliance Baseline Equation

As discussed in Section I.B., when refiners sell gasoline in excess of their individual baseline volume in areas such as Puerto Rico, which are not subject to the federal volatility requirements, use of the current compliance baseline equation may have negative economic implications for refiners and unintended negative environmental effects. EPA requires refiners to evaluate such gasoline using the winter Complex Model. However, in the compliance baseline equation, all excess gasoline is compared to the annual average statutory baseline, which is composed of summertime and wintertime components. Because the winter Complex Model predicts higher emissions for exhaust toxics and NO_X than does the summer Complex Model, refiners in this situation are forced to meet a more stringent compliance standard in these areas than would be required if the seasonal Complex Models used to evaluate such gasoline were the same. Accordingly, they must divert cleaner gasoline from other areas.

To remedy this situation, EPA is proposing to modify the compliance baseline equation at § 80.101(f)(4)(ii). This modification will ensure that the performance of gasoline sold in Puerto Rico in excess of a refiner's baseline volume of Puerto Rico gasoline is compared to the appropriate corresponding seasonal baseline. We believe that the summer Complex Model is the most appropriate model for evaluating Puerto Rico gasoline.

EPA proposes to include the following equation at 40 CFR 80.101 (f)(4). This equation includes separate terms for evaluating the gasoline subject to the refiner's individual baseline and excess gasoline subject to the summer model-only requirements. EPA requests comments on the terms and definitions of this proposed equation.

$$CB_i = \left(B_i * \left(\frac{V_{1990} - V_{1990s}}{V_a}\right)\right) + \left(BS_i * \left(\frac{V_{1990s}}{V_a}\right)\right) + \left(DBA_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(1 - \frac{V_{as}}{V_a}\right)\right) + \left(DBS_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(\frac{V_{as}}{V_a}\right)\right)$$

where:

CB_i = the compliance baseline value for emissions performance i

B_i = the refiner's or importer's individual annual baseline for emissions performance i under § 80.91 for gasoline supplied to areas subject to volatility standards under § 80.27

BS_i = the refiner's or importer's individual baseline as determined under § 80.91 using the summer Complex Model, for gasoline supplied to Puerto Rico, for emissions performance i

DBA_i = annual anti-dumping statutory baseline value for emissions performance i under § 80.91(c)(5)(iv)

DBS_i = the summer statutory baseline value for emissions performance i under § 80.45(b)(3), table 5

V_a = total volume of RFG, conventional gasoline, RBOB, oxygenates and California gasoline as defined under § 80.81(a)(2) produced or imported during the averaging period

V_{1990} = 1990 baseline volume under § 80.91(f)(1)

V_{1990s}=1990 baseline volume of gasoline supplied to Puerto Rico

V_{as}=volume of conventional gasoline supplied during the averaging period to Puerto Rico

i=exhaust toxics or NO_X emissions performance

C. Seasonal Re-designation of Puerto Rico Gasoline

EPA is proposing to evaluate the emissions of Puerto Rico gasoline using only the summer Complex Model for any refiner making a successful petition under this proposed provision. As a result of comments in response to the July 11, 1997 NPRM, EPA evaluated the average annual climatic conditions and gasoline RVP levels for Puerto Rico.[3] We have concluded that Puerto Rico's relatively constant year round ambient temperatures, as well as its gasoline RVPs, are more consistent with the conditions under which EPA intended the summer Complex Model to apply than they are with the conditions under which we intended the winter Complex Model to apply. Additionally, Puerto Rico's ambient temperature is consistent with conditions typical of a high ozone season, when summertime gasoline, and thus the summer Complex Model, is meant to be used. Because this proposed action involves the calculation of compliance baselines for gasoline sold by refiners in Puerto Rico, we are taking this opportunity to address the seasonal appropriateness of the Complex Model that refiners must use to evaluate individual batches of gasoline. Accordingly, we propose to require refiners to evaluate all of their Puerto Rico gasoline using the summer Complex Model for compliance and baseline purposes. We are, however, expressly limiting the applicability of this change to refiners that petition for, and are granted, compliance baseline corrections under the provisions of this proposed rulemaking.

D. Environmental Impact

We are presently aware of only one refiner for which the current regulations have significant unintended negative economic and environmental impacts. Specifically, the current anti-dumping regulations applicable to Puerto Rico gasoline negatively affect the quality of this refiner's mainland reformulated gasoline by requiring the refiner to shift certain production from RFG to conventional gasoline in order to comply with the requirements for its Puerto Rico conventional gasoline. Thus the emissions in areas which most need clean gasoline—ozone nonattainment areas participating in the RFG program—are unnecessarily elevated. Conversely, Puerto Rico, which is in attainment for ozone, is receiving cleaner conventional gasoline due to the unintended results of the current anti-dumping rules.

The change proposed today helps to provide the cleanest gasoline where it is needed most. It is possible that the gasoline supplied by this refiner to Puerto Rico, and other conventional gasoline areas, could see increases in the emissions regulated under the anti-dumping requirements. However, this proposal will allow refiners to use the most seasonally-appropriate Complex Model for gasoline sold in Puerto Rico, and will not result in an increase in emissions from conventional gasoline compared to 1990 levels. Thus, the goals of the anti-dumping program will be preserved. Indeed, this adjustment simply works to restore the proper balance to the distribution of environmental benefits under the RFG program.

EPA is proposing that these requirements would apply to gasoline produced for calendar year 1999 and beyond. EPA will need more information from other refiners before proposing to broadly apply similar provisions throughout Puerto Rico and

[3] 30 year average maximum and minimum temperatures by month, and RVP specifications.

in other areas not subject to EPA's volatility requirement.

E. Economic Impact

EPA expects today's proposal to have minimal economic consequences. Most affected refiners are operating satisfactorily under the current requirements and are likely to be unaffected by this rule. EPA believes that refiners satisfying the requirements of this provision, will petition to re-evaluate the Puerto Rico gasoline in their baseline using the summer Complex Model only if it is economically beneficial for them to do so. Therefore, EPA anticipates no adverse economic impacts as a result of today's proposal rule.

F. Limited Applicability

EPA is proposing today to apply the provisions discussed above (i.e., the modified compliance baseline equation and the uniform use of the summer Complex Model) to refiners that have Puerto Rico gasoline in their individual baseline, that have increased the volume of gasoline that they sell in Puerto Rico above their 1990 baseline volumes of Puerto Rico gasoline, and that petition the Agency for such a change. Once such a petition is made and granted, the new method for determining compliance would apply from then on, regardless of any future changes in the refiner's Puerto Rico gasoline production or distribution. To date, only one refiner has notified EPA of potential adverse effects due to the application of the current regulations.

While EPA believes that use of the modified compliance baseline equation and seasonally-appropriate Complex Model may be technically appropriate in all areas not subject to the federal volatility requirements, there are a number of factors that EPA is unable to evaluate at this time. Consequently, we believe it best to limit the applicability of this proposal to refiners of Puerto Rico gasoline that can fulfill the other requirements of this proposed rule. The following section discusses the implications of a broader application of the principles underlying today's proposed action, and highlights the difficulties inherent in evaluating the appropriateness of such a generally applicable provision.

III. Implications for Broader Future Action

Today's action is limited in applicability to Puerto Rico refiners that meet the criteria enumerated in Section II of this notice. However, we anticipate that a similar but more generally applicable provision may be appropriate in the future. Such a provision would presumably apply to all areas that are not subject to the federal volatility requirements codified at 40 CFR 80.27.[4] The substance and scope of such a generally applicable provision would depend on many considerations, including environmental and economic impacts, industry practices, and the likely consequences for the RFG program in general. Some of the factors that EPA believes warrant additional consideration prior to the broad application of the provisions in today's proposed action include:

(1) *Environmental impacts.* Many refiners which have Puerto Rico gasoline in their baseline, aggregate that baseline with baselines of some or all of their other refineries. Currently, they may not actually produce gasoline for Puerto Rico, or may produce a reduced amount relative to their baseline volume of Puerto Rico gasoline. Thus, they may be taking advantage of Puerto Rico gasoline baseline emissions under the current regulations for the compliance of conventional gasoline produced for other locales. If required to re-evaluate the baseline of the Puerto Rico gasoline and to use the modified compliance baseline equation, the gasoline quality in either Puerto Rico or in the conventional or RFG areas of the continental U.S. may deteriorate relative to the current situation. EPA is also unable to evaluate the impact on the environment of the activities of refiners that have no Puerto Rico gasoline in their baseline but would choose to sell gasoline in Puerto Rico if such gasoline is allowed or required to be evaluated using the summer Complex Model. Since the summer Complex Model gives lower emissions for a given composition of gasoline, it would be advantageous for refiners to produce gasoline for Puerto Rico under such circumstances. However, because EPA is unable to anticipate the actions of such refiners (e.g., future gasoline production plans) it is currently impossible for the Agency to determine the overall environmental impacts that such a regulatory provision might have.

(2) *Economic impacts.* EPA expects today's proposal to have minimal economic consequences. Nonetheless, because of numerous uncertainties, EPA is unable to determine what economic impacts might result from a more general provision applicable to all areas not subject to the federal volatility standards. Specifically, possible reactions by refiners regarding aggregation and refinery changes would play a critical role in assessing the economic consequence of any such Agency action.

EPA understands that refinery aggregation decisions involve precise and costly evaluations, and that changing such decisions might entail another round of concerted deliberation. Thus, while the direct economic impacts of such a broadly applicable provision might actually be small, a refiner's choice to re-evaluate its aggregation decisions might result in significant additional expense. Re-aggregation could not only be time-consuming and costly for the refiner, but could have anti-competitive effects for those refiners without applicable gasoline in their baseline. Thus, EPA's current lack of information regarding the impact that re-consideration of aggregation decisions might have on the RFG and anti-dumping programs is one reason we are not proposing to broadly apply the provisions proposed today.

(3) *Disturbing the system.* With the exception of the problems addressed by today's proposed action, the current system for implementing the RFG anti-dumping standards has been successful. Given the concerns discussed above, EPA is unsure whether it would be appropriate to disturb the current system for what may be minimal environmental benefit at potentially high economic costs.

EPA requests comment on the proposed provisions from refiners that produce gasoline for sale in any area that is not subject to EPA's volatility requirements. EPA also requests comment from all interested parties regarding the environmental and economic impacts of extending the provisions proposed today to other areas not subject to EPA's volatility requirements. EPA also requests comment on the appropriate seasonal Complex Model for a refiner or refinery that sells conventional gasoline in an area not subject to EPA's volatility requirements but does not have such gasoline in its baseline. Based on comments received, EPA may or may not proceed with future rulemaking action proposing changes similar to those proposed today.

IV. Public Participation

EPA desires full public participation in arriving at its final decisions and solicits comments on all aspects of this proposal. Wherever applicable, full supporting data and detailed analysis

[4] EPA believes that gasoline sent to areas such as Puerto Rico and Hawaii (and perhaps Guam, the U.S. Virgin Islands (USVI), the Northern Marianas and American Samoa) might be most appropriately evaluated using only the summer Complex Model. Similarly, EPA believes that gasoline sold in Alaska might be most appropriately evaluated using only the winter Complex Model, as is currently required.

should also be submitted to allow EPA to make maximum use of the comments. All comments should be directed, by July 9, 1999 to the EPA Air Docket, Docket A–99–16 (See **ADDRESSES**).

Any proprietary information being submitted for the Agency's consideration should be markedly distinguished from other submittal information and clearly labeled ''Confidential Business Information.'' Proprietary information should be sent directly to the contact person listed above, and not to the public docket, to ensure that it is not inadvertently placed in the docket. Information thus labeled and directed shall be covered by a claim of confidentiality and will be disclosed by EPA only to the extent allowed and by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, it may be made available to the public without further notice to the commenter.

V. Administrative Requirements

A. Administrative Designation and Regulatory Analysis

Under Executive Order 12866 (58 FR 51735 October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of this Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, Local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs, or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

EPA has determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is therefore not subject to OMB review. The Agency has determined that this regulation would result in none of the economic effects set forth in Section 1 of the Order because it does not impose any mandatory obligations on the regulated community beyond those specified in the current regulations.

B. Compliance With the Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires federal agencies 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 businesses, small not-for-profit enterprises, and small governmental jurisdictions. This proposed rule would not have a significant impact on a substantial number of small entities because it involves an optional provision intended to promote successful implementation of the RFG anti-dumping requirements and to minimize existing adverse economic impacts. This proposed action may, in fact, reduce the burden of the anti-dumping program on regulated entities. Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

C. Paperwork Reduction Act

Today's proposal does not involve the collection of information as defined by the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Therefore, the provisions of that Act do not apply to this action.

D. Intergovernmental Relations

1. Unfunded Mandates Reform Act

Title II of the unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory action on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. Before promulgation an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirement that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

Today's rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or tribal governments or the private sector. The EPA has determined that today's rule does not include a Federal mandate because it imposes no enforceable duty on any State, local, and tribal governments, or the private sector. Today's rule proposes an optional provision for evaluating the emissions of conventional gasoline sold by certain refiners in Puerto Rico. This proposed action may, in fact, reduce the burden of the anti-dumping program on regulated entities. Therefore, the requirements of the Unfunded Mandates Act do not apply to this proposed action. For the same reason, EPA has determined that this rule contains no regulatory requirements that might significantly or uniquely affect small governments.

2. Executive Order 12875: Enhancing Intergovernmental Partnerships

Under Executive Order 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to the Office of Management and Budget a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to

develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create a mandate on State, local, or tribal governments. The rule does not impose any mandatory duties on these entities. Accordingly, the requirements of Section 1(a) of Executive Order 12875 do not apply to this rule.

3. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under Executive Order 13084, EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 13094 requires EPA to provide to the Office of Management and Budget, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

This proposed rule applies exclusively to refiners that sell gasoline in Puerto Rico. The proposed rule does not create any mandates or impose any obligations, and thus does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272), directs the EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standard bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

This proposed rulemaking does not involve technical standards. Therefore, EPA is not considering the use of any voluntary consensus standards. EPA welcomes comments on this aspect of the proposed rulemaking and, specifically, invites the public to identify potentially applicable voluntary consensus standards and to explain why such standards should be used in this regulation.

F. Executive Order 13045: Children's Health Protection

Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be economically significant as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This rule is not subject to E.O. 13045 because it does not establish an environmental standard intended to mitigate health or safety risks. Additionally, this rule is not subject to E.O. 13045 because it implements specific standards established by Congress in statutes.

VI. Statutory Provisions and Legal Authority

The statutory authority for the actions proposed today is granted to EPA by sections 114, 211(c) and (k) and 301 of the Clean Air Act, as amended; 42 U.S.C. 7414, 7545(c) and (k), and 7601.

List of Subjects in 40 CFR Part 80

Environmental protection, Air pollution control, Fuel additives, gasoline, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: May 28, 1999.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, part 80 of title 40 of the Code of Federal Regulations is amended as follows:

PART 80—REGULATION OF FUEL AND FUEL ADDITIVES

1. The authority citation for part 80 continues to read as follows:

Authority: Secs. 114, 211, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7414, 7545, and 7601(a)).

2. A new paragraph (d) is added to Section 80.93 to read as follows:

§ 80.93 Individual baseline submission and approval.

* * * * *

(d) Requirements for petition applicable to Puerto Rico gasoline.

(1) Any refiner or importer with Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its individual baseline may petition EPA to use the summer Complex Model to evaluate its Puerto Rico and Virgin Islands gasoline for compliance under § 80.101.

(2) The petition must be sent to: U.S. EPA, Fuels and Energy Division, 2000 Traverwood, Ann Arbor, MI 48105.

(3) The petition must include the following:

(i) Identification of the refinery;

(ii) Identification of contact person;

(iii) A revised individual baseline determination, wherein the baseline Puerto Rico and U.S. Virgin Islands gasoline has been evaluated using the summer Complex Model. The calculations should be clearly and fully described and displayed.

(iv) Baseline auditor agreement with the revised baseline.

(4) EPA reserves the right to request additional information. If such information is not forthcoming in a timely manner, the petition will not be approved.

3. Section 80.101 is amended by revising paragraphs (f)(4) and (g)(1)(ii) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(f) * * *

(4)(i) Reserved.

(ii) Reserved.

(iii) Any refiner or importer with Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its individual baseline and which has met the requirements specified in paragraph (g)(1)(ii)(B) of this section, and whose total volume of conventional gasoline, RBOB, reformulated gasoline, and California gasoline, as defined in § 80.81(a)(2), produced or imported by the refiner or importer during the averaging period is greater than that refiner's or importer's 1990 baseline volume as determined under § 80.91(f)(1), must calculate the compliance baseline for each parameter or emissions performance according to the following formula:

$$CB_i = \left(B_i * \left(\frac{V_{1990} - V_{1990s}}{V_a}\right)\right) + \left(BS_i * \left(\frac{V_{1990s}}{V_a}\right)\right) + \left(DBA_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(1 - \frac{V_{as}}{V_a}\right)\right) + \left(DBS_i * \left(1 - \frac{V_{1990}}{V_a}\right) * \left(\frac{V_{as}}{V_a}\right)\right)$$

Where:

CB_i = the compliance baseline value for emissions performance i

B_i = the refiner's or importer's individual annual baseline for emissions performance i under § 80.91 for gasoline supplied to areas subject to volatility standards under § 80.27

BS_i = the refiner's or importer's individual baseline as determined under § 80.91 using the summer Complex Model, for gasoline supplied to Puerto Rico and the U.S. Virgin Islands, for emissions performance i

DBA_i = annual anti-dumping statutory baseline value for emissions performance i under § 80.91(c)(5)(iv)

DBS_i = the summer statutory baseline value for emissions performance i under § 80.45(b)(3), table 5

V_a = total volume of RFG, conventional gasoline, RBOB, oxygenates and California gasoline as defined under § 80.81(a)(2) produced or imported during the averaging period

V_{1990}=1990 baseline volume under § 80.91(f)(1)

V_{1990s}=1990 baseline volume of gasoline supplied to Puerto Rico and the U.S. Virgin Islands

V_{as}=volume of conventional gasoline supplied during the averaging period to Puerto Rico and the U.S. Virgin Islands

i=exhaust toxics or NO_X emissions performance

* * * * *

(g) * * *

(1) * * *

(ii) Complex Model calculations.

(A) Exhaust benzene, exhaust toxics, and exhaust NO_X emissions performance for each batch shall be calculated in accordance with the applicable model under § 80.45.

(B) A refiner which has Puerto Rico gasoline, or Puerto Rico and U.S. Virgin Islands gasoline, in its baseline shall use the summer Complex Model to evaluate its averaging period Puerto Rico and U.S. Virgin Islands gasoline provided it has petitioned the Agency, per § 80.93(d), and has received Agency approval on the petition, and has revised its individual baseline, such that the Puerto Rico and U.S. Virgin Islands gasoline in its individual baseline has been evaluated using the summer Complex Model.

* * * * *

[FR Doc. 99–14496 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–6344–6]

Identification of Additional Ozone Areas Attaining the 1-Hour Standard and to Which the 1-Hour Standard is No Longer Applicable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: We are proposing to identify seven additional ozone areas where the 1-hour standard no longer applies. Thus, upon finalization of this proposed action, the Code of Federal Regulations (CFR) for ozone will be amended to reflect such changes. On July 18, 1997, EPA provided by rule that the 1-hour ozone standard would no longer apply to an area based on a determination by EPA that the area has attained that standard. The 1-hour standard will continue to apply to areas for which EPA has not made a determination through rulemaking. The EPA has previously taken final action regarding the applicability of the 1-hour standard for other areas on June 5, 1998 and July 22, 1998. The seven additional proposed areas are: Cincinnati-Hamilton, OH–KY; Pittsburgh-Beaver Valley, PA; Lancaster, PA; Sunland Park, NM; LaFourche Parish, LA; Kansas City, MO–KS; and Spalding County, GA.

DATES: Your comments must be submitted on or before July 9, 1999 in order to be considered.

ADDRESSES: You may comment in various ways:

On paper. Send paper comments (in duplicate, if possible) to the Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–99–10, U.S. Environmental Protection Agency, 401 M St., SW, Room M–1500, Washington, DC 20460, telephone (202) 260–7548.

Electronically. Send electronic comments to EPA at: A-and-R-Docket@epamail.epa.gov. Avoid sending confidential business information. We accept comments as e-mail attachments or on disk. Either way, they must be in WordPerfect 5.1 or 6.0 or ASCII file format. Avoid the use of special characters and any form of encryption. You may file your comments on this proposed rule online at many Federal Depository Libraries. Be sure to identify all comments and data by Docket number A–99–10.

Public inspection. You may read the proposed rule (including paper copies of comments and data submitted electronically, minus anything claimed as confidential business information) at the Docket and Information Center. They are available for public inspection from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays. We may charge a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Questions about this notice should be addressed to Annie Nikbakht (policy) or Barry Gilbert (air quality data), Office of Air Quality Planning and Standards, Air Quality Strategies and Standards Division, Ozone Policy and Strategies Group, MD–15, Research Triangle Park, NC 27711, telephone (919) 541–5246/5238 or e-mail to nikbakht.annie@epamail.epa.gov or gilbert.barry@epamail.epa.gov. To ask about policy matters or monitoring data for a specific geographic area, call one of these contacts:

Region III—Marcia Spink (215) 814–2104, Region IV—Karla McCorkle (404) 562–9043,

Region V—William Jones (312) 886–6058,
Region VI—Lt. Mick Cote (214) 665–7219,
Region VII—Royan Teter (913) 551–7609.

SUPPLEMENTARY INFORMATION:

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I. What Is the Background for This Proposed Action?

On July 16, 1997 (62 FR 38856, July 18, 1997), we issued a regulation replacing the 1-hour ozone standard with an 8-hour standard at a level of 0.08 parts per million (ppm). The form of the 8-hour standard is based on the 3-year average of the annual fourth-highest daily maximum 8-hour average ozone concentrations measured at each monitor within an area. The new primary standard, which became effective on September 16, 1997, provides increased protection to the public, especially children and other at-risk populations.

Also, on July 16, 1997, we announced that we were delaying revocation of the 1-hour ozone national ambient air quality standard (NAAQS) until areas attain the 1-hour NAAQS. We did this to provide continuity in public health protection during the transition to the new NAAQS. We provided, by regulation, that the 1-hour standard would no longer apply to an area upon a determination by EPA that the area has attained the 1-hour standard.

On July 16, 1997, President Clinton issued a memorandum (62 FR 38421, July 18, 1997) to the Administrator of EPA indicating that within 90 days of our issuing the new 8-hour standard, we would publish an action identifying ozone areas to which the 1-hour standard would no longer apply. The memorandum recognized that for areas where the air quality did not currently attain the 1-hour standard, the 1-hour standard would continue in effect. The provisions of subpart 2 of title I of the Clean Air Act (CAA) would also apply to currently designated nonattainment areas until EPA determines that the area has air quality meeting the 1-hour standard.

On June 5, 1998 (63 FR 31014) and July 22, 1998 (63 FR 39432), we issued final rules for many areas because they had attained the 1-hour standard and so the 1-hour standard no longer applies to these areas.

II. What Action Is EPA Proposing To Take Today?

Today we are proposing to revoke the 1-hour standard in seven more areas that we determined are not violating the 1-hour standard. The newly identified areas are: Cincinnati-Hamilton, OH–KY; Pittsburgh-Beaver Valley, PA; Lancaster, PA; Sunland Park, NM; LaFourche Parish, LA; Kansas City, MO–KS; and Spalding County, GA.

III. What Does the Air Quality Data for the Areas Subject to Today's Proposed Rule Look Like?

Today's proposal, to determine that these areas are attaining the 1-hour standard and thus no longer subject to the 1-hour standard, is based upon analysis of quality-assured, ambient air quality monitoring data showing no violations of the 1-hour ozone standard based on the most recent data available, i.e., 1996–1998 data. Detailed air quality data used for today's proposal are in the Technical Support Document to Docket No. A–99–10. The method for determining attainment of the ozone NAAQS is in 40 CFR 50.9 and appendix H to that section. The level of the 1-hour primary and secondary NAAQS for ozone is 0.12 ppm.

IV. What Is the Effect of the Revocation?

Once we determine that the 1-hour standard no longer applies to an area, the area is no longer subject to the nonattainment area planning requirements of subpart 2 of part D of title I of the CAA (section 182). This is because the nonattainment requirements in subpart 2 apply only for purposes of the 1-hour standard. Therefore, any sanctions or Federal implementation plan clocks started, under sections 110 or 179 of the CAA and 40 CFR 52.31 with respect to planning requirements in section 182 of the CAA, are no longer applicable when we issue a final rule determining the area has attained the 1-hour standard.

Moreover, the conformity requirements of section 176 would no longer apply to areas unless they had a maintenance plan approved under section 175A. With respect to new source review requirements, whether part D new source review requirements or part C prevention of significant deterioration (PSD) requirements applies, will depend on the particular approved SIP provisions applicable to the areas.

Finally, given that the designations of these areas were based upon the 1-hour ozone standard, which will no longer apply, the designation will be replaced in part 81 of the CFR by an indication that the 1-hour ozone standard is no longer applicable.

V. What Administrative Requirements Are Considered in Today's Proposed Rule?

A. Executive Order 12866: Regulatory Impact Analysis

Under Executive Order (E.O.) 12866 (58 FR 51735, October 4, 1993), the Agency must determine whether the regulatory action is ''significant'' and, therefore, subject to Office of Management and Budget (OMB) review and the requirements of the E.O. The OMB is exempting this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities (5 U.S.C. 603 and 604), unless EPA certifies that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000. The EPA is proposing to certify that this rule, in its final form, will not have a significant impact on a substantial number of small entities because the determination that the 1-hour standard ceases to apply does not subject any entities to any additional requirements.

C. Unfunded Mandates

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

The EPA is proposing that today's action, if finalized, would 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 imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

The EPA interprets E.O. 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Order has the potential to influence the regulation. This proposed rule is not subject to E.O. 13045 because this is not an economically significant regulatory action as defined by E.O. 12866, and it implements a previously promulgated health or safety-based Federal standard.

E. Executive Order 12875: Enhancing the Intergovernmental Partnership

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of the affected State, local and tribal governments; the nature of their concerns; copies of any written communications from the governments; and a statement supporting the need to issue the regulation. In addition, E.O. 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed rule does not create a mandate on State, local or tribal governments. The proposed rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of E.O. 12875 do not apply to this rule.

F. Executive Order 13084: Consultation and Coordination With Indian Tribal Governments

Under E.O. 13084, EPA may not issue a regulation that is not required by statute that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments, or EPA consults with those governments. If EPA complies by consulting, E.O. 13084 requires EPA to provide to OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, E.O. 13084 requires EPA to develop an effective process permitting elected officials and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. The identified areas are not located in tribal lands, and this proposed action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

G. Paperwork Reduction Act

This proposal does not contain any information collection requirements which requires OMB approval under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

H. Executive Order 12898: Environmental Justice

Under E.O. 12898, each Federal agency must make achieving environmental justice part of its mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of its programs, policies, and activities on minorities and low-income populations. Today's proposed action (identifying additional ozone areas where the 1-hour standard is no longer applicable) does not adversely affect minorities and low-income populations because the new, more stringent 8-hour ozone standard is in effect and provides increased protection to the public, especially children and other at-risk populations.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing new regulations. To comply with NTTAA, the EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this proposed action. Today's proposed action does not require the public to perform activities conducive to the use of VCS.

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Issued in Washington, D.C. on May 12, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–14596 Filed 6–7–99; 10:42 am]

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP–300865; FRL–6082–4]

RIN 2070–AB78

Phosphine; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Tolerances are being revised and consolidated for residues of phosphine in or on certain agricultural commodities and animal feeds. None of these proposed tolerances are new, although this change would facilitate new application methods. The Agency is merely changing the tolerance expression to eliminate references

concerning how the phosphine gas is generated.

DATES: Comments, identified by the docket control number [OPP–300865], must be received on or before July 9, 1999.

ADDRESSES: By mail, submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under Unit VI. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. The public docket is available for public inspection in Rm. 119 at the Virginia address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

Interested persons are invited to submit comments on the proposed regulation. Comments must bear a notation indicating the docket control number [OPP–300865].

FOR FURTHER INFORMATION CONTACT: By mail: Dennis McNeilly, Registration Division [7505C], Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308-6742, e-mail: McNeilly.dennis@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of December 23, 1998, (FRL–6053–6), EPA announced the availability of the Reregistration Eligibility Decision (RED) for aluminum and magnesium phosphide, which was signed on September 30, 1998. This document discusses in detail the Agency's risk assessment for these two very similar pesticides.

Current tolerances established for aluminum and magnesium phosphide are expressed in terms of residues of the fumigant phosphine resulting from the use of aluminum and/or magnesium phosphide, respectively. Both of these chemicals have very similar use patterns, chemical properties and both result in the same residue (hydrogen phosphide), both qualitatively and quantitatively. In fact, due to the high reactivity and volatility of these two compounds the detection of finite residues is not expected and the residue data indicate non- detectable levels of phosphine, when label directions concerning aeration for 48 hours before entering into commerce are followed. The Agency has decided to revise the current tolerance expressions because it does not matter from a safety or practical standpoint, i.e. tolerance enforcement purposes, whether residues of phosphine result from treatment with aluminum phosphide or magnesium phosphide. In fact, having tolerances expressed in this manner precludes treatment of the food and/or feed commodities with phosphine gas delivered or generated via different technology. Different application techniques involving direct application of phosphine gas have the potential to reduce worker exposure because fumigators would not need to enter the facility being fumigated.

The aluminum and magnesium phosphide RED states that the tolerances listed under 40 CFR 180.225 (a) and (b), 185.200, and 186.200 and tolerances for magnesium phosphine listed under 40 CFR 180.375 (a) and (b), 185.3800, and 186.3800 should be amended to consolidate all of these tolerances in the Code of Federal Regulations. Following passage of the Food Quality Protection Act (FQPA), tolerances for pesticide residues in all types of food (raw or processed) are set under the same provision of the law and EPA is including all such tolerances in part 180 of the Code of Federal Regulations. The Agency will list all aluminum phosphide and magnesium phosphide tolerances under 40 CFR 180.225 and be subdivided into paragraphs (a)(1), (a)(2), (a)(3), and (a)(4). Tolerances in the new paragraph (a)(1) concern residues resulting in or on Raw Agricultural Commodities (RACs) from post-harvest fumigation uses. Tolerances in paragraph (a)(2) concern residues in or on RACs from preharvest treatment of pest burrows in agricultural and non-crop land areas. The Agency notes that this use involves control of vector borne disease, especially in the southwestern United States. Paragraph (a)(3) concerns residues resulting from fumigation of processed foods. Finally, paragraph (a)(4) concerns residues resulting from fumigation of animal feeds. There are no tolerances established, nor are there any uses registered, for the direct treatment of any field crop or greenhouse-grown food commodity.

The Agency recently updated the list of raw agricultural and processed commodities and foodstuffs derived from crops (Table 1 OPPTS GLN 860.1000). As a result of changes to this table, commodity definitions used in the CFR also need to be updated. For example, instead of a tolerance expressed as corn, it should now specify corn, grain or corn, forage, etc. Further, since the tolerances for phosphide will be combined under a single tolerance expression for phosphine, several commodities with tolerances currently listed under both aluminum and magnesium phosphide would need only one tolerance. The Agency notes that it is impossible for a laboratory to determine from strictly analytical methods whether phosphine residues resulted from Al or Mg phosphide application and for risk assessment it is irrelevant. In addition, with the required 48-hour aeration period required on all labels, finite residues are not expected in/on any food commodity.

I. Risk Assessment and Statutory Findings

New section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the Final Rule on Bifenthrin Pesticide Tolerances (62

FR 62961, November 26, 1997)(FRL-5754-7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action, EPA has sufficient data to assess the hazards of phosphine and to make a determination on aggregate exposure, consistent with section 408(b)(2), for residues of phosphine in or on almond, nutmeat at 0.1 parts per million (ppm); avocadoes at 0.01 ppm; bananas at 0.01 ppm; barley, grain at 0.1 ppm; Brazil nut at 0.1 ppm; Cabbage,Chinese at 0.01 ppm; cacao, bean at 0.1 ppm; cashews at 0.1 ppm; citrus, citron at 0.01 ppm; coffee, bean, green at 0.1 ppm; corn, field, grain at 0.1 ppm; corn, pop, grain at 0.1 ppm; cotton, seed, undelinted at 0.1 ppm; date, dried at 0.1 ppm; eggplants at 0.01 ppm; endive (escarole) at 0.01 ppm; filbert at 0.1 ppm; grapefruit at 0.01 ppm; kumquats at 0.01 ppm; Legume vegetables succulent or dried group(excluding soybeans) at 0.0 1 ppm; lemons at 0.01 ppm; lettuce at 0.01 ppm; limes at 0.01 ppm; mangoes at 0.01 ppm; millet, grain at 0.1 ppm; mushrooms at 0.01 ppm; oats, grain at 0.1 ppm; oranges at 0.01 ppm; papayas at 0.01 ppm; peanut, nutmeat at 0.1 ppm; pecans at 0.1 ppm; peppers at 0.01 ppm; persimmons at 0.0 1 ppm; pistachios at 0.1 ppm; rice, grain at 0.1 ppm; rye at 0.1 ppm; safflower seed at 0.1 ppm; salsify tops at 0.01 ppm; sesame seed at 0.1 ppm; sorghum grain at 0.1 ppm; soybeans at 0.1 ppm; sunflower, seed at 0.1 ppm; sweet potatoes at 0.01 ppm; tangelos at 0.01 ppm; tangerines at 0.01 ppm; tomatoes at 0.01 ppm; walnuts at 0.1 ppm; wheat, grain at 0.1 ppm; all Raw Agricultural Commodities (RAC) resulting from preharvest treatment of pest burrows in agricultural and non-cropland areas, 0.01 ppm; phosphine residues resulting from fumigation of processed foods, 0.01 ppm; and phosphine residues resulting from fumigation of animal feeds, 0.01 ppm.

EPA's assessment of the dietary exposures and risks associated with establishing the tolerance follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk.

The Agency does not normally use inhalation studies for oral (dietary) risk assessments. However, inhalation studies were used for these chemicals because: (1) Use of an inhalation ''dose'' provides a conservative approach for oral risk assessments; (2) these studies enable the Agency to quantify the dosage of phosphine exposed to laboratory animals; (3) the Agency required inhalation studies (rather than oral studies) for this chemical because exposure to this chemical via inhalation is much more likely for those individuals who would have occupational exposure.

EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The nature of the toxic effects caused by phosphine are discussed below.

1. *Acute toxicity*. A rat acute inhalation study on phosphine indicated an LC_{50} greater than 11 ppm, the highest dose tested (HDT). This puts phosphine in Toxicity Category I, i.e., Highly Toxic.

Given aluminum and magnesium phosphide's use patterns and chemical characteristics, the other acute toxicity 81-series guideline studies used to establish precautionary labeling were waived for these chemicals as they would not change the Toxicity Category or effect protective clothing requirements. The material of concern is phosphine gas which is the material with pesticidal properties, when either aluminum or magnesium phosphide are used.

2. *Subchronic toxicity*. In a 90 day rat inhalation study, Fischer 344 rats (10/sex/dose) were exposed to phosphine 6 hours/day, 5 days/week for 13 weeks at levels of 0, 0.3, 1.0 or 3.0 ppm. Additional groups (3-5/sex/group) were exposed at 0 or 10 ppm starting at week 8, and 0 or 5 ppm starting at week 12. Recovery groups were included in the study at each dose level and sacrificed after 4 weeks of post-exposure observations. In the groups exposed at levels up to 3.0 ppm, there was a transient decrease in body weight gain accompanied by decreased food consumption. Red blood cell counts, hemoglobin concentration, and hematocrit values were slightly decreased in males exposed at 3.0 ppm (at 4 weeks only), but no effects were observed in these males at 13 weeks or in females at either interval. No exposure-related gross or histologic findings were observed at levels up to and including 3.0 ppm. Exposure at 10 ppm for 3 days caused 40% mortality in females but no mortality in males. Exposure at 10 ppm for 4 weeks caused 80% death in females. Both males and females exposed at 10 ppm had coagulative necrosis in the tubules of the kidneys and pulmonary congestion was observed in the females that died. No histologic findings related to dosing were apparent in the rats exposed for 2 weeks at 5 ppm; an increase in the BUN and alkaline phosphatase were observed in males but not females exposed at 5 ppm. An LEL for subchronic exposure (13 weeks) was not established in this study. The no-observed adverse effect level (NOAEL) for 13 weeks was 3 ppm (HDT). An LEL of 10 ppm for 4 weeks was based on lethality (4/5 deaths for females) due to the sharp dose-response curve.

3. *Chronic toxicity/carcinogenity*. In a 2-year rat feeding study, diets were treated with Phostoxin pellets at 48 and 90 gm/metric ton, fumigated for 48 hours and 72 hours, mixed for 2 hours, and then aerated for one hour. The feed was then stored frozen in small sealed containers until used as laboratory rat feed. Sixteen separate batches of feed were treated utilizing this methodology over the 2-year period. Samples of diet were taken to determine phosphine at the time the feed was removed from the freezer. Phosphine levels ranged from 0.2 to 7.5 ppm and averaged approximately 1 ppm. The amounts of phosphine that remained in the feed offered to the rats as food was not measured (but would be expected to be less because of dissipation). Therefore, the actual dosages in this study are unknown. Two groups of 60 rats each (30 males and 30 females) were used, one as treatment group and other as controls. The rats were observed for the effects on growth, food consumption, survival, morbidity, hematology, blood chemistry and gross and microscopic pathology. No differences were seen between the controls and the treated animals for any toxicity parameter. No increased oncogenicity resulted from fumigation residues. The study was not considered guideline since toxicity, secondary to phosphine residues, is not possible when aeration is adequate. However, the study shows that toxic levels of residues were not achieved even with the excessive fumigation treatment rates.

In a chronic/oncogenicity study, Charles River Fischer CDF Rats (60/sex/group) were exposed, under dynamic chamber conditions, to 0, 0.3, 1 and 3 ppm of phosphine. The rats were kept under standard laboratory conditions, observed twice daily and sacrificed (10/sex/group) during week 52 of the study. Body weights; food consumption; routine hematologic, serum biochemical and urinary analyses were all comparable to control animals. There were no adverse effects observed for the initial 12 month period. Body weights;

food consumption; routine hematologic, serum biochemical and urinary analyses were all comparable to control animals. Ophthalmological observations, gross pathology, organ weights and histopathology indicated no adverse effects from the phosphine exposures. The NOAEL for the 52 week period was 3.0 ppm, the HDT.

4. *Mutagencity*. In a *Salmonella typhimurium* reverse gene mutation assay, the test was negative with hydrogen phosphide (PH_3) in all strains up to cytotoxic concentrations (≥488 ppm/plate +/-S9).

i. *Chromosome aberrations*. In an *in vitro* cytogenetic assay with Chinese hamster ovary (CHO) cells phosphine was positive at 2,500 and 5,000 ppm without S9 activation. This resulted in a significant but not dose-related increases in the frequency of cells with structural chromosome aberrations. Significant clastogenic effects were also noted at 2,500 ppm with S9 activation but not at the HDT (5,000 ppm).

ii. *Other genotoxic mechanisms*. In an *in vivo* unscheduled DNA Synthesis (UDS) in primary rat hepatocytes, the test was negative in male Fischer rats exposed via inhalation to PH_3 doses of 0, 4.8, 13, 18 or 23 ppm (equiv. to 0, 11.4, 30.8, 42.6 or 54.5 mg/m^3, respectively) for 6 hours. Overt toxicity (*i.e.*, difficulty in breathing) but no target cell cytotoxicity was observed at the HTD.

Based on the findings reported by Garry *et al*., (1989) that pesticide applicators exposed to phosphine had increased levels of chromosome damage, the USEPA sponsored a series of acute (Kligerman *et al*.,1994a) and subacute (Kligerman *et al*., 1994b) inhalation cytogenetic studies with phosphine. A summary of these studies are as follows:

(a) Phosphine was negative for the induction of micronucleated polychromatic erythrocytes (MPE) in bone marrow cells and splenocytes and negative for the induction of sister chromatid exchange or chromosomal aberrations in splenocytes of CD-1 male mice exposed by inhalation to 0, 5, 10 or 15 ppm for 6 hours. Overt toxicity, manifested as lethargy and shallow breathing was seen at the HDT. There was a dose-related and significant reduction of splenocyte cell cycling at all levels, which indicates that phosphine was cytotoxic to splenocytes. There was, however, no adverse effect on bone marrow cells (Kligerman, *et al*., 1994).

(b) Male B6C3F1 mice and male F344 rats were exposed by inhalation to 0, 1.25, 2.5 or 5.0 ppm phosphine, 6 hours/day, 5 days/week over an 11-day period. Bone marrow cells and/or peripheral blood lymphocytes were harvested and examined for sister chromatid exchanges and chromosomal aberrations (mouse and rat peripheral blood lymphocytes) and for MPEs (rat bone marrow and mouse bone marrow and peripheral blood lymphocytes). In addition, B6C3F1 males were exposed via inhalation to 0 or 5 ppm as above over a 12-day period and mated with untreated females in a dominant lethal assay. Results show that phosphine was not genotoxic at any endpoint.

iii. Additional *in vivo* data summarized below were available for review:

(a) Following subchronic inhalation exposure (0, 0.3, 1.0 or 4.5 ppm, 6 hours/ day, 5 days/week for 13 weeks) but not acute inhalation exposure (0 or 5.5 ppm, 2 weeks, 6 hours/day, 5 days/ week for 2 weeks), phosphine at 4.5 ppm caused a statistically significant increase in micronucleus induction in the spleen lymphocytes and bone marrow cells of Balb-c male and female mice. There was, however, no increase in gene mutations at the hypoxanthine guanine phosphoribosyl transferase locus in the recovered spleen lymphocytes.

(b) After 6 hours of inhalation exposure, phosphine, at the HDT (19 ppm) induced a significant increase in chromosomal aberrations in the bone marrow of Sprague Dawley male rats but not in the female rats. The effect is considered equivocal because increased chromosomal aberration frequencies were only seen in high-dose males with severely reduced mitotic indices (MIs). Females did not show increased chromosome aberrations and did not have decreased MIs. There was also no effect on peripheral lymphocytes.

(c) In an Australian study of workers exposed to phosphine, 31 phosphine fumigators and 21 controls, all employed at the New South Wales Grain Corporation, were examined for micronucleus incidence in peripheral blood lymphocytes and their concentrated urine was assessed for mutagenicity in TA100 and TA98 strains of *S. typhimurium*. In addition, serum bile acids were measured. The subjects, all males, were matched for medication, X-ray exposure within the past year and smoking habits. There was no indication how often the fumigators were exposed, or the most recent exposure date or the length of the various fumigators employed. No individual data were presented to identify if certain individuals showed unusually high micronuclei incidence, or presence of mutagens in the urine.

Urine samples were concentrated 75-fold and the procedure of Yamaski and Ames (1977) was used to test mutagenicity to TA100 and TA98 in the presence or absence of metabolic activation (S9). There was no increase in the mutagenicity of urine from the fumigators (N-27) vs controls (N=-19) in this assay.

Serum bile acids showed no changes related to phosphine exposure. Cholesterol and some liver enzymes (gamma-glutamyl transferase were elevated in the exposed group. Micronuclei formation was measured in isolated peripheral blood lymphocytes cultured for 44 hours in the presence of phytohemagglutinin to stimulate mitosis, arrested at metaphase with cytochalasin-B and harvested by cytocentrifugation after 72 hours in culture. The micronucleus incidence was comparable among the fumigators and the control groups (overall MI for fumigators = 6.9 vs 7.1 for controls).

Phosphine is not mutagenic in bacteria but is clastogenic *in vitro*. Both the negative Ames test and the positive CHO cell chromosome assay are consistent with the *in vitro* test results for zinc phosphide. Studies conducted *in vivo* indicate that phosphine is not clastogenic in mice or rats and does not cause dominant lethal mutations in mice following acute exposures for up to 2 weeks. There is, however, evidence that inhalation exposures of phosphine for up to 13 weeks induced significant clastogenic and/or an euploidogenic effects in male and female mice. The biological relevance of this finding can not be fully ascertained until the results of the 2-year rat inhalation study currently underway are submitted and reviewed.

5. *Neurotoxicity*. In an acute neurotoxicity study, 11 Crl:CD®BR VAF/Plus® rats/sex/exposure group were exposed to 0, 20, 30, or 40 ppm of phosphine (1% a.i. in nitrogen) for four hours. Each treatment group was exposed on a different day, with the first exposure occurring six days prior to the final exposure. 11 rats/sex/exposure group were selected for functional observational battery (FOB) and motor activity (MA) testing prior to and following exposure, and on days 7 and 14 post-exposure; six rats/sex/exposure group were perfused for neuropathology. All animals survived to scheduled termination. There were no exposure-related clinical signs. FOB and MA parameters were characterized by variability both within and among control and exposed groups; this variability (which may be partly due to the unbalanced treatment schedule) confounded interpretation of some of

the results. Palpebral closure was noted in some exposed groups on day 1 and was significant in females exposed to 30 and 40 ppm and in males at 20 and 40 ppm. Body temperatures were significantly lowered for males and females on day 1 in all exposure groups. The remainder of the differences in the FOB parameters were random statistical variations that occurred both pre- and post-test, were not dose related, and were not consistent between the sexes. Motor activity (horizontal, vertical, total distance, and stereotypic time) was decreased at 20, 30, and 40 ppm, primarily during the 10 and 20 minute post-exposure time intervals (data comparing motor activity for the entire 30-minute assessment period was neither presented nor analyzed). With one exception, these reductions no longer occurred at 7 or 14 days after exposure. For males during the first 10-minute post-exposure interval, horizontal activity decreased significantly by 76.4, 71.7 and 83.8% in the 20, 30, and 40 ppm groups, respectively. Males in the 20 ppm group had the following decreases in horizontal activity: 76.4%, 77.6% (both statistically significant), and 89.4% (non-statistically significant) during the 10, 20, and 30 minute intervals, respectively. For females during the first 10-minute post-exposure interval, horizontal activity decreased significantly by 71.3, 48.0, and 83.5% in the 20, 30, and 40 ppm groups, respectively. Females in the 20 ppm group had the following decreases in horizontal activity: 71.3%, 85.8% (both significant), and 54.1% (non-statistically significant) during the 10, 20, and 30 minute intervals, respectively. Similar decreases occurred for both sexes for vertical activity, total distance, and stereotypic time. No phosphine-related neuropathological changes were observed in any exposure group. Significant increases in absolute and relative (body and brain weights) adrenal gland weights in males from the 40 ppm group were of questionable biological significance and did not show a concentration-response relationship. The significant decrease in temperature and motor activity, seen at all exposure levels in spite of the flaws in the study, are considered treatment-related. The LOEL for neurobehavioral findings is 20 ppm based on decreased body temperatures and decreased motor activity in males and females. The NOAEL is <20 ppm. Based on lack of systemic toxicity, the NOAEL for systemic toxicity is 40 ppm. It must be noted that the Agency has asked for additional information regarding this study and has not accepted the study until the requested data are submitted and reviewed.

In a subchronic inhalation neurotoxicity study, 16 Crl:CD®BE VAF/Plus® rats/sex/exposure group were exposed to phosphine (1% a.i. in nitrogen) for six hours/day, 5 days/week for approximately 90 days at 0, 0.3, 1, or 3 ppm. An additional six rats/sex were assigned to the 0 and 3 ppm groups for a 2-week recovery group. Eleven rats/sex/exposure group were assigned for neurobehavioral evaluations. Six of the eleven rats/sex/exposure group were designated for neuropathological evaluations. No exposure-related deaths occurred in this study. Body weights were slightly higher in high-concentration males (2.4%) and females (1.2%) after 13 weeks of treatment, and became equal or less than the control body weights after the 2 week recovery period. Palpebral closure was consistently increased in high-concentration animals compared to controls. The increase was significant ($p \leq 0.05$) in high-concentration males at week 4 and was exposure related. The increased palpebral closure in high-concentration females was not significantly different from the control group. The incidence of high-concentration males found sleeping was consistently higher than the controls and was significantly higher ($p \geq 0.05$) at week 4. The sleep incidence in males showed an exposure effect at weeks 4 and 13. A similar trend was observed in females, but the differences were not statistically significant. Body temperatures of high-concentration males were consistently lower than the controls and reached statistical significance ($p \geq 0.05$) at week 13. The decreased body temperature was exposure- related at weeks 4 and 13. Females did not show a treatment-related change in body temperature. The horizontal and vertical motor activities were significantly lower in high-concentration males than the control group at week 13, and were consistently, but not significantly lower at other time intervals. Motor activity measurements in females were compromised by high variations and significant decreases in the high-concentration group at the pretest interval. There were no treatment-related findings at necropsy or during the neurohistopathological examination of collected tissues. The effects seen in high-concentration males that could be treatment-related are slight, but are consistent and mutually supportive. The effects in females either did not occur, were not statistically significant, or were compromised by variations in pretest measurements. Due to the equivocal nature of the effects seen in high-concentration males, and the lack of effects seen in females, the tentative NOAEL for systemic/neurobehavioral findings is 3.0 ppm for males and females, a LOEL was not determined in this study. Since the procedures used in this study have not been validated, and since positive effects may be obscured by insensitive methods, the NOAEL is tentative and will be re-evaluated upon receipt of information requested from the sponsor. It must be noted that the Agency has asked for additional information regarding this study and has not accepted the study until the requested data are submitted and reviewed.

B. Toxicological Endpoints

1. *Acute toxicity*. The acute dietary endpoint is based upon the results of the 90-day inhalation study. The dose and endpoint for risk assessment was 5 ppm or 1.8 milligrams/kilogram/day (mg/kg/day) based on the lack of treatment-related effects following 15 days of exposure. This includes a 100 fold Uf to account for inter and intra species variation.

2. *Short - and intermediate - term toxicity*. Based on the use pattern and the fact that phosphine is a gas, an end-point and risk assessment were not conducted for short- and intermediate-term, oral or dermal exposures.

3. *Chronic toxicity*. EPA has established the chronic reference dose (RfD) for phosphine at 0.0113 mg/kg/day. This RfD is based on an interim report (one year) for a 2-year chronic/oncogenicity inhalation toxicity in rats. The dose for the risk assessment was a NOAEL=3 ppm = 0.004 mg/L=1.13 mg/kg/day. A 100 fold Uf was applied to account for inter and intra species variation.

4. *Carcinogenicity*. The results of a non-guideline 2-year rat feeding study did not indicate a carcinogenic concern. Additionally, an interim (one year) report for a 2-year inhalation carcinogenicity study has been reviewed and does not indicate a carcinogenic concern. The final report was submitted to the Agency in November, 1998 and is being reviewed; however, it is unlikely to change the Agency's evaluation of phosphine's carcinogenic potential.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established under (40 CFR 180.225 (a) and (b), 185.200, 186.200, 180.375, 185.3800, and 186.3800) for the residues of phosphine, in or on a variety of raw agricultural

commodities at either 0.01 ppm or 0.1 ppm level including food and feed tolerances. This rule does not propose any new tolerances but rather changes the existing tolerance expressions and eliminates reference to the source of the phosphine gas, i.e., generated from either aluminum or magnesium phosphide. Tolerances are set at 0.01 ppm for those commodities for which direct treatment is not permitted. Tolerances of 0.1 ppm were established for those commodities listed above for which aluminum and magnesium are allowed to come into direct contact, e.g., tablets are added directly to corn grain as it is stored in silos . The Agency does not expect finite residues at the consumer's dinner plate, even for those commodities with a 0.1 ppm tolerance. This is because these commodities are aerated for 48 hours, cooked, shelled, washed, or otherwise prepared in some other way before they are actually consumed. For example, nuts are shelled and further processed before reaching the consumer. Other commodities such as dates are washed and graded for packaging which would remove any unreacted phosphine residue. The Agency has residue data from numerous studies on a wide variety of raw agricultural commodities and processed foods that confirm, with adequate aeration (48 hours is required) there will not be finite residues in or on food commodities. Still the FDA does at times sample RACs before the further processing described above occurs and there is the potential that small amounts of unreacted phosphine residues of up to 0.1 ppm could be observed in one of the RACs listed. All aluminum and magnesium phosphide product labels are carefully reviewed to restrict direct addition of the fumigant to commodities that are further processed in a manner that it would preclude the possibility of unreacted fumigant being in or on the food supply presented to the consumer. Risk assessments were conducted by EPA to assess dietary exposures and risks from phosphine as follows:

i. *Acute exposure and risk.* Acute dietary risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. Dietary exposure to aluminum and magnesium phosphide can potentially occur via residues of phosphine gas remaining in treated commodities. A large number of studies involving numerous types of raw agricultural commodities and processed commodities submitted to the Agency for establishment of food tolerances indicate that residues of phosphine gas will be non- detectable with adequate aeration. One of these studies involved the analysis of 49 different processed foods, with all residues being <0.004 ppm (limit of detection for this study). There are many other studies cited in the Registration Standard (PB87-117172) that support the conclusion that residues will typically be non-detectable with adequate aeration, i.e., <0.004 ppm. Tolerances were established based on the limits of quantification of the analytical method for phosphine gas for those commodities that may not come into direct contact phosphine during the fumigation procedure. Tolerances of 0.1 ppm were established for those commodities for which aluminum and magnesium are allowed to come in direct contact. This tolerance level allows for any small amount of unreacted product compound left in the food or feed that would be removed later during processing. Direct addition (with it's 0.1 ppm tolerance) is not allowed for processed commodities, and is strictly prohibited by the product use manuals.

Anticipated residues, were used for both the chronic and acute dietary exposure analysis. The Agency conducted a Dietary Exposure Evaluation Model (DEEM) analysis, for both acute and chronic exposure scenarios, making the very conservative assumption (protective of human health) that all food contained in the DEEM consumption database (except meat/milk/poultry/eggs), i.e., the food consumed by an individual in a given day, would contain residues of phosphine gas at the anticipated residue level of 0.006 ppm. This was the highest limit of detection for any of the residue studies in the Agency's tolerance petition files and was used for both the acute and chronic analysis. The Agency considers this to be a ''worst-case'' scenario. Acute dietary exposure from food does not exceed the Agency's level of concern. The percent of the acute RfD occupied, at the 99.9th percentile, is less than 30% for the population subgroups examined. The Agency again notes that tolerances are based upon non-detectable residues in residue field trials. Because phosphine gas will dissipate into the atmosphere, especially as foods are cooked (heated) or prepared, residues are unlikely to be found on food at the time of consumption.

TABLE 1. ACUTE DIETARY (FOOD) EXPOSURE AT THE 99.9TH PERCENTILE

Population Subgroup	Exposure (mg/kg/day)	Percent Acute RfD
U.S. Population	0.003872	22
Non-nursing Infants (<1 yr old)	0.004943	27
Children (1-6 yr old)	0.004440	25

In addition, the acute dietary endpoint is based on a NOAEL which is the highest dose in the study. The true NOAEL may well be higher than that observed in the study. Therefore, the Agency concludes that there is a reasonable certainty of no harm from acute dietary exposure.

ii. *Chronic exposure and risk.* The results of the DEEM chronic exposure analysis for exposure are summarized in Table 2. Chronic exposure does not exceed the Agency's level of concern. The percent of the chronic RfD occupied, is less than 10% for the population subgroups examined.

These estimates of exposure are partially refined, yet still conservative in that it was assumed that all food (except meat/milk/poultry/eggs) consumed by an individual would contain phosphine gas residues at 0.006 ppm. This anticipated residue level is based on the highest limit of detection reported in tolerance petitions. The Agency again notes that all tolerances are based upon non-detectable residues in residue field trials. Because phosphine gas will dissipate into the atmosphere, especially as foods are cooked (heated) or prepared, residues are unlikely to be found on food at the time of consumption.

TABLE 2. CHRONIC DIETARY (FOOD) EXPOSURE

Population Subgroup	Exposure (mg/kg/day)	Percent Chronic RfD
U.S. Population	0.000261	2
Non-nursing Infants (<1 yr old)	0.001004	9
Children (1-6 yr old)	0.000474	4

Chronic aggregate dietary exposure (food and water) does not exceed HED's level of concern. Using conservative assumptions, chronic risk estimates from exposure in food were less than 10% for all population subgroups examined. In fact, due to the rapid dissipation of gaseous phosphine, the Agency does not expect finite residues on treated commodities at all if used according to label directions. Therefore, the Agency concludes that there is a reasonable certainty of no harm from chronic dietary exposure.

Section 408(b)(2)(E) authorizes EPA to consider available data and information on the anticipated residue levels of pesticide residues in food and the actual levels of pesticide chemical that have been measured in food. If EPA relies on such information, EPA must require that data be provided 5 years after the tolerance is established, modified or left in effect demonstrating that the levels in food are not above the levels anticipated. Following the initial data submission, EPA is authorized to require similar data on a time frame it deems appropriate as required by section 408(b)(2)(E). EPA will issue a data call-in for information relating to anticipated residues to be submitted no later than five years from the date of issuance of this tolerance.

2. *From drinking water.* Phosphine degrades in days (half-life is estimated to be 5 hours) and has a low exposure potential for contaminating ground and surface water because it is a gas. Therefore, EPA believes these uses will not result in any exposure through ground or surface water. Therefore, aggregate exposure is limited only to food. If new uses are added in the future, the Agency will reassess the potential impacts of phosphine on drinking water as a part of the aggregate risk assessment process. Due to the nature of these insecticides, addition of crop or residential uses is not likely.

3. *From non-dietary exposure.* Phosphine is restricted use pesticide that is used to fumigate grains and other non-food commodities. Phosphine is also used to control rodents in burrows. It has no residential uses. Residential exposure is not expected; therefore, no risk assessment for these scenarios were conducted.

4. *Cumulative exposure to substances with common mechanism of toxicity.* Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' The Agency believes that ''available information'' in this context might include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way. EPA has begun a pilot process to study this issue further through the examination of particular classes of pesticides. The Agency hopes that the results of this pilot process will increase the Agency's scientific understanding of this question such that EPA will be able to develop and apply scientific principles for better determining which chemicals have a common mechanism of toxicity and evaluating the cumulative effects of such chemicals. The Agency anticipates, however, that even as its understanding of the science of common mechanisms increases, decisions on specific classes of chemicals will be heavily dependent on chemical specific data, much of which may not be presently available.

Although at present the Agency does not know how to apply the information in its files concerning common mechanism issues to most risk assessments, there are pesticides as to which the common mechanism issues can be resolved. These pesticides include pesticides that are toxicologically dissimilar to existing chemical substances (in which case the Agency can conclude that it is unlikely that a pesticide shares a common mechanism of activity with other substances) and pesticides that produce a common toxic metabolite (in which case common mechanism of activity will be assumed).

EPA does not have, at this time, available data to determine whether phosphine has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, phosphine does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that phosphine has a common mechanism of toxicity with other substances.

D. Aggregate Risks and Determination of Safety for U.S. Population

1. *Acute risk.* The aggregate acute risk reflects food source risk only, therefore an additional aggregate risk assessment is not needed (see Unit II.C.2 in the preamble of this document). The use patterns associated with aluminum and magnesium phosphide are not expected to impact water resources through labeled uses; therefore, exposure to humans through drinking water is not expected. In addition, all aluminum and magnesium phosphide products are restricted use pesticides, which have no indoor residential uses; therefore, residential exposure is not expected for these restricted use products (which do not have residential use other that rodent control in burrows). The acute risk from food exposure to phosphine is 22% of the RfD, which indicates an adequate margin of safety.

2. *Chronic risk.* Using the anticipated residues and 100% crop treated exposure assumptions described above, EPA has concluded that aggregate exposure to phosphine from food will utilize less than 10% of the RfD for the U.S. population. The subgroup with the highest aggregate exposure is 9% for Non-nursing infants (<1 year old). EPA generally has no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. The potential residues

in drinking water are considered to be zero; therefore, the combined exposure of chronic food and drinking water exposure to phosphine would be no greater than less than 10% of the RfD for children or the general U.S. Population. Due to the nature of the non-dietary use, EPA believes that the commercial use of phosphine as a fumigant and in pest burrows will not result in any significant residential exposure. Therefore the chronic risk is based on food only.

3. *Short- and intermediate-term risk*. Short- and intermediate- term risks are assessed in tolerance actions where a pesticide has the potential for residential exposure through a route other than the diet. No such potential exists for phosphine. The acute and chronic risk assessments fully capture the risks associated with this tolerance action.

4. *Aggregate cancer risk for U.S. population*. EPA has determined that there is no evidence of carcinogenicity in the available studies. Based upon this determination it can be concluded that phosphine does not pose a cancer risk.

5. *Conclusion*. The Agency concludes that there is reasonable certainty that no harm will result from aggregate exposure to phosphine residues.

E. Aggregate Risks and Determination of Safety for Infants and Children and the General Population

1. *Safety factor for infants and children*— i. *In general*. In assessing the potential for additional sensitivity of infants and children to residues of phosphine, EPA considered data from a prenatal inhalation developmental toxicity study in rats.

FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. Margins of safety are incorporated into EPA risk assessments either directly through use of a MOE analysis or through using uncertainty (safety) factors in calculating a dose level that poses no appreciable risk to humans. EPA believes that reliable data support using the standard MOE and uncertainty factor (usually 100 for combined inter- and intra-species variability) and not the additional tenfold MOE/uncertainty factor when EPA has a complete data base under existing guidelines and when the severity of the effect in infants or children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard MOE/safety factor.

ii. *Developmental toxicity studies*. In a developmental study, CD derived Sprague Dawley mated female rats (24-27/dosage group) were exposed in inhalation chambers to concentrations of phosphine gas at 0, 0.03, 0.3, 3.0, 5.0 and 7.5 ppm, 6 hours per day on gestation days 6 through 15. The highest dose group was terminated after 10 days of exposures due to high mortalities (14/24). The treated females were observed twice daily for toxicity, and body weights and food consumption were monitored throughout the study. At day 20 post-coitus, the females were sacrificed and examined for corpora lutea, implantations, live and dead fetuses and early and late resorptions. Pups were identified, sexed and examined for external malformations and visceral and skeletal defects. The females and their fetuses from the high dose group were not examined for developmental effects. The only abnormalities observed were increased resorptions in liters (16 litters, 76 pups). Increased resorptions were not seen in the 0.3, 3.0 or 5.0 ppm groups. All other observations were comparable to the control females and pups. The maternal NOAEL was 5 ppm and the maternal LEL was 7.5 ppm based on the high incidence of maternal deaths. The reproductive NOAEL is 5 ppm and the developmental NOAEL was 5 ppm.

iii. *Reproductive toxicity study*. This study was not required for aluminum and magnesium phosphide. The complete toxicology data requirements for food- use chemicals are not required for aluminum and magnesium phosphide since little phosphine exposure is expected from use on foods as a fumigant. In fact, the Agency does not routinely require the standard toxicological data base for a food use chemical for fumigants. Fumigants are gases, which dissipate rapidly and provide for no residual control. Phosphine diffuses rapidly through the stored product because it is a small molecule and does not absorb to most commodities. Dietary exposure to this gas is not expected, tolerances are established to prevent misuse of the fumigants. It is for this reason, lack of exposure, that the Agency does not routinely require the complete battery of testing required for a food-use chemical, for fumigants. The very nature of the chemicals used for fumigation (very high volatility) make dietary exposure an unlikely scenario. The Agency reevaluated all previously waived food-use data requirements while reassessing these fumigants and determined that, based on lack of expected exposure, the data were not required. The only exception to this is the 2-year combined cancer-chronic study because there were specific concerns regarding chronic effects from low level exposure in grain workers.

iv. *Pre- and post-natal sensitivity*. The available toxicology data indicate no increased susceptibility in utero and/or postnatal exposure to phosphine. Aluminum/magnesium phosphide developmental toxicity to the offspring occurred at equivalent or higher doses than maternal toxicity.

v. *Conclusion*. The data base is considered complete, with respect to the usual data requirements for fumigants (See section E1iii above). There are no data gaps. The toxicity data for phosphine does not indicate increased susceptibility in utero or postnatal. Exposure assessments do not indicate a concern of potential risk to children because phosphine residues are not expected in food or drinking water and there is only a minor use of phosphine near residential sites, i.e., control of rodents in burrows. In addition, the Agency conducted a very conservative exposure assessment, i.e., protective of human health. It is for all these reasons that the Agency concludes that the additional safety factor of 10 can be removed.

Based on these risks EPA concludes that there is reasonable certainty that no harm will result to infants and children or the general population from aggregate exposure to phosphine residues.

III. Other Considerations

A. Metabolism In Plants and Animals

Based on the limited use pattern of aluminum and magnesium phosphide, plant and animal metabolism data were not required. The residue of concern is phosphine. The Agency has determined that decomposition products of phosphine are toxicologically insignificant at the levels found in treated commodities.

B. Analytical Enforcement Methodology

The Pesticide Analytical Manual (PAM) Vol. II lists, under aluminum phosphide, a colorimetric method (LOD = 0.01) and a GLC method with a flame photometric detection (LOD = 0.001 ppm) as Method A and B, respectively, for the enforcement of tolerances. The residue of concern is phosphine. It is noted that Method A remains a lettered method because of variable recoveries observed in an Agency method try-out. However, the method has been determined to be acceptable for enforcement because phosphine is highly reactive, and finite residues are

not expected. Data submitted in support of the established tolerances were collected by one of these two methods. The original Reregistration Standards for aluminum and magnesium phosphide reserved the requirements for human health studies until certain uncharacterized residues which resulted from the treatment of food were characterized and evaluated. Subsequent to the issuance of the Reregistration Standards, the Agency received information which identified these formerly unknown residues as oxidation products of phosphine. Having reviewed these data, the Agency has concluded that these decomposition products of phosphine are toxicologically insignificant at the levels found in the treated commodities.

Because aluminum and magnesium phosphide are inorganic compounds, recovery of residues using FDA Multiresidue Protocols is not expected, and the requirement for such data is waived.

C. Magnitude of Residues

Residue data reflecting registered postharvest treatments of stored raw agricultural and processed commodities indicate that, with adequate aeration or further processing after treatment, residues of phosphine dissipate to nondetectable levels (all <0.01 ppm). Residue data also indicate that the phosphine release from registered aluminum and magnesium phosphide products are not significantly different. Since aluminum and magnesium phosphide have essentially identical use patterns, the available residue data for aluminum phosphide has been translated to magnesium phosphide. Existing tolerances reflect a 48-hour aeration period.

D. International Residue Limits

The following tolerances for phosphine residues have been established by the CODEX Alimentary Commission: Cereal grains, 0.1 ppm; cocoa beans, 0.01 ppm; dried fruits, 0.01 ppm; dried vegetables, 0.01 ppm; peanuts, 0.01 ppm; spices, 0.01 ppm; tree nuts, 0.01 ppm. These tolerance levels are at or below the equivalent U.S. tolerances levels. The U.S. has no tolerances for use on spices or a broad tolerance for use on cereal grains; however, use on specific grains are registered uses in the U.S.. No U.S. registrants are apparently interested in obtaining such a tolerance for the Cereal Grains Crop Group (Crop Group 15) or an import tolerance for residues in/on spices. The lower tolerances probably reflects CODEX tolerances that do not allow direct addition of the fumigant to the raw agricultural commodity. Provided that one of the registrants submits a petition, with the supporting CODEX residue data and any corresponding use restriction, requesting that the higher U.S. tolerances (0.1 ppm) be reduced to 0.01 ppm, the Agency anticipates that harmonization for all commodities would be possible. The Agency notes that by changing the tolerance expression, new application technology could be registered that would eliminate the possibility of unreacted residues resulting from direct addition of the fumigant to raw agricultural commodities.

E. Rotational Crop Restrictions

Rotational crop restrictions are not needed as these insecticides are not used on agricultural crops.

IV. Conclusion

Tolerances are being revised and consolidated for residues of phosphine in the food commodities as outlined in the tables below. None of these proposed tolerances are new, the Agency is merely changing the tolerance expression to eliminate references concerning how the phosphine gas is generated.

V. Public Comment Procedures

EPA invites interested persons to submit written comments, information, or data in response to this proposed rule. After consideration of comments, EPA may issue a final rule. Such rule will be subject to objections. Failure to file an objection within the appointed period will constitute waiver of the right to raise in further proceedings issues resolved in the final rule.

Although the standard comment period on tolerance proposals issued by EPA is 60 days, EPA finds for good cause that it would be in the public interest to have a comment period of only 30 days on this proposal. This proposed tolerance will allow registration under the Federal Insecticide, Fungicide, and Rodenticide Act of phosphine gas as an insecticide. Currently, phosphine gas is used as a insecticide but only when applied by means of the registered pesticides magnesium phosphide or aluminum phosphide. Application of phosphine gas directly will serve as a replacement for the use of methyl bromide as a fumigant. Methyl bromide use is generally being phased out in the United States and worldwide under the Montreal Protocol due to concerns with ozone depleting compounds. Finding replacements for methyl bromide's insecticidal uses is a top priority for EPA. Additionally, use of phosphine gas directly may reduce risks to workers.

VI. Public Docket and Electronic Submissions

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket control number [OPP–300865] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located at the Virginia address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–300865]. Electronic comments on this proposed rule may be filed online at many Federal Depository Libraries.

VII. Regulatory Assessment Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and since this action does not impose any information collection requirements subject to approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et. seq.*, it is not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, or contain any ''unfunded mandates'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4), or require prior consultation as specified by executive Order 12875 (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898 (59 FR 7629, February 16, 1994).

Pursuant to the requirements of the Regulatory Flexibility Act (Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A

certification statement explaining the factual basis for this determination was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

A. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's proposed rule does not create an unfunded federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

B. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

40 CFR Part 185

Environmental protection, Food additives, Pesticides and pests.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: May 25, 1999.

James Jones

Director, Registration Division.

Therefore, it is proposed that 40 CFR chapter 1 be amended as follows.

PART 180—[AMENDED]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

b. Section 180.225 is revised to read as follows:

§ 180.225 Phosphine; tolerances for residues.

(a) *General.* (1) Tolerances are established for residues of the insecticide phosphine in or on the following raw agricultural commodities resulting from post-harvest fumigation:

Commodity	Parts per million
Almond, nutmeat	0.1
Avocadoes	0.01
Bananas (includes Plantains)	0.01
Barley, grain	0.1
Brazil nuts	0.1
Cabbage, Chinese	0.01
Cacao bean	0.1
Cashews	0.1
Citrus citron	0.01
Cocoa bean	0.1
Coffee, bean, green	0.1
Corn, field, grain	0.1
Corn, pop, grain	0.1
Cotton, seed, undelinted	0.1
Date, dried	0.1
Eggplants	0.01
Endive/Ecarole	0.01
Filberts	0.1
Grapefruit	0.01
Kumquats	0.01
Lemons	0.01
Lettuce	0.01
Limes	0.01
Mangoes	0.01
Legume vegetables (succulent or dried group, excluding soybeans)	0.01
Millet, grain	0.1
Mushrooms	0.01
Oats	0.1
Oranges	0.01
Papayas	0.01
Peanut, nutmeat	0.1
Pecans	0.1
Peppers	0.01
Persimmons	0.01
Pimentos	0.01
Pistachio	0.1
Rice, grain	0.1
Rye, grain	0.1
Safflower, seed	0.1
Salsify tops	0.01
Sesame, seed	0.1
Sorghum, grain	0.1
Soybeans	0.1
Sunflower, seed	0.1
Sweet potatoes	0.01
Tangelos	0.01
Tangerines	0.01
Tomatoes	0.01
Walnuts	0.1
Wheat	0.1

(2) Tolerances are established for residues of the fumigant phosphine in or on all raw agricultural commodities (RAC) resulting from preharvest treatment of pest burrows in agricultural and non-crop land areas as listed in the following table:

Commodity	Parts per million
All RACs resulting from preharvest treatment of pest burrows	0.01

(3) Residues resulting from fumigation of processed foods:

Commodity	Parts per million
Processed foods	0.01

(4) Residues resulting from fumigation of animal feeds:

Commodity	Parts per million
Animal feeds	0.01

(5) To assure safe use of this pesticide, it must be used in compliance with the labeling conforming to that registered by the U.S. Environmental Protection Agency (EPA) under FIFRA. Labeling shall bear a restriction to aerate the finished food for 48 hours before it is offered to the consumer, unless EPA specifically determines that a different time period is appropriate. Where appropriate, a warning shall state that under no condition should any formulation containing aluminum or magnesium phosphide be used so that it will come in contact with any processed food, except processed brewer's rice, malt, and corn grits stored in breweries for use in the manufacture of beer.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.375 [Removed]

b. Section 180.375 is removed.

PART 185—[AMENDED]

2. In part 185:

a. The authority citation for part 185 continues to read as follows:

Authority: 21 U.S.C. 346a and 348.

§ 185.200 [Removed]

b. Section 185.200 is removed.

§ 185.3800 [Removed]

c. Section 185.3800 is removed.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§ 186.200 [Removed]

b. Section 186.200 is removed.

§ 186.3800 [Removed]

c. Section 186.3800 is removed.

[FR Doc. 99–14069 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 36

[CC Docket Nos. 96–45 and 96–262; FCC 99–119]

Federal-State Joint Board on Universal Service; Access Charge Reform

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission has adopted the principles of a federal support mechanism that conforms to the *Second Recommended Decision,* however, the Commission does not believe that an adequate record yet exists to make determinations regarding some of the specific elements of the support methodology. Accordingly, the Commission has issued this document seeking comment on several specific implementation issues. In conjunction with our actions to implement an explicit high-cost support mechanism based on forward-looking costs, we also take action and seek comment on additional issues to permit us to identify implicit support remaining in interstate access charges by January 1, 2000.

DATES: Comments are due on or before July 2, 1999 and reply comments are due on or before July 16, 1999. Written comments by the public on the proposed information collections are due on or before July 2, 1999 and reply comments are due on or before July 16, 1999. Written comments must be submitted by the Office of Management and Budget (OMB) on the proposed information collections on or before August 9, 1999.

ADDRESSES: Parties who choose to file by paper must file an original and four copies of each filing. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W., TW–A325, Washington, D.C. 20554. In addition to filing comments with the Secretary, a copy of any comments on the information collections contained herein should be submitted to Judy Boley, Federal Communications Commission, Room 1–C804, 445 Twelfth Street, S.W., Washington, DC 20554, or via the Internet to jboley@fcc.gov, and to Timothy Fain, OMB Desk Officer, 10236 NEOB, 725—17th Street, N.W., Washington, DC 20503 or via the Internet to fain__t@al.eop.gov.

FOR FURTHER INFORMATION CONTACT: Jack Zinman, Attorney, Common Carrier Bureau, Accounting Policy Division, (202) 418–7400. For additional information concerning the information collections contained in this Further Notice of Proposed Rulemaking contact Judy Boley at 202–418–0214, or via the Internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document released on May 28, 1999. The full text of this document is available for public inspection during regular business hours in the FCC Reference Center, Room CY–A257, 445 Twelfth Street, S.W., Washington, D.C., 20554.

Initial Paperwork Reduction Act Analysis

1. This Further Notice of Proposed Rulemaking contains a proposed information collection. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget (OMB) to comment on the information collections contained in this Further Notice of Proposed Rulemaking, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. Public and agency comments are due at the same time as other comments on this Further Notice of Proposed Rulemaking; OMB notification of action is due August 9, 1999. 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 form of information technology.

OMB Approval Number: None.

Title: Notification to High Cost Subscriber Lines and Certification Letter Accounting for Receipt of Federal Support (Proposals).

Form No.: N/A.

Type of Review: New collection.

Respondents: Business or Other for Profit and State, Local or Tribal Government.

	Number of respondents	Estimate time per response	Total annual burden
Notification to High Cost subscriber Lines	30	3 hours (Quarterly)	1080 hours.
Certification Letter Accounting for Receipt of Federal Support	51	3 hours	153 hours.

Total Annual Burden: 1233 hours.

Estimated costs per respondent: $0.

Needs and Uses: The Commission proposes that carriers should be required to notify high-cost subscribers that their lines have been identified as high-cost lines. This information will be used to show that federal high-cost support is being provided to the carrier to assist in keeping rates affordable in those subscribers' area. Further, the proposed collection of information will be used to verify that the carriers have accounted for its receipt of federal support in its rates or otherwise used the support for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended'' in accordance with section 254(e).

I. Introduction

2. Although we are adopting the principles of a federal support mechanism that conform to the *Second Recommended Decision,* 63 FR 67837 (December 9, 1998), we do not believe that an adequate record yet exists to make determinations regarding some of the specific elements of the support methodology. Accordingly, we adopt this Further Notice of Proposed Rulemaking (*FNPRM*) seeking comment on several specific implementation issues. While we are resolving these implementation issues, we also are continuing to verify the operation of the cost model, including the input data elements. To complete this process, we issue separately an additional FNPRM on the model input and operational issues. We encourage commenters to consider both of these FNPRMs together, and frame their comments to recognize the close relationship between the issues discussed in each.

3. We intend to resolve the remaining methodological issues identified in this FNPRM and verify the operation of the cost model, including the input data elements, on which comment is being sought in the companion *Inputs FNPRM.* We anticipate adoption this fall of an order resolving these remaining issues, so that support may be based on forward-looking costs of providing supported services beginning January 1, 2000. In conjunction with our actions to implement an explicit high-cost support mechanism based on forward-looking costs, we also take action today and seek comment on additional issues to permit us to identify implicit support remaining in interstate access charges by January 1, 2000.

A. Methodology Issues

National Benchmark

4. In its *Second Recommended Decision,* the Joint Board supported using a cost-based benchmark, as opposed to one based on revenues, in evaluating rate comparability because state jurisdictions vary in how they set local rates. The Joint Board explained that forward-looking cost estimates for a given area could be compared against the single national cost benchmark in order to determine whether the area has costs that are significantly above the national average. We adopted the Joint Board's recommendation to employ a cost-based benchmark.

5. In setting the level of the national benchmark, the Joint Board recommended that the Commission consider using a range between 115 and 150 percent of the national weighted average cost per line. Although several commenters support the use of a national benchmark, many were reluctant to comment on the range proposed by the Joint Board in the absence of a finalized cost model. For that reason, we seek further comment on the specific cost benchmark that we should adopt, and we seek comment on whether the national benchmark should fall within the Joint Board's recommended range.

6. The current high-cost mechanism for large carriers provides increasing amounts of support based on the amount by which a carrier's loop costs exceed the national average, beginning with loop costs between 115 percent and 160 percent of the national average. In particular, the current federal support mechanism provides 10 percent support (in addition to the 25 percent allocation of all loop costs to the interstate jurisdiction) for large incumbent LECs with more than 200,000 working loops for book loop costs above 115 percent of the national average, and provides gradually more support for the portion of these carriers' book loop costs exceeding 160 percent of the national average. The following chart summarizes the levels of support provided by the current high-cost mechanism for large carriers:

Loop cost as a percent of the national average	Amount of intra-state loop cost supported (percent)
Greater than 115%, but not greater than 160%	10
Greater than 160%, but not greater than 200%	30
Greater than 200%, but not greater than 250%	60
Greater than 250%	75

While the existing mechanism provides support for loop costs beginning at 115 percent of the national average, it considers only loop costs, while the forward-looking cost model estimates the forward-looking cost of all components of the network necessary to provide the supported services.

7. Although we have not yet completed our work verifying the results of the forward-looking cost model, the cost model is now operational and, in a Report and Order, we have adopted the framework of our methodology for its use. The model currently suggests that, using this methodology, a cost benchmark level near the center of the range recommended by the Joint Board would provide support levels that are sufficient to enable reasonably comparable rates, in light of current levels of competition to preserve and advance the Commission's universal service goals. In addition to general comments on the Joint Board's recommended range for the cost benchmark, we also seek specific comment on the level at which we should set the national benchmark, including comment on what additional factors and considerations we should take into account before selecting a final national benchmark level. We encourage commenters to use updated model outputs in formulating their comments.

8. To ensure that there are no sudden withdrawals or reallocations of federal support to cover costs between the cost benchmark range that we ultimately adopt, we also seek comment today on the Joint Board's recommendation that the new forward-looking mechanism incorporate a hold-harmless provision. We seek comment on the specific operation of such a provision. We encourage commenters to consider and discuss the interaction between specific cost benchmark levels and the precise operation of the hold-harmless provision.

Area Over Which Costs Should Be Averaged

9. After further consultation with the Joint Board, we seek further comment on whether the federal support mechanism should calculate support levels by comparing the forward-looking costs of providing supported services to the benchmark at either (1) the wire center level; (2) the unbundled network element (UNE) cost zone level; or (3) the study area level.

10. A number of commenters have expressed support for calculating costs at the wire center level. As we strive to bring competition to local telephone markets while keeping rates for local service affordable and reasonably comparable in all regions of the country, we recognize two major benefits of such explicit deaveraged high-cost support. As competition places downward pressure on rates charged to urban, business, and other low-cost subscribers, we believe that support deaveraged to the wire center level or below may ensure that adequate support is provided specifically to the subscribers most in need of support, because the support reflects the costs of specific areas. In addition, deaveraged explicit support that is portable among all eligible telecommunications carriers and targeted in a granular manner to support high-cost subscribers could encourage efficient competitive entry in all areas, not just in urban or other low-cost areas. By permitting the incumbent's rates to reflect actual costs in all areas, subject to explicit support assessments or portable support payments, explicit deaveraged support may provide incentives to competitors to expand service beyond urban areas and business centers into all areas of the country and to all Americans, as envisioned by the 1996 Act. We seek comment on this analysis.

11. As an alternative to computing costs at the wire center level, we seek comment on whether we should compare costs to the benchmark at the level of UNE cost zones instead. Under this proposal, each wire center within a UNE cost zone would receive the same amount of support. Thus, support would still be targeted to the general areas that need it most, but upward pressure on the size of the federal fund would be lessened compared to the wire center approach. This approach would also coincide with the rules on the pricing of UNEs. Under our deaveraging rules, state commissions must establish different rates for elements in at least three defined geographical areas within the state to reflect geographic cost differences, and may use existing density-related zone pricing plans, or other cost-related zone plans established pursuant to state law. Using UNE zones may avoid opportunities for arbitrage, and because states are responsible for developing UNE zones, states will be able to develop zone boundaries based upon local conditions, including cost characteristics and the status of competition. We generally do not foresee any difficulty using the cost model to mirror state UNE zones, provided that state UNE zones correspond to wire center boundaries. We seek comment, however, on how state UNE zones that potentially do not correspond to wire center boundaries can be effectively used in the cost model. We encourage commenters to use updated model outputs in formulating their comments on this proposal. Finally, we ask commenters to propose any other cost zones, other than UNE zones, that may be an appropriate basis for computing costs.

12. We also seek comment on whether we should calculate costs at the study area level. In recommending that the federal support mechanism calculate costs at the study area level, the Joint Board suggested that the level of competition today has not eroded implicit support flows to such an extent as to threaten universal service. In addition, compared to calculating costs at the level of wire centers or UNE zones, calculating costs at the larger study area level may be more likely to prevent substantial increases in the size of the high-cost support mechanism because high-cost areas within the study area are averaged with lower-cost areas within the study area. In addition, we seek comment on whether comparing costs to the benchmark at the study area level is more consistent with a vision of a federal mechanism for reasonable rate comparability that focuses on support flows among states rather than within states, and whether such a vision is more consistent with the Joint Board's *Second Recommended Decision*. We seek specific comment, however, on the extent to which competition is likely to place steadily increasing pressure on implicit support flows from low-cost areas and the extent to which this pressure suggests that we should deaverage support in the implementation of our new mechanism. We urge commenters to use updated model outputs when responding to this analysis.

13. We seek specific comment on the impact of using study-area averaged costs in a study area where UNEs are available. In the *Local Competition Order*, the Commission determined that UNEs would be priced in a minimum of three rate zones within a state. If high-cost support is provided using study-area averaged costs, then all lines within the study area would be eligible for the same amount of support even though the UNE rates for those same lines would vary among rate zones within the state. We seek comment on whether this disparity between support amounts and UNE rates among different rate zones may create incentives for carriers to engage in arbitrage or other uneconomic activities unrelated to the purpose of high-cost support.

14. In recommending that costs be calculated at the study area level, the Joint Board was driven by concerns that the amount of federal high-cost universal service support be ''properly measured'' in light of the current state of local competition. Comparing costs to a benchmark when averaged over a smaller area is bound to produce higher support calculations, however, because high costs in one area are less likely to be diluted by low costs in another area when the area under consideration is smaller. As discussed, we agree with the Joint Board that federal support to enable reasonably comparable local rates for non-rural carriers should not increase significantly from current levels. We seek comment, however, on ways to resolve the tension between the goal of preventing the fund from increasing significantly above current levels, and the goal of ensuring that support is, to the extent possible, directly targeted to high-cost areas within study areas. In addition, we seek specific comment on four proposals to resolve this tension.

15. First, we propose, if we were to determine total support amounts in each study area by running the model to estimate costs at the study area level, to distribute support by running the model again at the wire center level in order to target support to high-cost wire centers within the study area. This approach would not significantly increase the size of the fund, but would ensure that support is distributed to areas that need it most. As a second alternative, we could determine support based on costs averaged at a level more granular than the study area, such as UNE zones or wire centers, but provide only a uniform percentage of the support so indicated. Such an approach would be consistent with the Joint Board's findings that rates are presently affordable and that competition has not yet eroded support to high-cost customers.

16. As a third alternative, we could determine support based on costs averaged at a level more granular than the study area, such as UNE zones or wire centers, but cap the amount of

support available to any particular state to a fixed percentage of the overall fund. As a fourth alternative, if we were to determine support based on costs averaged at the UNE zone or wire center level, we could limit the size of the fund either by raising the cost benchmark appropriately or adopting incremental funding levels for costs above the selected benchmark similar to the existing high-cost loop support mechanism. As an example of incremental funding levels, were we to adopt a cost benchmark of 135 percent of the national weighted average cost per line, we could fund 10 percent of the costs that are between 135 percent and 160 percent of the national average, 30 percent of the costs that are between 160 percent and 200 percent of the national average, and so forth. We seek comment on each of these proposals, including comment on how each meets the statutory requirement that support should be ''sufficient.'' We also ask commenters to suggest additional methods for preventing the size of the fund from growing significantly.

Determining a State's Ability To Support High-Cost Areas

17. As discussed, we agree with the Joint Board that federal support to enable reasonably comparable local rates for non-rural carriers should be determined based, in part, on a state's ability to support its universal service needs internally and that such federal support should be available to the extent the state is unable to achieve reasonably comparable rates using its own resources. We concluded that a fixed dollar amount per line is a reasonably certain and specific means of assessing a state's ability to enable reasonable comparability of rates using its own resources.

18. In this *FNPRM,* we now seek comment on the fixed per-line dollar amount that should be set to estimate a state's ability to internally support its high-cost areas, and how the amount should be determined. As one option, we observe that in the *First Report and Order,* 62 FR 32862 (June 17, 1997), the Commission suggested a revenue benchmark of approximately $31. In the *Second Recommended Decision,* the Joint Board considered establishing a state's responsibility based on a percentage of revenues, specifically, a range between three and six percent of intrastate telecommunications revenues. We seek comment on whether the per-line amount should be set so that it amounts to between three and six percent of this original $31 revenue benchmark, in order to roughly equal, in absolute dollar terms, the amount that a state could reasonably have anticipated if measured on a revenue percentage basis. For example, a $2.00 per line figure would reflect roughly six percent of $31. Under this fixed dollar amount per line approach, the perceived need for support in the state is first calculated by comparing costs to the benchmark. The state's ability to enable reasonably comparable rates in the face of this perceived need would then be estimated by multiplying the per-line figure by the total number of non-rural carrier lines in the state. If the perceived support need exceeds this estimate of the state's own resources, federal support would support the difference in accordance with the benchmark methodology described. We seek comment on this proposal.

19. We also seek comment on whether wireless lines should be included in the calculation of a state's ability to support universal service. If commenters believe that wireless lines should be included, we seek comment on whether there should be a distinction between wireless lines of an ETC and wireless lines of a non-ETC. Finally, we emphasize that the use of a fixed per-line dollar value assessment to estimate states' abilities to support their universal service needs internally does not mandate the creation of state universal service funds for this purpose.

B. Distribution and Application of Support

20. As discussed, we have concluded that, consistent with section 254, carriers should be required to use support ''only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.'' We seek comment on what specific restrictions, if any, are necessary to achieve this statutory requirement. Specifically, in the event that the Commission ultimately decides to average costs over an area larger than the wire center in determining support levels, we seek comment on how this application of support should be accomplished given our tentative conclusion to require carriers to apply federal high-cost support to the wire centers that triggered the need for support.

21. Although the Commission has the responsibility to ensure that support is sufficient to enable reasonable comparability of rates, the states establish specific rate levels. Therefore, we seek comment on whether making federal support available as carrier revenue, to be accounted for by the state in the rate setting process, will sufficiently fulfill the section 254(e)'s requirement that federal support shall be used ''only for the provision, maintenance, or upgrading of facilities and services for which the support was intended.'' We tentatively conclude that making support available as part of the state rate-setting process would empower state regulators to achieve reasonable comparability of rates within their states. For example, we expect that states that have adopted price cap regulation could require exogenous price cap adjustments to reflect the increased support for high-cost areas and that states that retain rate of return regulation would count the new support towards carriers' revenue requirements. In either case, the state would be able to use federal support targeted to high-cost wire centers to enable reasonable comparability of local rates, if it so chose. We seek comment on this proposal. Specifically, we seek comment on whether all state commissions possess the jurisdiction and resources to take the actions this approach would require. We also seek comment on whether, under this proposal, carriers should be required to notify high-cost subscribers that their lines have been identified as high-cost lines and that federal high-cost support is being provided to the carrier to assist in keeping rates affordable in those subscribers' area.

22. In addition, we seek comment on what further restrictions, if any, we should impose on the use of federal support to ensure that recipient carriers use the support in a manner consistent with section 254. The Joint Board recommended that the Commission require carriers to certify that they will apply federal high-cost support in accordance with the statute. The Joint Board also recommended that the Commission should not require states to provide any certification as a ''condition'' for carriers in the state to receive high cost support, but the Commission should instead permit states to certify that, in order to receive federal universal service support, a carrier must use such funds in a manner consistent with section 254. We seek comment on whether state authority over local rates in a manner cognizant of federal support levels will adequately enforce the requirements of section 254(e), making additional federal regulation unnecessary. Because some states may lack either the authority or the desire to impose conditions on the use of high-cost support, we tentatively conclude that such state oversight, while valuable and potentially sufficient, may not in every case ensure that section 254(e)'s goals are met. Therefore, we seek comment on whether

it would be appropriate to condition the receipt of federal universal service high-cost support on any state action, including adjustments to local rate schedules reflecting federal support. We believe that denying support to states that lack the regulatory authority to ensure that federal funds are used appropriately would penalize those states and would not be consistent with section 254's mandates. We tentatively conclude, however, that even states that lack this authority would be able to certify to the Commission that a carrier within the state had accounted for its receipt of federal support in its rates or otherwise used the support for the ''provision, maintenance, and upgrading of facilities and services for which the support is intended'' in accordance with section 254(e). Conversely, if the state were unable or unwilling to take action to achieve the goals of section 254(e), we could allow such states to refuse federal high-cost support. We seek comment on these approaches, including comment on whether implementation of multiple options might best achieve the goals of section 254(e), and comment on whether any carrier-initiated action would be necessary in states with limited authority. Finally, we seek comment on what carrier or state commission action, if any, may be necessary to prevent double-recovery of universal service support at both the federal and state level.

23. Under the approach discussed, we recognize that we may need to allocate federal support among high-cost wire centers within a carrier's study area. If the federal support amount based on forward-looking cost provides only a portion of the support for a given wire center, or if we choose to fund only a portion of the support otherwise indicated by the model, we seek comment on means by which to perform this allocation. If a carrier does not receive support equal to the full amount of the difference between the forward-looking cost estimate for the wire center and the threshold level for federal support, we tentatively conclude that it should allocate the support among all lines in these high-cost wire centers in a pro rata manner, based upon the difference between the federal benchmark, plus state supported levels, and the wire center's forward-looking cost of providing service. We believe this approach has the potential to foster competition because the amount of the support available to competing eligible telecommunications carriers would be clearly identified, and thus competing carriers would be able to assess more accurately whether competitive entry is viable in a particular high-cost area. In addition, high-cost support would be distributed in such a manner that support levels in each high-cost wire center would be proportionate to costs. We seek comment on these proposals and tentative conclusions.

C. Hold-Harmless and Portability of Support

24. As discussed, we agree with the Joint Board that the federal high-cost support mechanism should have a hold-harmless provision to prevent immediate and substantial reductions of federal support and potentially significant rate increases. Under such a hold-harmless provision, the amount of support provided would be the greater of the amount generated under the forward-looking mechanism or the explicit amount presently received. We seek comment on how we should implement such a hold-harmless provision to best accomplish this goal. Specifically, we seek comment on whether the hold-harmless provision should be implemented on a state-by-state basis or on a carrier-by-carrier basis.

25. Under a state-by-state approach, the total amount of federal support provided in each state would be the greater of the total amount indicated by the forward-looking mechanism or the total amount presently received by carriers in the particular state. For example, assume a state has two carriers, Carrier A and Carrier B, each presently receiving $100 in federal high-cost intrastate support. Assume further that under the forward-looking mechanism, Carrier A is entitled to $100 and Carrier B is entitled to $95. The total amount of support indicated by the forward-looking mechanism ($195) is less than the total amount of support under the present mechanism ($200). Therefore, the hold-harmless provision would supply an additional $5 of support. Assume, however, that under the forward-looking mechanism, Carrier A is entitled to $120 and Carrier B is entitled to $90. The total amount of support indicated by the forward-looking mechanism ($210) is greater than the total amount of support under the present mechanism ($200). Although Carrier B would receive less support under the forward-looking mechanism, the state, as a whole, would receive more support under the forward-looking mechanism. Therefore, the hold-harmless provision does not supply any additional support. We believe that such a state-by-state hold-harmless is likely to prevent substantial increases in the size of the high-cost support mechanism because an increase in support for one carrier can be offset by a decrease in support for another carrier when determining the total amount of hold-harmless support provided in a particular state. On the other hand, the state-by-state approach may not prevent a decrease in support for certain carriers within a particular state. Redistribution of federal support within the state, however, may be accomplished by state commission action.

26. In contrast, under a carrier-by-carrier hold-harmless approach, the amount of federal support provided to each carrier in a state would be the greater of the amount indicated by the forward-looking mechanism or the explicit amount presently received by the carrier. For example, assume a state has two carriers, Carrier A and Carrier B, each presently receiving $100 in support. Assume further that, under the forward-looking mechanism, Carrier A is entitled to $125 and Carrier B is entitled to $75. Under a carrier-by-carrier hold-harmless provision, Carrier A would receive $125 pursuant to the forward-looking model, and Carrier B would receive $100 pursuant to the hold-harmless provision. Thus, the total amount of federal support provided in that state would increase to $225. A carrier-by-carrier approach ensures that no carrier receives less support under the forward-looking mechanism than it receives under the present mechanism. We believe, however, that the carrier-by-carrier approach, as opposed to the state-by-state approach, is more likely to inflate the size of the high-cost support mechanism because the amount of support provided to each carrier can only increase under this approach. Using updated model outputs, we ask commenters to comment on whether a state-by-state or a carrier-by-carrier hold-harmless approach is more consistent with universal service principles set forth in the Act and the role of the federal mechanism in providing high-cost support.

27. In addition, in the event that the Commission adopts a state-by-state hold-harmless provision, we seek comment on how such a provision should allocate support among carriers in the event that the total amount of hold-harmless support provided in a particular state is insufficient to fully hold each carrier harmless. Specifically, in the event the Commission adopts a state-by-state hold-harmless approach, we propose allocating the total amount of support *pro rata* among such carriers based on their relative reductions in support. For example, assume that a state has three carriers, Carrier A,

Carrier B, and Carrier C. Assume further that, under the present mechanism, Carrier A receives $150, Carrier B receives $125, and Carrier C receives $100. Also assume that, under the forward looking mechanism, Carrier A is entitled to $175, Carrier B is entitled to $100, and Carrier C is entitled to $75. The total amount of support indicated by the forward-looking mechanism ($350) is less than the total amount of support under the present mechanism ($375). Therefore, a state-by-state hold-harmless provision would provide an additional $25 of support. Because Carrier B and Carrier C have experienced a combined reduction in support of $50 and Carrier A has experienced no reduction in support, the $25 of hold-harmless support must be allocated between Carrier B and Carrier C. Under our proposal, the hold-harmless support would first be allocated to the carrier experiencing the greater relative reduction in support. Here, Carrier B received 80 percent ($100/$125) of its previous support amount, and Carrier C received 75 percent ($75/$100) of its previous support amount. In order to place Carrier B and Carrier C on equal footing, therefore, the first $5 of the total hold-harmless amount would be allocated to Carrier C, resulting in both Carrier B and Carrier C receiving 80 percent of their previous amount of support. The remaining $20 of support would be allocated *pro rata* between Carrier B and Carrier C so that both carriers receive the same total percentage of the support provided under the present mechanism. Carrier B would receive an additional $11.11 ($125/$225 × $20), for a total of 89 percent ($111.11/$125) of its support under the present mechanism, and Carrier C would receive an additional $8.88 ($100/$225 × $20), for a total of 89 percent ($88.88/$100) of its support under the present mechanism. We believe that this method of allocation allows for an equitable distribution of support in the event that the total state-by-state amount is insufficient to fully hold each carrier harmless. We seek comment on this proposal.

28. In the alternative, we seek specific comment on whether, if we eventually adopt a state-by-state rather than a carrier-by-carrier hold-harmless approach, we should distribute universal service high-cost support directly to the state commissions, rather than to carriers. The Joint Board considered and rejected distributing federal support to the states, rather than directly to carriers, because of the long-standing practice of distributing federal support directly to carriers and the absence of any affirmative evidence in the Act or its legislative history that Congress intended to alter this method of distribution. In addition, commenters that addressed this issue oppose a mechanism that would distribute support to the states. We seek additional comment, however, on whether support should be distributed to the state commissions for allocation among carriers in each state instead of through a federal allocation mechanism, in the event one or more carriers in the state experienced a reduction in support as a result of a state-by-state hold-harmless mechanism.

29. We also seek comment on the relationship between the hold-harmless approaches suggested, and the portability of federal high-cost support. As discussed, we concluded that, consistent with the Joint Board's recommendations and the policy we established in the First *Report and Order,* federal high-cost support should be portable, and available to all eligible telecommunications carriers, regardless of the technology used to provide the supported services. To implement portability, however, we must first determine the amount of support to be ported. Specifically, in the event a competitor wins a customer from an incumbent receiving hold-harmless support, we seek comment on whether the competitor should receive the incumbent's hold-harmless support, or whether the competitor should receive the amount of support determined on a forward-looking basis. Making the hold-harmless amount available to the competitor appears to be more competitively neutral, because both carriers would receive the same amount. However, given that the purpose of the hold-harmless provision is to prevent sudden rate increases by carriers that have grown dependent on current support in designing their rate structures, the hold-harmless amount could represent a windfall to an efficient competitor. While making the forward-looking amount available to the competitor and providing the hold-harmless amount to the incumbent may not be as competitively neutral, it would appear to approximate more closely the amount necessary to support high-cost service in the area. We seek comment on this issue. We encourage commenters to use updated model outputs in framing their comments on the issue of portability.

D. Adjusting Interstate Access Charges To Account for Explicit Support

30. As discussed, we agree with the Joint Board that we have the jurisdiction and statutory obligation to identify any universal service support that is implicit in interstate access charges and, as far as possible, make that support explicit. In this section we seek comment on how we should adjust interstate access charges to offset universal service support that we subsequently identify in interstate access charges and allow carriers to recover through increased support from the new federal mechanism. Because of the role access charges have played in supporting universal service, it is critical to implement changes in the interstate access charge system together with the complementary changes in the federal universal service support mechanism we adopt today. We seek comment on how we should adjust interstate access charges to reflect any increases in federal explicit support provided to non-rural carriers under the new federal mechanism and methodology.

31. The Commission determined in the First Report and Order that non-rural carriers would begin to receive high-cost support on July 1, 1999, based on forward-looking costs, and delayed the implementation of support based on forward-looking costs for rural carriers until at least January 1, 2001. As discussed, more time is needed to verify the models that will determine the forward-looking costs on which the intrastate high-cost support for non-rural carriers will be based. Thus, we are postponing the July 1, 1999, implementation of intrastate high-cost support for non-rural carriers until January 1, 2000. Because these models may also be used to determine levels of implicit support in interstate access charges and the amount of federal support a carrier should receive, this will also delay determination of the interstate high-cost support for non-rural carriers. This section addresses only the question of how to reduce interstate access charges to reflect increased explicit federal support for non-rural carriers that currently flows within the interstate jurisdiction. We will address any necessary interstate access charge reductions for rural carriers at a later date.

32. We tentatively conclude that we should require price cap LECs to reduce their interstate access rates to reflect any increased explicit federal high-cost support they receive. To do otherwise would give these carriers a windfall by allowing them to maintain rates that include implicit high-cost support even after the support has been made explicit. We tentatively conclude that the carriers should make an exogenous downward adjustment to the common line basket. In the short run, this will reduce the CCLC and multi-line PICCs.

In the longer run, this adjustment will keep down scheduled increases for the primary residential and single-line business PICC. The PICC is often passed on to the end user by the IXC that pays it. This approach will serve the dual purpose of eliminating implicit support and holding down per-line rates associated with primary residential and single-line business lines. This will, therefore, help keep basic telephone service affordable and comparable.

33. We seek comment on whether we should require price cap LECs to reflect explicit high-cost support by making the downward exogenous adjustment to their common line basket's price cap indexes (PCIs). Alternatively, we seek comment on whether we should instead permit incumbent LECs to reduce their access rates to offset the explicit support by lowering their common line charges on a geographically deaveraged basis. For example, we could reduce implicit support resulting from geographic averaging by permitting carriers to lower their SLCs on a deaveraged basis, reducing SLCs in low-cost areas, while maintaining the SLC caps in our rules for high-cost areas. We seek comment on whether we should allow carriers to determine where they lower their rates under such an approach. Alternatively, we seek comment on whether we or the state commissions should delineate the permissible areas for deaveraged reductions, and how those areas should be determined. We could, for example, require the deaveraging to occur based on the same rate zones that some states have already identified pursuant to our deaveraging requirement for the pricing of unbundled network elements and interconnection. We also seek comment on which common line rate elements should be deaveraged.

34. We also seek comment on whether price cap carriers should also reduce their base factor portion (BFP). For carriers that calculate their SLC based on the BFP, this would result in reductions to the SLC for multi-line business and non-primary residential lines, which would be offset by smaller reductions in CCL and multi-line PICC rates. We also seek comment on whether a downward adjustment to the incumbent LECs' PCIs should be across-the-board instead of targeted to the common line basket.

35. We also seek comment on whether we should reduce the SLC on primary residential and single-line business lines. Although such a reduction is an option, it would not further the goal of reducing implicit interstate support, unless it was targeted to low-cost wire centers within a study area. The current SLC cap of $3.50 per month on primary residential and single-line business lines already creates interstate implicit support for most of those lines. A general reduction in the SLC would increase the need for such support and would not reduce support implicit in the CCLC and the multi-line PICC. Although, at the end of the transition initiated by our *Access Charge Reform Order,* 62 FR 31040 (June 6, 1997), the combination of the SLC and PICC assessed to each line will permit carriers to recover the full interstate-allocated portion of their common line costs from the line that caused those costs to be incurred, any reduction in the SLC would delay this transitional process and result in a higher PICC on primary residential and single-line business lines. We do not expect any reductions to the common line basket to reduce common-line recovery below $3.50 per month, per line, but we seek comment on whether we should limit any reductions to the common line basket to the amount needed to reduce common line revenues per line to $3.50. We seek comment on how the remainder of the adjustment should be applied if that were to occur.

36. We tentatively conclude that non-rural rate-of-return LECs should apply additional interstate explicit high-cost support revenues to the CCL element, thus reducing CCL charges. We seek comment on this tentative conclusion. We also seek comment on whether these revenues should instead be deducted from the BFP, which would reduce the SLC for multi-line business lines and diminish the reduction to the CCLC. Furthermore, as noted, the Joint Board set forth certain guidelines that the Commission should follow when taking action to remove implicit support from interstate access rates, including: (1) there should be a corresponding dollar-for-dollar reduction in interstate access charges as implicit support in interstate access rates is replaced with explicit support; (2) any reductions in interstate access rates should benefit consumers; (3) universal service should bear no more than a reasonable share of joint and common costs; and (4) reasonable comparability should not be jeopardized, and neither consumers in general nor particular classes of consumers should be harmed. We seek comment on whether our proposals in this section conform to the Joint Board's guidelines.

37. Finally, we recognize that some proposals for access reform may have the added benefit of directing more federal support to high-cost areas, relative to low-cost areas. For example, some parties have suggested using the cost proxy model as the basis for converting the excess of access rates above the forward-looking cost of access from implicit support to geographically deaveraged support amounts. These support amounts would be both explicit and portable to competing LECs that serve the lines to which these support amounts would be assigned. It would appear that these proposals could potentially serve to direct more federal support to high-cost areas, relative to low-cost areas, much like we believe the use of the cost model in conjunction with an appropriate benchmark could direct such additional support to high-cost areas. We seek comment on whether and how adoption of an access reform proposal that would direct more federal support to high-cost areas, relative to low-cost areas, should affect our calculation of high-cost universal service support, if at all. To the extent possible, parties commenting on this issue should address specific access reform proposals that could be used in this manner to reform both high-cost universal service and access charges simultaneously.

II. Procedural Matters

A. Regulatory Flexibility Act

38. The Regulatory Flexibility Act (RFA) requires a Regulatory Flexibility Act analysis whenever an agency publishes a notice of proposed rulemaking, or promulgates a final rule, unless the agency certifies that the proposed or final rule will not have ''a significant economic impact on a substantial number of small entities,'' and includes the factual basis for such certification. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. The Small Business Administration (SBA) defines a ''small business concern'' as an enterprise that (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the SBA.

39. We conclude that neither an Initial Regulatory Flexibility Analysis nor a Final Regulatory Flexibility Analysis are required here because the foregoing *FNPRM* seeks comment only on the mechanisms that the Commission should use to provide high-cost support to non-rural LECs. Non-rural LECs generally do not fall within the SBA's definition of a small business concern because they are usually large corporations, affiliates of such corporations, or dominant in their field of operations. Therefore, we certify, pursuant to the RFA, 5 U.S.C. 605(b),

that the proposals contained in the *FNPRM,* will not have a significant economic impact on a substantial number of small entities. The Office of Public Affairs, Reference Operation Division, will send a copy of this certification, along with this *FNPRM,* to the Chief Counsel for Advocacy of the SBA in accordance with the RFA, see 5 U.S.C. 605(b), and to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, see 5 U.S.C. 801(a)(1)(A). In addition, this certification, as well as this FNPRM (or summaries thereof), will be published in the **Federal Register**.

B. Filing Comments

40. Pursuant to Sections 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments on or before July 2, 1999, and reply comments on or before July 16, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. See Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24,121 (1998).

41. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address.'' A sample form and directions will be sent in reply.

42. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.; TW–A325; Washington, D.C. 20554.

43. Parties who choose to file by paper should also submit their comments on diskette. These diskettes should be submitted to: Sheryl Todd, Accounting Policy Division, Common Carrier Bureau, Federal Communications Commission, 445 Twelfth Street, S.W., Room 5–A523, Washington, DC 20554. Such a submission should be on a 3.5 inch diskette formatted in an IBM compatible format using WordPerfect 5.1 for Windows or compatible software. The diskette should be accompanied by a cover letter and should be submitted in ''read only'' mode. The diskette should be clearly labelled with the commenter's name, proceeding, including the lead docket number in this case (CC Docket No. 96–45), type of pleading (comment or reply comment), date of submission, and the name of the electronic file on the diskette. The label should also include the following phrase ''Disk Copy—Not an Original.'' Each diskette should contain only one party's pleadings, preferably in a single electronic file. In addition, commenters must send diskette copies to the Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, N.W., Washington, D.C. 20037.

III. Ordering Clauses

44. Accordingly, it is ordered that, pursuant to the authority contained in sections 1–4, 201–205, 218–220, 214, 254, 303(r), 403, and 410 of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201–205, 218–220, 214, 254, 303(r), 403, and 410, the Further Notice of Proposed Rulemaking is adopted. The collections of information contained within are contingent upon approval by the Office of Management and Budget.

45. It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 36

Reporting and recordkeeping requirements, Telephone.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–14699 Filed 6–8–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 052699A]

Magnuson-Stevens Act Provisions; General Provisions for Domestic Fisheries; Applications for Experimental Fishing Permits (EFPs)

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

ACTION: Notification of experimental fishery proposal; request for comments.

SUMMARY: NMFS announces that the Regional Administrator, Northeast Region, NMFS, is considering approval of an experimental fishing proposal. EFPs would allow vessels to conduct operations otherwise restricted by regulations governing the Northeast Multispecies Fishery, and would exempt vessels from days-at-sea (DAS), mesh sizes, and other gear restrictions. The experimental fishery proposal is for a comparative mesh selectivity study in waters south of Rhode Island Sound, South of Nantucket Island, North of Cape Cod Bay, and South of Long Island from Montauk to Shinnecock. Regulations under the Magnuson-Stevens Fishery Conservation and Management Act provisions require publication of this document to provide interested parties the opportunity to comment on the proposed experimental fishery.

DATES: Comments on this notification must be received by June 24, 1999.

ADDRESSES: Comments should be sent to Jon Rittgers, Acting Regional Administrator, NMFS, Northeast Regional Office, 1 Blackburn Drive, Gloucester, MA 01930. Mark on the outside of the envelope ''Comments on Proposed Experimental Fisheries.''

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Management Specialist, 978–281–9244.

SUPPLEMENTARY INFORMATION: The initial experimental fishery proposal was submitted by the Rhode Island Department of Environmental Management in conjunction with the University of Rhode Island (URI) on March 15, 1999. It was later revised to include additional areas, species, and codend mesh sizes on May 12, 1999. Their proposal is for a comparative mesh selectivity experiment that would investigate mesh selectivity functions of three square codend mesh sizes—5.5

inch (14 cm), 6 inch (15.2 cm) and 6.5 inch (16.5 cm). The study will be conducted using two Rhode Island commercial fishing vessels, as well as representatives from the Massachusetts Division of Marine Fisheries, two Massachusetts commercial fishermen, two New York commercial fishermen, and participation by the New York Department of Environmental Protection. Sea trials will be conducted to quantify the mesh selectivity differences and comparative catch rates of winter flounder (*Pleuronectes americanus*), summer flounder (*Paralichthys dentatus*), yellowtail flounder (*Limanda ferrugina*), American plaice (*Hippoglossoides platessoides*), grey sole (*Glyptocephalus cynoglossus*), and windowpane flounder (*Lophopsetta maculata*). The experiment will test both 6.5 inch (16.5 cm) codend and 5.5 inch (14 cm) codend square mesh (treatments) against 6 inch (15.2 cm) codend square mesh (control) nets, including the use of mesh liners (currently prohibited under the regulations), by switching the control and treatment between the participating vessels on alternating tows. This alternating sampling sequence between two different vessels is designed to show how vessel power and size differences may contribute to mesh selectivity differences.

URI scientific personnel will monitor all cruise operations. All undersized fish will be returned to the sea as soon as possible. All other catch not used for sampling purposes will be landed and sold. The proposed operations will occur over a 20– to 24-day period to begin on or about July 15, 1999, through October 31, 1999.

EFPs would be issued to the participating vessels in the experiments in accordance with the conditions stated, and will exempt vessels from the mesh size, DAS, and other gear restrictions of the Northeast Multispecies Fishery Management Plan during the specified time frame.

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

Dated: June 2, 1999.

Gary C. Matlock,

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

[FR Doc. 99–14644 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 110
Wednesday, June 9, 1999

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.

ADVISORY COMMISSION ON ELECTRONIC COMMERCE

Meetings

The Advisory Commission on Electronic Commerce was established by Public Law 105–277 to conduct a thorough study of federal, state and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities and report its findings and recommendations to the Congress no later than April 21, 2000. Notice is hereby given, that the Advisory Commission on Electronic Commerce will hold meetings on June 21, 1999 from 4:00 p.m. to 5:00 p.m. at the Williamsburg Inn, East Lounge, Colonial Williamsburg, Williamsburg, Virginia and on June 22, 1999 from 8:30 a.m. to 5:00 p.m. at the College of William & Mary, University Center, located between Richmond and Jamestown Roads, Williamsburg, VA. The meetings of the Commission shall be open to the public. The proposed agenda for June 21 will address organization procedures for the Commission. The proposed agenda for June 22 includes presentations and panel discussions of relevant, background material on the issues related to the Commission's mission.

Records shall be kept of all Commission proceedings and shall be available for public inspection given adequate notice at the Commission's offices 2500 Wilson Boulevard, Arlington, VA 22201–3834.

The Commission shall consist of 19 members appointed for the life of the Commission. The membership shall be appointed as follows:

(a) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(b) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a State that does not impose an income tax.).

(c) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of the following:

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

The Members of the Commission are as follows: (chairman designate) James S. Gilmore, III, Governor, Commonwealth of Virginia; Dean F. Andal, Chairman, California Board of Equalization, Michael Armstrong, Chief Executive Officer, AT&T; Joseph H. Guttentag, Deputy Assistant Secretary for International Tax Affairs, U.S. Department of the Treasury; Paul C. Harris, Sr., Delegate, Virginia House of Delegates; Delna Jones, Commissioner, Washington County, Oregon; Ron Kirk, Mayor, city of Dallas; Michael O. Leavitt, Governor, State of Utah; Gene N. LeBrun, President, National Conference of Commissioners on Uniform State Law; Gary Locke; Governor, State of Washington; Grover Norquist, President, Americans for Tax Reform; Robert Novick, Counselor, U.S. Trade Representative; Richard Parsons, President, Time Warner, Inc.; Andrew Pincus, General Counsel, U.S. Department of Commerce; Robert Pittman, President & Chief Operating Officer, America Online; David Pottruck, President & co-Chief Executive Officer, Charles Schwab and Company; John W. Sidgmore, Vice Chairman & Chief Operating Officer, MCI Worldcom; Stan Sokul, Association of Interactive Media; Theodore Waitt, President & Chief Executive Officer, Gateway, Inc.

Heather Rosenker,

Executive Director.

[FR Doc. 99–14691 Filed 6–8–99; 8:45 am]

BILLING CODE 0000–00–M

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

June 2, 1999.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20503 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of their submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: CCC Cotton Loan Program Regulations—7 CFR Part 1427.

OMB Control Number: 0560–0074.

Summary of Collection: The Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) provides the Farm Service Agency (FSA) on behalf of the Secretary of Agriculture authority to

make available nonrecourse marketing assistance loans on 1996 through 2002 crops of upland or Extra Long Staple (ELS) cotton. Loans provide eligible producers with interim financing on their eligible production and facilitate the orderly distribution of cotton throughout the year. Producers requesting Commodity Credit Corporation cotton (CCC) loans must provide information regarding collateral pledged for loan and meet eligibility requirements which are basic to all commodity loan programs. FSA will collect information using several forms.

Need and Use of the Information: FSA will collect information to determine loan quantities and principal amounts to administer the program and verify commodity and producer eligibility. Without the information from the producer, CCC could not carry out the statutory loan provisions.

Description of Respondents: Farms; business or other for-profit.

Number of Respondents: 85,000.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 11,002.

Agricultural Marketing Service

Title: Grain News Reports and Molasses Market News.

OMB Control Number: 0581–0005.

Summary of Collection: The Agricultural Marketing Act of 1946 (7 U.S.C. 1621) Section 203(g), directs and authorizes the collection and dissemination of marketing information including adequate outlook information, on a market area basis, for the purpose of anticipating and meeting consumer requirements aiding in the maintenance of farm income and to bring about a balance between production and utilization. Livestock and Grain News provides a timely exchange of accurate and unbiased information on current marketing conditions (supply, demand, prices, trends, movement, and other information) affecting trade in livestock, meats, grain, and wool. Administered by the U.S. Department of Agriculture's Agricultural Marketing Service (AMS), this nationwide market news program is conducted in cooperation with approximately 30 state departments of agriculture. The up-to-the-minute reports collected and disseminated by professional market reporters are intended to provide both buyers and sellers with the information necessary for making intelligent, informed marketing decisions, thus putting everyone in the marketing system in an equal bargaining position. AMS will collect information using market new reports.

Need and Use of the Information: AMS will collect information on various aspects of the grain and feed industry in determining available supplies and current pricing. Industry traders use market news information to make marketing decisions on when and where to buy sell. In addition, the reports are used by other Government agencies to evaluate market conditions an calculate price levels used for the Farmer-owned Reserve Program. The reports must be collected and disseminated by an impartial third party.

Description of Respondents: Business or other for-profit; Individuals or households; Farms, Federal Government.

Number of Respondents: 200.

Frequency of Responses: Reporting: On occasion; weekly; monthly.

Total Burden Hours: 368.

Office of the Secretary, White House Liaison

Title: Advisory Committee Membership Background Information.

OMB Control Number: 0505–0001.

Summary of Collection: Section 1804 of the Food and Agriculture Act of 1977 (7 U.S.C. 2281, *et seq.*) requires the Department to provide information concerning advisory committee members principal place of residence, persons or companies by whom they are employed, and other major sources of income. Board members under each program are appointed by the Secretary. Some of the information contained on Form AD–755 is used by the Department to conduct background clearances of prospective board members as required by departmental regulations. This clearance is required by all committee members who are appointed by the Secretary. The agencies, in conjunction with the Office of the Secretary, White House Liaison, will collect information using Form AD–755, Advisory Committee Membership Background Information.

Need and Use of the Information: The agencies and the Office of the Secretary, White House Liaison will collect information on the background of advisory committee nominees to make sure there are no delinquent loans to the United States Department of Agriculture, USDA, as well as making sure they have no previous record that could be a negative reflection to USDA. The information obtained from the form is also used in the compilation of an annual report to Congress. Failure of the Department to provide this information would require the Secretary to terminate the pertinent advisory committee.

Description of Respondents: Individuals or households.

Number of Respondents: 1,631.

Frequency of Responses: Reporting: Monthly.

Total Burden Hours: 815.5.

Economic Research Service

Title: Agriculture Market Information Survey.

OMB Control Number: 0536–New.

Summary of Collection: U.S.C. 7 Section 1622 directs the Secretary of Agriculture to conduct, assist, and foster research investigation and experimentation to determine the best methods of processing, preparation for market, packaging, handling, transporting, storing, distributing, and marketing agricultural products. Providing economic information on agricultural/commodity market conditions is a longstanding and important mission of USDA. The mission of the Economic Research Service (ERS) is to provide economic information and analyses to improve public and private decisions on agriculture, food, natural resources, and rural development issues. In carrying out its mission, ERS plays a lead analytic and dissemination role in the USDA market outlook program. To improve the quality and delivery of information to its customers, and to provide input for program choices forced on ERS by declining resources, ERS has been attempting to assess whether and how the needs, types, and sources of information have changed for its customers. Based on the results of a series of ERS customer focus groups, a survey of ERS market outlook staff, interviews with USDA program administrators, and discussions with commodity and trade association staff, the ERS has concluded that the ''market'' for economic information on commodity markets—the need for, availability of, and access to economic information on agricultural markets—has changed significantly during the last decade and will continue to change in the future. To answer these questions and to obtain a better understanding of the forces for change in the ''market'' for economic information on agricultural/commodity markets, ERS decided to undertake a study to determine the value placed on different types of agricultural market information by decision makers in the public and private sectors. The study has two phases: Phase I will focus on public sector and Phase II will focus on private sector users of economic information on agricultural markets. ERS will collect information using a combination of telephone and mail-out surveys.

Need and Use of the Information: ERS will collect information to understand

how markets for economic information on agricultural commodities operate by identifying the primary uses for and sources of this information and by determining the types of information that managers and decision makers in the agribusiness sector value most. The data will be used to evaluate the role of USDA in the information market by examining how USDA information is used, where it overlaps with that of other information suppliers, where it is unique, and how it is valued by market participants. The purpose of the data is to develop insights into the most effective role for USDA, and particularly for ERS, in the provision of economic information on agricultural markets.

Description of Respondents: Farms; Business or other for-profit.

Number of Respondents: 1010.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 271.

Nancy B. Sternberg,

Departmental Clearance Officer.

[FR Doc. 99–14541 Filed 6–8–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Solicitation for Membership to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill 10 vacancies on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is June 25, 1998.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 (The Farm Bill) authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 30 members, each representing a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed in September 1996 with staggered 30 terms of 1, 2, and 3 years.

As a result of the staggered appointments, the terms for 10 of the 30 members who represent 10 specific categories will expire September 30, 1999. Nominations for a 3-year appointment for all 10 of the vacant categories are sought. Nominees will be carefully reviewed for their broad expertise, leadership, and relevancy to a category. The 10 vacancies are:

B. Farm Cooperatives

D. Plant Commodity Producers

G. National Aquaculture Associations

J. National Food Science Organizations

L. National Nutritional Science Societies

M. Land-Grant Colleges and Universities—1862

R. Scientific Community not closely associated with Agriculture

AA. An agency of USDA lacking Research Capabilities

BB. Research agency of the Federal Government other than USDA

DD. National Organization directly concerned with REE—

Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests. Nominations for one individual who fits several of the categories listed above, or for more than one person who fits one category will be accepted. Please indicate the specific membership category for each nominee. Each nominee must fill out a form AD–755, ''Advisory Committee Membership Background Information'' (which can be obtained from the contact person below) and will be vetted before selection. Send nominatee's name, resume, and their completed AD–755 to the Office of the Advisory Board, Research, Education, and Economics, Room 3918 South Building, Department of Agriculture, Washington, D.C. 20250–2255 no later than June 25, 1998.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

Done at Washington, D.C. this 27th day of May 1998.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 99–14540 Filed 6–8–99; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Special Cotton Import Quota Announcements Numbers 1 Through 10

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Ten special import quotas for upland cotton equal are established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991, and Presidential Proclamation 6948 of October 29, 1996. The quotas are referenced as the Commodity Credit Corporation Special Cotton Import Quota Announcement Numbers 1 through 10 and are set forth in subheadings 9903.52.01 through 9903.52.10, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: Each of the special quotas is subject to an established date and applies to upland cotton purchased not later than 90 days from the established date and entered into the United States not later than 180 days from the established date. Dates applicable to each individual special import quota are contained in this notice under **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Farm Service Agency, United States Department of Agriculture, STOP 0518, 1400 Independence Avenue, S.W., Washington, DC 20013–0518 or call (202) 720–3452.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1–3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 3.00 cents per pound. This condition was met for 10 consecutive 10-week periods.

Therefore, quotas referenced as Special Cotton Import Quota Announcement Numbers 1 through 10 are established subject to the following dates and quantities.

Quota 1 is established as of March 4, 1999, and applies to upland cotton purchased not later than June 1, 1999, and entered into the United States not later than August 30, 1999. The quota amount, 42,549,915 kilograms (93,806,582 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—November 1998 through January 1999.

Quota 2 is established as of March 11, 1999, and applies to upland cotton purchased not later than June 8, 1999, and entered into the United States not later than September 6, 1999. The quota amount, 42,549,915 kilograms (93,806,582 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—November 1998 through January 1999.

Quota 3 is established as of March 18, 1999, and applies to upland cotton purchased not later than June 15, 1999, and entered into the United States not later than September 13, 1999. The quota amount, 42,549,915 kilograms (93,806,582 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—November 1998 through January 1999.

Quota 4 is established as of March 25, 1999, and applies to upland cotton purchased not later than June 22, 1999, and entered into the United States not later than September 20, 1999. The quota amount, 42,549,915 kilograms (93,806,582 pounds), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—November 1998 through January 1999.

Quota 5 is established as of April 1, 1999, and applies to upland cotton purchased not later than June 29, 1999, and entered into the United States not later than September 27, 1999. The quota amount, 42,949,885 kilograms (197,267 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—December 1998 through February 1999.

Quota 6 is established as of April 8, 1999, and applies to upland cotton purchased not later than July 6, 1999, and entered into the United States not later than October 4, 1999. The quota amount, 42,949,885 kilograms (197,267 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—December 1998 through February 1999.

Quota 7 is established as of April 15, 1999, and applies to upland cotton purchased not later than July 13, 1999, and entered into the United States not later than October 11, 1999. The quota amount, 42,949,885 kilograms (197,267 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—December 1998 through February 1999.

Quota 8 is established as of April 22, 1999, and applies to upland cotton purchased not later than July 20, 1999, and entered into the United States not later than October 18, 1999. The quota amount, 42,949,885 kilograms (197,267 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—December 1998 through February 1999.

Quota 9 is established as of April 29, 1999, and applies to upland cotton purchased not later than July 27, 1999, and entered into the United States not later than October 25, 1999. The quota amount, 42,949,885 kilograms (197,267 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—December 1998 through February 1999.

Quota 10 is established as of May 6, 1999, and applies to upland cotton purchased not later than August 3, 1999, and entered into the United States not later than November 1, 1999. The quota amount, 43,005,726 kilograms (197,524 bales), is equal to 1 week's consumption of upland cotton by domestic mills at the seasonally-adjusted average rate of the most recent 3 months for which data are available—January 1999 through March 1999.

Each special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to extra long staple cotton.

Authority: Sec. 136, Pub. L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on May 28, 1999.

Parks Shackelford,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–14530 Filed 6–8–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF COMMERCE

Census Bureau

The American Community Survey (ACS); Proposed Information Collection

ACTION: Proposed collection; Comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paper work and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(C)(2)(A)).

DATES: Written comments must be submitted on or before August 9, 1999.

ADDRESSES: Direct all written comments to Linda Englemeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 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 Cynthia Taeuber, Bureau of the Census, Demographic Statistical Methods Division, Washington, DC 20233. Her telephone number is (301) 457–2899.

SUPPLEMENTARY INFORMATION:

I. Abstract

The American Community Survey, which the Census Bureau initiated in November 1995, is a continuing full-scale operation of a continuous measurement system. Continuous measurement is a reengineering of the method for collecting the housing and socio-economic data traditionally collected in the decennial census. By selecting a new sample of addresses every month, the American Community Survey provides data every year instead of once in ten years. It blends the strength of small-area estimation from the decennial census with the quality and timeliness of continuing surveys through its large monthly survey.

The Census Bureau began the American Community Survey in four sites, added new sites each of the last three years, and presently conducts the American Community Survey in 31 sites. The expansion to 31 sites in November 1998 began the comparison phase of the continuous measurement system.

This comparison phase of the American Community Survey is designed primarily to collect information necessary to understand differences between estimates derived from the American Community Survey and the Census 2000 long form. This phase will help the Census Bureau and the Federal Government better understand the costs and benefits of a continuous measurement system, and make possible eliminating the long form in Census 2010. The content of the American Community Survey during the comparison phase is basically the same as the content of the Census 2000 long form. There are some differences to reflect the fact that the American Community Survey is conducted every month.

In November 1999, the Census Bureau plans to continue the comparison phase in the 31 sites, and to begin a three-year comparison phase on a national level as part of the decennial program. For this comparison, the Census Bureau is conducting the American Community Survey in counties with a broad mix of geographic and demographic characteristics.

In addition to selecting a sample of residential addresses, the Census Bureau will select a sample of group quarters (GQs) and conduct the American Community Survey with a sample of persons within the GQs. (To prevent duplication with Census 2000, the Census Bureau will not conduct American Community Survey interviews in group quarters during 2000.) The Census Bureau will also conduct a reinterview operation with a small sample of households to monitor the quality of data collected during Computer Assisted Personal Interviewing (CAPI).

II. Method of Collection

The Census Bureau will mail questionnaires to households selected for the American Community Survey. For households that do not return questionnaires, Census Bureau staff will attempt to conduct interviews via Computer Assisted Telephone Interviewing (CATI) and CAPI.

For some GQs, we will mail questionnaires to respondents. For other types of GQs, Field Representatives will either help respondents complete questionnaires or leave questionnaires and ask respondents to return them by mail.

Census Bureau staff will conduct reinterviews using CAPI.

III. Data

OMB Number: 0607–0810.

Form Number: ACS–1, ACS–1(GQ), ACS–3(GQ), ACS–290.

Type of Review: Regular.

Affected Public: Individuals and households.

Estimated Number of Respondents: During the period of November 1999 through October 2002, we plan to contact the following number of respondents: 2,554,850 households; 112,000 persons in group quarters; and 25,000 households in reinterview.

Estimated Time Per Response: Estimates are 38 minutes per household, 15 minutes per person in group quarters, and 10 minutes per household in the reinterview sample.

Estimated Total Annual Burden Hours: The estimate is an annual average of 560,000 burden hours.

Estimated Total Annual Cost: Except for their time, there is no cost to respondents.

Respondent Obligation: Mandatory.

Authority: Title 13, United States Code, Section 182.

IV. Request 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 cost) 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 collections techniques or others forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 4, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–14592 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

President's Export Council Subcommittee on Encryption; Open Meeting

The President's Export Council Subcommittee on Encryption (PECSENC) will meet on June 25, 1999, at the U.S. Department of Commerce, Herbert C. Hoover Building, Room 3407, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC. The meeting will begin at 9 a.m. and is scheduled to adjourn at 3 p.m. The Subcommittee provides advice on matters pertinent to policies regarding commercial encryption products.

Open Session: 9 a.m.–3 p.m.

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Update on Bureau of Export Administration initiatives.
4. Issue briefings.
5. Open discussion.

The meeting is open to the public and a limited number of seats will be available. Reservations are not required. To the extent time permits, members of the public may present oral statements to the PECSENC. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to PECSENC members, the PECSENC suggests that public presentation materials or comments be forwarded before the meeting to the address listed below:

Ms. Lee Ann Carpenter, Advisory Committees MS: 3876, U.S. Department of Commerce, 15th St. & Pennsylvania Ave, NW, Washington, DC 20230

For more information, contact Ms. Carpenter on (202) 482–2583.

Dated: June 3, 1999.

Iain S. Baird,

Deputy Assistant Secretary.

[FR Doc. 99–14546 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping of Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping

countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation an interested party as defined in section 771(9) of the Tariff of 1930, as amended, may request, in accordance with § 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of June 1999, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in June for the following periods:

	Period
Antidumping Duty Proceedings	
BELGIUM: Sugar A–423–077	6/1/98–5/31/99
CANADA:	
Oil Country Tubular Goods A–122–506	6/1/98–5/31/99
Red Raspberries A–122–401	6/1/98–5/31/99
FRANCE:	
Large Power Transformers A–427–030	6/1/98–5/31/99
Sugar A–427–078	6/1/98–5/31/99
GERMANY:	
Industrial Belts, Except Synchronous & V Belts A–428–802	6/1/98–5/31/99
Precipated Barium Carbonate A–428–061	6/1/98–5/31/99
Sugar A–428–082	6/1/98–5/31/99
HUNGARY: Tapered Roller Bearings A–437–601	6/1/98–5/31/99
ITALY:	
Large Power Transformers A–475–031	6/1/98–5/31/99
Synchronous and V-Belts A–475–802	6/1/98–5/31/99
JAPAN:	
Engineered Process Gas Turbo-Compressor Systems A–588–840	6/1/98–5/31/99
Fishnetting of Man-Made Fibers A–588–029	6/1/98–5/31/99
Forklift Trucks A–588–703	6/1/98–5/31/99
Grain-Oriented Electrical Steel A–588–831	6/1/98–5/31/99
Industrial Belts A–588–807	6/1/98–5/31/99
Large Power Transformers A–588–032	6/1/98–5/31/99
Nitrile Rubber A–588–706	6/1/98–5/31/99
NEW ZEALAND: Kiwifruit A–614–801	6/1/98–5/31/99
REPUBLIC OF KOREA: PET Film A–580–807	6/1/98–5/31/99
ROMANIA: Tapered Roller Bearings A–485–602	6/1/98–5/31/99
RUSSIA: Ferrosilicon A–821–804	6/1/98–5/31/99
SINAPORE: V-Belts A–559–803	6/1/98–5/31/99
SOUTH AFRICA: Furfuryl Alcohol A–791–802	6/1/98–5/31/99
SWEDEN: Stainless Steel Plate A–401–040	6/1/98–5/31/99
TAIWAN:	
Carbon Steel Plate A–583–080	6/1/98–5/31/99
Oil Country Tubular Goods A–583–505	6/1/98–5/31/99
Stainless Steel Butt-Weld Pipe Fittings A–583–816	6/1/98–5/31/99
Certain Helical Spring Lock Washers A–583–820	6/1/98–5/31/99
THE NETHERLANDS: Aramid Fiber A–421–805	6/1/98–5/31/99
THE PEOPLE'S REPUBLIC OF CHINA:	
Furfuryl Alcohol A–570–835	6/1/98–5/31/99
Silicon Metal A–570–806	6/1/98–5/31/99
Sparklers A–570–804	6/1/98–5/31/99
Tapered Roller Bearings A–570–601	6/1/98–5/31/99
VENEZUELA: Ferrosilicon A–307–807	6/1/98–5/31/99
Countervailing Duty Proceedings	
ITALY: Grain-Oriented Electrical Steel C–475–812	1/1/98–12/31/98
Suspension Agreements	
None.	

In accordance with § 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a review (Department of Commerce Regulations, 62 FR 27295, 27424 (May 19, 1997)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one

country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with § 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of June 1999. If the Department does not receive, by the last day of June 1999, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: June 4, 1999.

Bernard R. Carreau,

Deputy Assistant Secretary for Group II, AD/CVD Enforcement.

[FR Doc. 99–14629 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 051899B]

Marine Mammals; Scientific Research Permit (PHF# 945–1499–00)

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, AK 99826, has been issued a permit to take three species of cetaceans for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Alaska Region, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907/586–7012).

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak, 301/713–2289.

SUPPLEMENTARY INFORMATION: On April 8, 1999, notice was published in the Federal Register (64 FR 17146) that a request for a scientific research permit to take (harass) up to 200 humpback whales (*Megaptera novaeangliae*), 20 minke whales (*Balaenoptera acutorostrata*), and 75 killer whales (*Orcinus orca*) annually for scientific research purposes during observational, photo-identification, prey assessment and acoustic monitoring activities, and collection of sloughed skin samples for export to New Zealand. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222 - 226).

Issuance of this permit, as required by the ESA, was based on a finding that such permit (1) was applied for in good faith, (2) will not operate to the disadvantage of the endangered species which is the subject of this permit, and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 3, 1999.

Jeannie K. Drevenak,

Acting Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–14643 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 17 June 1999 at 10:00 AM in the Commission's offices at the National Building Museum (Pension Building), Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001. Items of discussion will include designs for projects affecting the appearance of Washington, DC, including buildings and parks.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2200. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 1 June 1999.

Charles H. Atherton,

Secretary.

[FR Doc. 99–14623 Filed 6–8–99; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in India

June 3, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port, call (202) 927–5850, or refer to the U.S. Customs website at http://www.customs.ustreas.gov. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

The current limits for certain categories are being adjusted, variously, for swing, carryforward and carryforward used.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 63 FR 71096, published on December 23, 1998). Also see 63 FR 68247, published on December 10, 1998.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 3, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 4, 1998, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man–made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in India and exported during the twelve-month period which began on January 1, 1999 and extends through December 31, 1999.

Effective on June 9, 1999, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
335/635	629,148 dozen.
336/636	1,083,264 dozen.
338/339	3,937,332 dozen.
340/640	2,277,335 dozen.
341	4,795,987 dozen of which not more than 2,827,360 dozen shall be in Category 341–Y [2].
342/642	1,065,737 dozen.
351/651	308,068 dozen.
369–S [3]	741,241 kilograms.
647/648	762,698 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1998.

[2] Category 341–Y: only HTS numbers 6204.22.3060, 6206.30.3010, 6206.30.3030 and 6211.42.0054.

[3] Category 369–S: only HTS number 6307.10.2005.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc.99–14591 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Exemption of Undeliverable Textile and Apparel Products From Quota and Visa Requirements

June 3, 1999.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs exempting undeliverable textile and apparel products from quota and visa requirements.

EFFECTIVE DATE: June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Brian F. Fennessy, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 11651 of March 3, 1972, as amended.

Directives from the chairman of the Committee for the Implementation of Textile Agreements (CITA) to the U.S. Customs Service establishing limits and visa requirements for textile and apparel products typically address the entry for consumption and withdrawal from warehouse for consumption of these products. General Note 16(e) of the Harmonized Tariff Schedule of the United States and U.S. Customs Service regulation 141.4(c) (19 CFR 141.4(c)) provide that ''undeliverable articles,'' i.e., articles exported from the United States that are returned within 45 days after exportation, that have not left the custody of the carrier or foreign customs service, and that meet the other requirements of those provisions, are exempt from entry requirements. Therefore, textile and apparel products that meet the requirements of General Note 16(e) and 19 CFR 141.4(c) are not subject to textile and apparel quota and visa requirements.

Effective on June 9, 1999, Customs is directed to exempt undeliverable textile and apparel products that meet the requirements of General Note 16(e) and 19 CFR 141.4(c) from textile and apparel quota and visa requirements, regardless of date of exportation from the United States or the country of origin. This directive shall apply only to articles that were previously entered for consumption or withdrawn from warehouse for consumption.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

June 3, 1999.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Directives from the chairman of the Committee for the Implementation of Textile Agreements (CITA) to the U.S. Customs Service establishing limits and visa requirements for textile and apparel products typically address the entry for consumption and withdrawal from warehouse for consumption of these products. General Note 16(e) of the Harmonized Tariff Schedule of the United States and U.S. Customs Service regulation 141.4(c) (19 CFR 141.4(c)) provide that ''undeliverable articles,'' i.e., articles exported from the United States that are returned within 45 days after exportation, that have not left the custody of the carrier or foreign customs service, and that meet the other requirements of those provisions, are exempt from entry requirements. Therefore, textile and apparel products that meet the requirements of General Note 16(e) and 19 CFR 141.4(c) are not subject to textile and apparel quota and visa requirements.

Effective on June 9, 1999, Customs is directed to exempt undeliverable textile and apparel products that meet the requirements of General Note 16(e) and 19 CFR 141.4(c) from textile and apparel quota and visa requirements, regardless of date of exportation from the United States or the country of origin. This directive shall apply only to articles that were previously entered for consumption or withdrawn from warehouse for consumption.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 99–14590 Filed 6–8–99; 8:45 am]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Meeting Notice

TIME AND DATE: June 16, 1999, Wednesday, 10:00 a.m.

LOCATION: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

Children's Sleepwear Amendment Revocation

The Commission will consider options related to the proposed revocation of the amendments to the children's sleepwear flammability standards issued in 1996 and 1999.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207, (301) 504–0800.

Dated: June 7, 1999.

Sadye E. Dunn,

Secretary.

[FR Doc. 99–14789 Filed 6–7–99; 2:59 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Defense Information Systems Agency

Membership of the Defense Information Systems Agency Senior Executive Service (SES) Performance Review Board (PRB)

AGENCY: Defense Information System Agency, DOD.

ACTION: Notice of membership of the Defense Information Systems Agency Performance Review Board.

SUMMARY: This notice announces the appointment of the members of the Performance Review Board of the Defense Information Systems Agency. The publication of membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance ratings and performance awards to the Director, DISA.

EFFECTIVE DATE: 24 May, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Carrie K. Bazemore, SES Program Manager, Civilian Personnel Division, Personnel and Administration Directorate, Defense Information Systems Agency (703) 607–4411.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the DISA SES Performance Review Board. They will serve a one-year renewable term, effective 24 May 1999.

Ms. Diann L. McCoy, Deputy Director for C4 and Intelligence Program Integration

Mr. Peter Paulson, Chief, Networks Division

John H. Campbell, Major General, USAF, Vice Director, DISA

Mr. Robert Hutten, Deputy Director for Strategic Plans and Policy

Ms. Dawn Hartley, Chief Technology Officer/Technical Director for Joint Interoperability Engineering Organization

Jack Penkoske,

Chief, Civilian Personnel Division.

[FR Doc. 99–14624 Filed 6–8–99; 8:45 am]

BILLING CODE 3610–05–M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board; Education.

ACTION: Notice of partially closed meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: June 23, 1999.

TIME: June 23—Full Board, 8:30 a.m.–2:00 p.m., (open), 2:00–3:00 p.m., (closed).

LOCATION: University of Michigan, Michigan League, 911 North University Avenue, Ann Arbor, Michigan.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, Suite 825, 800 North Capitol Street, NW, Washington, D.C., 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 412 of the National Education Statistics Act of 1994 (Title IV of the Improving America's Schools Act of 1994) (Pub. L. 103–382).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons. Under P.L. 105–78, the National Assessment Governing Board is also granted exclusive authority over developing the Voluntary National Tests pursuant to contract number RJ97153001.

On June 23, the Governing Board will meet in open session from 8:00 a.m. to 2:00 p.m. Agenda items for this meeting of the Board include discussion on mathematics frameworks; action on National Assessment Design: 2000–2010; action on the NAGB plan and report to Congress on Achievement Levels; and action on NAGB report to Congress on Voluntary National Tests: purpose, definitions, and reporting plans.

From 2:00 to adjournment, 3:00 p.m., the Board will meet in closed session to review the Nominations Committee's recommendations of individuals to fill the upcoming Board vacancies. These discussions will relate solely to the internal personnel rules and practices of an agency and would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (2) and (6) of Section 552b (c) of Title 5 U.S.C.

Summaries of the activity of the closed session and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b (c), will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, Suite #825, 800 North Capitol Street, NW, Washington, DC, from 8:30 a.m. to 5:00 p.m.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 99–14548 Filed 6–8–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: Natioal Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the

Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: June 28, 1999 from 9 a.m. to 4 p.m.

ADDRESSES: Holiday Inn Capitol, 550 C Street, SW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Sandra Newkirk, U.S. Department of Education, 400 Maryland Avenue, SW, Room 3100 ROB #3, Washington, D.C. 20202–5175. Telephone: (202) 708–5750. Individuals who use a telecommunication 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, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1131a–1). The National Board of the Fund is authorize to commend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is open to the public. The National Board will meet on Monday, June 28, from 9:00 a.m. to 4:00 p.m. to provide an overview of the Fund's program status and special initiatives.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format) should notify the contact person listed on this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Records are kept of all Board proceedings, and are available for public inspection to the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets, SW, Washington, D.C. 20202 from the hours of 8 a.m. to 4:30 p.m.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 99–14527 Filed 6–8–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

Recognition of Accrediting Agencies, State Agencies for Approval of Public Postsecondary Vocational Education, and State Agencies for Approval of Nurse Education

AGENCY: National Advisory Committee on Institutional Quality and Integrity, Department of Education (The Advisory Committee).

What Is the Purpose of This Notice?

The purpose of this notice is to invite written comments on accrediting agencies whose applications to the Secretary for initial or renewed recognition will be reviewed at the Advisory Committee meeting to be held on December 6–8, 1999. The notice also invites written comments on agencies submitting interim reports that will be reviewed at the December meeting.

Where Should I Submit My Comments?

Please submit your written comments by July 26, 1999 to Nami Randolph, Chief of the Accrediting Agency Evaluation Branch. You may contact her at the US Department of Education, 7th & D Streets, SW, Room 3915, ROB–3, Washington, DC 20202–5244, telephone: (202) 708–8481. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern time, Monday through Friday.

What Is the Authority for the Advisory Committee?

The National Advisory Committee on Institutional Quality and Integrity is established under Section 114 of the Higher Education Act (HEA), as amended, 20 U.S.C. 1011. One of the purposes of the Advisory Committee is to advise the Secretary of Education on the recognition of accrediting agencies and State approval agencies.

Will This Be My Only Opportunity To Submit Written Comments?

Yes, this notice announces the only opportunity you will have to submit written comments. However, a subsequent **Federal Register** notice will announce the meeting and invite individuals and/or groups to submit requests to make oral presentations before the Advisory Committee on the agencies that the Committee will review. That notice, however, does not offer a second opportunity to submit written comment.

What Happens to the Comments That I Submit?

We will review your comments in response to this notice as part of our evaluation of the agencies' compliance with the Secretary's Criteria for Recognition of Accrediting Agencies. The Criteria are regulations found in 34 CFR part 602.

We will also include your comments in the staff analyses that we present to the Advisory committee at the December 1999 meeting. Therefore, in order for us to give full consideration to the comments we receive, it is important that we receive your comments on all agencies except the council of the Section of Legal Education and Admissions to the Bar of the American Bar Association (ABA) by July 26, 1999. The deadline for receiving comments about the ABA is September 3, 1999 because that cited agency's interim report is not due to us until August 15, 1999. In all instances, your comments about agencies seeking initial or renewed recognition must relate to the Criteria for the Recognition. In addition, your comments for any agency whose interim report is scheduled for review must relate to the issues raised and the Criteria for Recognition in the Secretary's letter that requested the interim report.

What Happens to Comments Received After the Deadline?

We will review comments received after the deadline as complaints. If such comments upon investigation reveal that the accrediting agency is not acting in accordance with the Criteria for Recognition, we will take action either before or after the meeting, as appropriate. We will notify the commentors of the disposition of those comments.

What Agencies Are on the Agenda for the Meeting?

The Secretary of Education recognizes accrediting agencies and State approval agencies for public postsecondary vocational education and nurse education if he determines that they meet the Criteria for Recognition. Recognition means that the Secretary considers the agency to be a reliable authority as to the quality of education offered by institutions or programs that are encompassed within the scope of recognition he grants to the agency. The following agencies will be reviewed

during the December 1999 meeting of the Advisory Committee:

Nationally Recognized Accrediting Agencies

Petition for Initial Recognition

1. Commission on Collegiate Nursing Education (Requested scope of recognition: Baccalaureate Degree Programs in Nursing Education and Graduate Degree Programs in Nursing Education.

Petitions for Renewal of Recognition

1. Accrediting Commission of Career Schools and Colleges of Technology (Requested scope of recognition: the Accreditation of private, postsecondary, non-degree-granting institutions and degree-granting institution, including those granting associate and baccalaureate degrees, that are predominantly organized to educate students for occupation, trade and technical careers).

2. American Psychological Association, Committee on Accreditation (Requested scope of recognition: the accreditation of doctoral programs in clinical, counseling, school and combined professional-scientific psychology, predocotral internship programs in professional psychology, and postdoctoral residency programs in professional psychology.

3. Council on Naturopathic Medical Education (Requested scope of recognition: the accreditation and preaccreditation (Candidate for Accreditation) of institutions and graduate programs in Naturopathy that lead to the degree of Doctor of Naturopathy (N.D.) or Doctor of Naturopathic Medicine (N.M.D.).

4. National Accrediting Commission of Cosmetology Arts and Sciences (Scope of recognition: the accreditation of postsecondary schools and departments of costmetology arts and sciences).

5. Transnational Association of Christian Colleges and Schools, Accrediting Commission (Requested scope of recognition: the accreditation and preaccreditation (''Candidate for Accreditation'') of postsecondary institutions that offer certificates, diplomas, and associate, baccalaureate, and graduate degrees).

Interim Reports (An interim report is a follow-up report on an accrediting agency's compliance with specific criteria for recognition that was requested by the Secretary when the Secretary granted renewed recognition to the agency)—

1. American Bar Association, Council of the Section of Legal Education and Admissions to the Bar.

2. Association for Clinical Pastoral Education, Inc., Accreditation Commission.

3. Accrediting Council on Education in Journalism and Mass Communciations.

4. American Dental Association, Commission on Dental Accreditation.

5. American Physical Therapy Association, Committee on Accreditation.

6. Commission on Opticianry Accreditation.

7. National Association of Nurse Practitioners in Reproductive Health, Council on Accreditation.

8. North Central Association of Colleges and Schools, Commission on Schools.

State Agency Recognized for the Approval of Public Postsecondary Vocational Eduation

Interim Report

1. Kansas State Department of Education.

State Agencies Recognized for the Approval of Nurse Education

Interim Report

1. New York State Board of Regents, Nursing Education Unit.

Federal Agency Seeking Degree-Granting Authority

In accordance with the Federal policy governing the granting of academic degrees by Federal agencies (approved by a letter from the Director, Bureau of the Budget, to the Secretary, Health, Education, and Welfare dated December 23, 1954), the Secretary is required to establish a review committee to advise the Secretary concerning any legislation that may be proposed that would authorize the granting of degrees by a Federal agency. The review committee forwards its recommendation concerning a Federal agency's proposed degree-granting authority to the Secretary, who then forwards the committee's recommendation and the Secretary's recommendation to the Office of Management and Budget for review and transmittal to the Congress. The Secretary uses the Advisory Committee as the review committee required for this purpose. Accordingly, the Advisory Committee will review the following institution at this meeting:

Proposed Associate Degree-Granting Authority

1. Defense Language Institute (Accrdited by: Western Association of Schools and Colleges, Accrediting Commission for Community and Junior Colleges).

Where Can I Inspect Petitions and Third-Party Comments Before and After the Meeting?

All petitions and interim reports, and those third-party comments received in advance of the meeting, will be available for public inspection and copying at the U.S. Department of Education, ROB–3, Room 3915, 7th and D Streets, SW, Washington, DC 20202–5244, telephone (202) 708–7417 between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, until November 22, 1999. They will be available again after the December 6–8 Advisory Committe meeting. It is preferred that an appointment be made in advance of such inspection or copying.

Authority: 5 U.S.C. Appendix 2.

Dated: June 3, 1999.

Greg Woods,

Chief Operating Officer, Student Financial Assistance.

[FR Doc. 99–14574 Filed 6–8–99; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–318–000]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

June 3, 1999.

Take notice that on May 28, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, with an effective date of July 1, 1999:

Thirty-sixth Revised Sheet No. 25
Thirty-sixth Revised Sheet No. 26
Thirty-sixth Revised Sheet No. 27
Thirty-fourth Revised Sheet No. 28
Second Revised Sheet No. 28B
Fifteenth Revised Sheet No. 30A

Columbia states that the purpose of this filing is to make a downward adjustment to its Rate Schedule FTS base rate demand determinants as provided for in Stipulation II, Article III, Section H(2) of the Docket No. RP95–408 et al. rate case settlement. The settlement provision authorizes such adjustments associated with contract demand reductions recognizing the loss of direct firm transportation deliveries to customers from gathering facilities

sold since the settlement up to 15,000 Dth/day. This filing reflects the loss in firm transportation demand determinants of 3,257 Dth/day (and associated commodity determinants) for one Rate Schedule FTS customer.

Columbia states that copies of its filing have been mailed to all firm customers, interruptible customers, and affected state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14557 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–9–23–000]

Eastern Shore Natural Gas Company; Proposed Changes In FERC GAS Tariff

June 3, 1999.

Take notice that on May 28, 1999, Eastern Shore Natural Gas Company (Eastern Shore) tenderd for filing its annual Fuel Retention Adjustment filing pursuant to Section 31 of the General Terms and Conditions of its FERC Gas Tariff, Second Revised Volume No. 1.

Eastern Shore states that Section 31, ''Fuel Retention Adjustment'', specifies that, no less than thirty (30) days prior notice, Eastern Shore shall file with the Commission revised tariff sheets containing a re-determined Fuel Retention Percentage (''FRP'') for affected transportation rate schedules to be effective July 1 of each year. Such FRP is designed to reimburse Eastern Shore for the cost of its Gas Required for Operations (''GRO'') which consists of (a) gas used for compressor fuel and (b) gas otherwise used, lost or unaccounted for, in its operations. Eastern Shore's FRP is calculated by determining the GRO quantities attributable to system-wide operations for the affected transportation rate schedules using the last twelve (12) month period for which actual data is available and then dividing such quantity by the corresponding twelve (12) month period.

Eastern Shore states that as shown in its filing, Eastern Shore's calculated FRP is .3% which is no change from the current FRP in effect. As there is no change in its FRP Eastern Shore has requested that the current tariff sheets remain in effect.

Eastern Shore states that copies of its filing has been mailed to all firm and interruptible customers and interested states commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14562 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–323–000]

Gas Research Institute; Annual Application

June 3, 1999.

Take notice that on June 1, 1999, Gas Research Institute (GRI) filed an application requesting advance approval of its 2000–2004 Five-Year Research, Development and Demonstration (RD&D) Plan and 2000 RD&D Program, and the funding of its RD&D activities for 2000, pursuant to the Natural Gas Act, Section 154.401(b) of the Commission's Regulations, and the Order Approving Settlement issued by the Commission on April 29, 1998 [83 FERC ¶ 61,093 (1998)]. GRI's application seeks to collect funds to support its year 2000 Jurisdictional RD&D Program through jurisdictional rates and charges during the twelve months ending December 31, 2000.

In its application, GRI proposes to incur program obligations of $98 million in 2000, which GRI states is consistent with the April 29 Order. GRI states that $72.6 million of the year 2000 program obligations will be for Core Projects and $25.4 million for Non-Core Projects. Core projects are those benefiting predominately gas consumers and having one of the following as a basic objective: enhancing environmental quality; enhancing health and safety; lowering gas industry operating and maintenance costs; increasing gas system reliability or integrity; increasing gas supplies from emerging resources; or increasing efficiency. GRI projects total cash outlays to be $135 million for year 2000 including Administrative and General Expenses of $22.3 million.

Also consistent with the Commission's April 29 Order Approving Settlement, GRI proposes to fund the 2000 RD&D program by the use of the following surcharges: (1) a demand/reservation surcharge of 20 cents per Dth per Month for ''high load factor customers''; (2) a demand/reservation surcharge of 12.3 cents per Dth per Month for ''low load factor customers''; (3) a volumetric commodity/usage surcharge of .72 cents; and (4) a special ''small customer'' surcharge of 1.6 cents per Dth.

The Commission Staff will analyze GRI's application and prepare a Commission Staff Report. This Staff Report will be served on all parties and filed with the Commission as a public document by August 6, 1999. Comments on the Staff Report by all parties, except GRI, must be filed with the Commission on or before August 20, 1999. GRI's reply comments must be filed on or before August 27, 1999.

Any person desiring to be heard or to protest GRI's application, except for GRI members and state regulatory commissions, who are automatically permitted to participate in the instant proceedings as intervenors, 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 214 and 211 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214

and 385.211. All protests, motions to intervene and comments should be filed on or before June 18, 1999. All comments and protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to this proceeding. Any person wishing to become a party, other than a GRI member or a state regulatory commission, must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14558 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–53–000]

K N Interstate Gas Transmission Co.; Tariff Filing

June 3, 1999.

Take notice that on May 28, 1999, K N Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, the following revised tariff sheets, to be effective July 1, 1999:

Third Revised Volume No. 1–A

8th Revised Sheet No. 4–D

First Revised Volume No. 1–C

13th Revised Sheet No. 4

KNI states that this filing contains adjustments to KNI's fuel and loss reimbursement percentages, pursuant to Section 15 of KNI's Third Revised Volume No. 1–B and First Revised Volume No. 1–D of its FERC Gas Tariff. KNI proposes an effective date of July 1, 1999, for the revised fuel and loss reimbursement percentages.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14560 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–317–000]

Koch Gateway Pipeline Company; Section 4 Filing

June 3, 1999.

Take notice that on May 28, 1999, Koch Gateway Pipeline Company (Koch Gateway), tendered for filing a section 4 filing pertaining to the termination of gathering services associated with the abandonment of its Bruni System granted in FERC Docket No. CP99–109–000 on May 4, 1999.

Koch Gateway proposes no changes to its published tariff therefore no revised tariff sheets are included in this filing. Koch Gateway filed with the Commission a list of gathering customers affected by the abandonment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14556 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–538–002]

Midwestern Gas Transmission Company; Compliance Filing

June 3, 1999.

Take notice that on May 27, 1999, Midwestern Gas Transmission Company (Midwestern), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheet, with an effective date of July 1, 1999:

Tenth Revised Sheet No. 5

Midwestern states that it tendered the sheet for filing in compliance with Ordering Paragraph (B) of the ''Ordering Granting'', In Part, and Denying, In Part, Rehearing'' issued by the Federal Energy Regulatory Commission (Commission) on May 12, 1999. Midwestern further states that the tendered sheet clarifies Midwestern's minimum reservation rate under Rate Schedule FT–A is $0.00. Midwestern requests that this sheet be made effective July 1, 1999.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14563 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–1184–001]

Minnesota Agri-Power, L.L.C.; Filing

June 3, 1999.

Take notice that on May 25, 1999, Enron Capital & Trade Resources Corporation (ECT), tendered for filing a

notice of termination of its participation in Minnesota Agri-Power, L.L.C.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before June 14, 1999. 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14567 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–176–006]

Natural Gas Pipeline Company of America; Compliance Filing

June 3, 1999.

Take notice that on May 28, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, Substitute First Revised Sheet No. 224A.01, to be effective January 1, 1999.

Natural states that the filing is submitted in compliance with the Commission's order issued May 14, 1999 in Docket No. RP99–176–005, which directed Natural to revise Section 5.1(c)(vi) of the General Terms and Conditions of its Tariff relating to the circumstances under which negotiated rate bids are allowed.

Natural requested any waivers which may be required to permit Substitute First Revised Sheet No. 224A.01 to become effective January 1, 1999 consistent with the Commission's order issued December 1, 1998 in Docket No. RP99–176–000, which granted Natural authority to implement a negotiated rate provision in its tariff consistent with the Commission's policy statement in Docket No. RM95–6–000.

Natural states that copies of the filing have been mailed to its customers, interested state regulatory agencies and all parties set out on the Commission's official service list in Docket No. RP99–176.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14554 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–315–000]

Panhandle Eastern Pipe Line Company; Proposed Changes in FERC Gas Tariff

June 3, 1999.

Take notice that on May 28, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing, to become effective July 1, 1999.

Panhandle states that this filing removes from its currently effective rates the Miscellaneous Stranded Cost Volumetric Surcharge applicable to interruptible transportation service under Rate Schedules IT and EIT established in a February 12, 1997 Stipulation and Agreement in Docket No. RP96–260–000 (February 12, 1997 Settlement). The February 12, 1997 Settlement was approved by Commission letter order issued April 17, 1997. In accordance with Article I, Section 3(e) of the February 12, 1997 Settlement, the initial recovery period will terminate on June 30, 1999. Accordingly, Panhandle is now proposing to remove the Initial Docket No. RP96–260–000 Settlement Volumetric Surcharge of 0.09¢ applicable to Rate Schedules IT and EIT to be effective July 1, 1999.

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 said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14555 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–200–039]

Reliant Energy Gas Transmission Company; Proposed Changes in FERC Gas Tariff

June 3, 1999.

Take notice that on May 28, 1999, Reliant Energy Gas Transmission Company (REGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheets to be effective June 1, 1999:

Seventh Revised Sheet No. 7E.02
Original Sheet No. 7Q

REGT states that the purpose of this filing is to reflect the implementation of a new negotiated rate contract and the expiration of an existing negotiated rate contract.

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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14552 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–539–000]

Earle and H. Smith, 81 Bunker Hill Ave., Stratham, NH 03885 v. Portland Natural Gas Transmission System; Complaint

June 3, 1999.

Take notice that on June 1, 1999, Earle H. Smith III and Julie A. Smith filed a complaint, in Docket No. CP99–539–000, against Portland Natural Gas Transmission System (PNGTS). This complaint requests that PNGTS pay $7,900 for unauthorized use of their property, easement violations, and improper restoration of stone wall.

Specifically the complaint states that PNGTS constructed a natural gas pipeline through their property committing numerous violations to its certificate. Violations are claimed in the areas of:

- Safety—numerous OSHA violations (e.g., lack of safe access, and excavators working in close proximity to power lines);
- Easement violation—trench spoil spilled outside of the construction right-of-way and PNGTS failed to restore the area to preconstruction conditions, and right-of-way limits were staked improperly;
- Unauthorized use of their property—PNGTS should control off-road vehicles access to the right-of-way and posting ''no repassing'' signs is not enough; and
- Improper restoration of stone wall.

Any person desiring to be heard or to make any protest with reference to this complaint should, on or before June 11, 1999, file with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules and Practice and Procedure (18 CFR 385.214 and 385.211). 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 in any hearing therein must file motion to intervene in accordance with the Commission's Rules. Answers to the complaint shall be due on or before June 11, 1999, since the amount in controversy in less than $100,000.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14564 Filed 6–8–99; 8:45 am]

BILLING CODE 6717––M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–1–8–000]

South Georgia Natural Gas Company; Proposed Changes to FERC Gas Tariff

June 3, 1999.

Take notice that on May 28, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to be effective July 1, 1999:

Thirteenth Revised Sheet No. 5
Twelfth Revised Sheet No. 6
1st Alternate Thirteenth Revised Sheet No. 5
1st Alternate Twelfth Revised Sheet No. 6

South Georgia states that the instant filing is submitted pursuant to Section 19.2 of the General Terms and Conditions of its Tariff to adjust its fuel retention percentage (FRP) for all transportation services on its system effective July 1, 1999. The derivation of the revised FRP is based on South Georgia's gas required for operations (GRO) for the twelve-month period ending April 30, 1999, adjusted for the balance accumulated in the Deferred GRO Account at the end of said period, divided by the transportation volumes received during the same twelve-month period. In the filing, South Georgia request a limited waiver of the formula used in Section 19.2 to determine the FRP. As set forth more fully in filing, such request is based on South Georgia's belief that certain GRO volumes recorded in 1998 were inaccurate. As a result, South Georgia proposes to base the FRP on those months in which reliable data is available, as annualized to cover the entire twelve-month period for the FRP. Based on this calculation, the revised FRP is 1.93% which is a decrease from the currently effective FRP of 2.24%.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NW, Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the 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. This filing may be viewed on the web at http://www.fer.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14559 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2017–011]

Southern California Edison Company; Technical Workshop on Water Management and Intent To Conduct a Site visit

June 3, 1999.

The Federal Energy Regulatory Commission (Commission) received an application for a new license for the continued operation and maintenance of the existing Big Creek No. 4 Hydropower Project (BC#4) on February 26, 1997. BC#4 is located on the San Joaquin river, in Fresno, Madera, and Tulare Counties, California. The project is partially located on federal lands managed by the Forest Service. The project would have an installed capacity of 98.6 megawatts.

During scoping meetings held in December 1997, to solicit public comment on the relicensing of the BC#4, Southern California Edison Company (Edison) offered to conduct a technical workshop to explain the criteria that go into managing water for the operations of the hydropower projects in Edison's big Creek System (BCS) of which BC#4 is one part. Therefore, on January 11, 1999, the Commission requested that Edison provide a schedule and agenda

for the technical workshop before staff completes an evaluation of Edison's license application.

The purpose of this notice is to advise all parties of the scheduled technical workshop that will be conducted by Edison and attended by the Commission's staff on the water management procedures (including modeling) currently in use by Edison to operate the BCS and specifically BC#4. The technical workshop will be held at the Big Creek Clubhouse on June 29, 1999, from 9:30 a.m. to 5:00 p.m. All interested individuals, organizations, and agencies are invited to attend.

Four subjects related to BC#4 operations will be covered at the workshop: (1) overview of the BCS and BC#4's history; (2) overview of the San Joaquin River watershed and specific information regarding the drainage areas of individual projects within the BCS; (3) existing license conditions of projects throughout the BCS which are related to water management and the Mammoth Pool operating agreement; and (4) Edison's existing modeling capabilities.

In addition, a tour of some of the BCS's project facilities and project environment is scheduled for June 30, 1999. Those who wish to accompany us on this site visit should meet at Shaver Lake parking lot, located off of Route 168, at 9:30 a.m. Participants should provide their own transportation and food.

Furthermore, on February 3, 1999, the Commission issued the revised Scoping Document (SD2) and a notice of intent to prepare an Environmental Impact Statement for the relicensing of BC#4. To enable staff participating in the preparation of the Environmental Impact Statement of the proposed relicensing of the BC#4 to view BC#4's facilities and project area, a tour of the BC#4 facilities, including walking part of the 4-mile-long Horseshoe Bend Trail to view representative portions of the project's 6.3-mile-long bypassed reach, will be conducted on July 1, 1999. All interested individuals, organizations, and agencies are invited to attend this site visit also. Participants will meet at 9:30 a.m. at the Redinger Reservoir recreation access area parking lot, located off of Redinger Lake Road (Road 235). Participants should provide their own transportation and food for the site visit.

Any questions regarding this notice should be directed to John Ramer of the Commission at (202) 219–2833 or by e-mail: John.RamerFERC.Fed.US. For directional information you may also contact Geoffrey L. Rabone of Edison at (909) 394–8721 or Carol Efird at the Sierra National Forest (559) 297–0706 ext. 4871.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14568 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER96–2573–001, et al.]

Southern Company Services, Inc., et al.; Correction

Independent Power Marketers

Abacus Group Ltd.
Docket No. ER98–4240–000
AC Power Corp.
Docket No. ER97–2867–000
ACN Power Inc.
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Enron Power Marketing, Inc.
Docket No. ER94–24–000
Enserch Energy Services, Inc.
Docket No. ER98–895–000
Enserco Energy, Inc.

Docket No. ER96–2964–000
Entergy Power Marketing Corporation
Docket No. ER95–1615–000
First Energy Trading & Power Marketing, Inc.
Docket No. ER95–1295–000
FPL Energy Power Marketing, Inc.
Docket No. ER98–3566–000
GPU Advanced Resources, Inc.
Docket No. ER97–3666–000
Griffin Energy Marketing, L.L.C.
Docket No. ER97–4168–000
Horizon Energy Company
Docket No. ER98–380–000
H.Q. Energy Services (U.S.) Inc.
Docket No. ER97–851–000
Illinova Energy Partners, Inc.
Docket No. ER94–1475–000
Industrial Energy Applications, Inc.
Docket No. ER95–1465–000
Inventory Management & Distribution Co., Inc.
Docket No. ER97–4116–000
InterCoast Power Marketing Company
Docket No. ER94–6–000
LG&E Energy Marketing Inc.
Docket No. ER94–1188–000
Mid-American Power LLC
Docket No. ER96–1858–000
Montana Power Trading & Marketing Company
Docket No. ER97–399–000
NESI Power Marketing, Inc.
Docket No. ER97–841–000
NEV East, L.L.C.
Docket No. ER97–4652–000
NEV California, L.L.C.
Docket No. ER97–4653–000
NEV Midwest, L.L.C.
Docket No. ER97–4654–000
New Energy Partners, LLC
Docket No. ER99–1812–000
New Energy Ventures, Inc.
Docket No. ER97–4636–000
Niagara Mohawk Energy Marketing, Inc.
Docket No. ER96–2525–000
Northern/AES Energy LLC
Docket No. ER98–445–000
NRG Power Marketing Inc.
Docket No. ER97–4281–000
NYSEG Solutions, Inc.
Docket No. ER99–220–000
OGE Energy Resources, Inc.
Docket No. ER97–4345–000
PacifiCorp Power Marketing, Inc.
Docket No. ER95–1096–000
PEC Energy Marketing Inc.
Docket No. ER97–1431–000
Pepco Services, Inc.
Docket No. ER98–3096–000
PG&E Energy Services, Energy Trading Corp.
Docket No. ER95–1614–000
PG&E Energy Trading Power, L.P.
Docket No. ER95–1625–000
PP&L EnergyPlus Company
Docket No. ER98–4608–000
PPM One LLC
Docket No. ER97–3926–000
PPM Two LLC
Docket No. ER97–3927–000
PPM Three LLC
Docket No. ER97–3928–000
PPM Four LLC
Docket No. ER97–3929–000
PPM Five LLC
Docket No. ER97–3930–000
PPM Six LLC
Docket No. ER97–3931–000
Primary Power Marketing, LLC
Docket No. ER98–4333–000
Progress Power Marketing, Inc.
Docket No. ER96–1618–000
PSEG Energy Technologies Inc.
Docket No. ER97–2176–000
QST Energy Trading Inc.
Docket No. ER96–553–000
R. Hadler and Company, Inc.
Docket No. ER97–3056–000
Reliant Energy Services, Inc.
Docket No. ER99–1801–000
SCANNA Energy Marketing, Inc.
Docket No. ER96–1086–000
Select Energy, Inc.
Docket No. ER99–14–000
Sempra Energy Trading Corp.
Docket No. ER94–1691–000
SIGCORP Energy Services, L.L.C.
Docket No. ER99–2181–000
Southern Company Energy Marketing L.P.
Docket No. ER97–4166–000
Southern Energy California
Docket No. ER99–1841–000
Southern Energy New England, LLC
Docket No. ER98–4118–000
Southern Energy Retail Trading & Marketing, Inc.
Docket No. ER98–1149–000
Southern Energy Trading & Marketing Inc.
Docket No. ER95–976–000
Spokane Energy, LLC
Docket No. ER98–4336–000
TECO Energy Source, Inc.
Docket No. ER96–1563–000
TransAlta Energy Marketing Corp.
Docket No. ER96–1316–000
TransAlta Energy Marketing (U.S.) Inc.
Docket No. ER98–3184–000
UGI Power Supply, Inc.
Docket No. ER96–2715–000
Unicom Power Marketing, Inc.
Docket No. ER97–3954–000
Union Electric Development Corporation
Docket No. ER97–3663–000
Unitil Resources, Inc.
Docket No. ER97–2462–000
WPS Energy Services, Inc. and WPS Power Development, Inc.
Docket No. ER96–1088–000
XENERGY
Docket No. ER97–2517–000

Affiliated Power Producers

AES Alamitos, L.L.C.
Docket No. ER98–2185–000
AES Creative Resources, L.P. and AES Eastern Energy,
Docket No. ER99–1773–000
AES Huntington Beach, L.L.C.
Docket No. ER98–2184–000
AES Redondo Beach, L.L.C.
Docket No. ER98–2186–000
AmerGen Energy Company. L.L.C.
Docket No. ER99–754–000
Arthur Kill Power L.L.C.
Docket No. ER99–2161–000
Astoria Power L.L.C.
Docket No. ER99–2160–000
AYP Energy, Inc.
Docket No. ER99–954–000
Bridgeport Energy LLC
Docket No. ER98–2783–000
Cabrillo Power I, L.L.C.
Docket No. ER99–1115–000
Cabrillo Power II, L.L.C.
Docket No. ER99–1116–000
Carr Street Generating Station Station, L.P.
Docket No. ER98–4095–000
CH Resources, Inc.
Docket No. ER99–1001–000
CinCap VI, L.L.C.
Docket No. ER99–1727–000
Commonwealth Chesapeake Company, L.L.C.
Docket No. ER99–415–000
Cordova Energy Company L.L.C.
Docket No. ER99–2156–000
CSW Power Marketing
Docket No. ER97–1238–000
Denver City Energy Associates, L.P.
Docket No. ER97–4084–000
De Pere Energy L.L.C.
Docket No. ER97–4586–000
Duke Energy Morro Bay L.L.C.
Docket No. ER98–2681–000
Duke Energy Moss Landing L.L.C.
Docket No. ER98–2680–000
Duke Energy New Smyrna Beach Power Co. Ltd., LLP
Docket No. ER98–2624–000
Duke Energy Oakland L.L.C.
Docket No. ER98–2682–000
Duke Energy South Bay L.L.C.
Docket No. ER99–1785–000
Dunkirk Power L.L.C.
Docket No. ER99–2168–000
El Dorado Energy, LLC
Docket No. ER98–4109–000
El Segundo Power, L.L.C.
Docket No. ER98–1127–000
Elwood Energy L.L.C.
Docket No. ER99–1695–000
EME Homer City Generation, L.P.
Docket No. ER99–666–000
Energy East South Glens Falls, LLC
Docket No. ER99–1261–000
Entergy Nuclear Generating Company
Docket No. ER99–1004–000
ESI Vansycle, Partners, L.P.
Docket No. ER98–2494–000
FPL Energy AVEC LLC
Docket No. ER98–3565–000
FPL Energy Maine Hydro LLC
Docket No. ER98–3511–000
FPL Energy Mason LLC
Docket No. ER98–3562–000
FPL Energy Wyman LLC
Docket No. ER98–3563–000
FPL Energy Wyman IV LLC
Docket No. ER98–3564–000
Genesee Power Station L.P.
Docket No. ER99–806–000
Grayling Generation Station L.P.
Docket No. ER99–791–000
Harbor Cogeneration Company
Docket No. ER99–1248–000
Hawkeye Power Partners, L.L.C.
Docket No. ER98–2076–000
Huntley Power L.L.C.
Docket No. ER99–2162–000
Kincaid Generation LLC
Docket No. ER99–1432–000
Koch Power Louisiana L.L.C.
Docket No. ER99–637–000
Lake Benton Power Partners LLC
Docket No. ER97–2904–000
Lake Benton Power Partners II, LLC
Docket No. ER98–4222–000
Lake Road Generating Company, L.P.
Docket No. ER99–1714–000
Lakewood Cogeneration L.P.
Docket No. ER99–1213–000
LG&E Capital Corp.

Docket No. ER99–2108–000
LG&E Westmoreland Renssalaer
Docket No. ER99–1125–000
Long Beach Generation L.L.C.
Docket No. ER98–1796–000
Medcal Area Total Energy Plant, Inc.
Docket No. ER98–1992–000
Millenium Power Partners, LP
Docket No. ER98–830–000
Minnesota Agri-Power LLC
Docket No. ER99–1184–000
Mobile Energy Services Company L.L.C.
Docket No. ER99–1204–000
Monmouth Energy, Inc.
Docket No. ER99–1293–000
NGE Generation, Inc.
Docket No. ER97–2518–000
PanEnergy Lake Charles Generation, Inc.
Docket No. ER96–1335–000
PDI Canada, Inc.
Docket No. ER99–1936–000
PDI New England, Inc.
Docket No. ER99–1936–000
Penobscot Hydro, LLC
Docket No. ER99–1940–000
Pittsfield Generating Company, L.P.
Docket No. ER98–4400–000
Reliant Energy Coolwater, L.L.C.
Docket No. ER99–2082–000
Reliant Energy Mandalay, L.L.C.
Docket No. ER99–2080–000
Reliant Energy Ellwood, L.L.C.
Docket No. ER99–2081–000
Reliant Energy Etiwanda, L.L.C.
Docket No. ER99–2083–000
Reliant Energy Ormond Beach, LLC
Docket No. ER99–2079–000
Rockingham Power, L.L.C.
Docket No. ER99–1567–000
Rocky Road Power L.L.C.
Docket No. ER99–2157–000
Somerset Power L.L.C.
Docket No. ER99–1712–000
Southern Energy Bowline, L.L.C.
Docket No. ER99–2044–000
Southern Energy Canal, L.L.C.
Docket No. ER98–4115–000
Southern Energy Delta, L.L.C.
Docket No. ER99–1842–000
Southern Energy Kendall, L.L.C.
Docket No. ER98–4116–000
Southern Energy Lovett, L.L.C.
Docket No. ER99–2043–000
Southern Energy NY–GEN, L.L.C.
Docket No. ER99–2045–000
Southern Energy Potrero, L.L.C.
Docket No. ER99–1833–000
Southern Energy Wisconsin, L.L.C.
Docket No. ER99–669–000
State Line Energy, Inc.
Docket No. ER96–2869–000
Storm Lake Power Partners I, L.L.C.
Docket No. ER98–4643–000
Storm Lake Power Partners II, L.L.C.
Docket No. ER97–4222–000
Storm Lake Power Partners II, L.L.C.
Docket No. ER99–1228–000
Tenaska Frontier Partners, Ltd.
Docket No. ER98–1767–000
USGen New England
Docket No. ER98–6–000
West Georgia Company L.P.
Docket No. ER99–2186–000
West Texas Wind Energy Partners, L.L.C.
Docket No. ER98–1965–000
Western Kentucky Energy Corp.
Docket No. ER98–1279–000
Wisvest-Connecticut, L.L.C.
Docket No. ER99–967–000
WKE Station Two, Inc.
Docket No. ER98–1278–000

Other Utilities With Market-Based Rates

AG-Energy, L.P.
Docket No. ER98–2782–000
Automated Power Exchange
Docket No. ER98–1033–000
Boralex Stratton Energy Inc.
Docket No. ER98–4652–000
Brooklyn Navy Yard Cogeneration Partners, L.P.
Docket No. ER97–886–000
Cadillac Renewable Energy
Docket No. ER98–4515–000
Canadian Niagara Power Company
Docket No. ER99–1875–000
Choctaw Generation Limited Partnership
Docket No. ER98–3774–000
Cobisa-Person Limited Partnership
Docket No. ER98–2498–000
Cogen America Parlin Inc.
Docket No. ER96–1680–000
Cogen Energy Technologies
Docket No. ER98–4423–000
Commonwealth Atlantic Limited Partnership
Docket No. ER90–24–000
Consolidated Water Power Company
Docket No. ER98–4512–000
Dartmouth Power Associates LP
Docket No. ER96–149–000
Dighton Power Associates L.P.
Docket No. ER99–616–000
Edgar Electric Cooperative Association
Docket No. ER98–2305–000
GEN–SYS Energy
Docket No. ER97–4335–000
Geysers Power Company
Docket No. ER99–1983–000
Golden Spread Electric Cooperative
Docket No. ER99–705–000
Great Bay Power Corporation
Docket No. ER96–726–000
GS Electric Generating Cooperative, Inc.
Docket No. ER97–3583–000
Indeck Pepperell Power Associates, Inc.
Docket No. ER96–345–000
Logan Generating Company, L.P.
Docket No. ER95–1007–000
Lowell Cogeneration Company L.P.
Docket No. ER97–2414–000
LSP Energy Limited Partnership
Docket No. ER98–2259–000
Midwest Energy, Inc.
Docket No. ER96–2027–000
Milford Power L.P.
Docket No. ER93–493–000
Mountainview Power Company
Docket No. ER98–4301–000
Northeast Empire Limited Partnership #1
Docket No. ER98–4183–000
Northeast Empire Limited Partnership #2
Docket No. ER98–1125–000
Old Dominion Electric Cooperative
Docket No. ER97–4314–000
Oxbow Power Marketing, Inc.
Docket No. ER96–1196–000
Pacific Northwest Generating Cooperative
Docket No. ER97–504–000
PEI Power Corp.
Docket No. ER98–2270–000
Power City Partners, L.P.
Docket No. ER98–2782–000
Riverside Canal Power Company
Docket No. ER98–4302–000
RockGen Energy, L.L.C.
Docket No. ER99–970–000
SCC–L1 L.L.C.
Docket No. ER99–1914–000
SCC–L2, L.L.C.
Docket No. ER99–1915–000
SCC–L3, L.L.C.
Docket No. ER99–1942–000
Seneca Power Partners, L.P.
Docket No. ER98–2782–000
Sithe New England Holdings LLC
Docket No. ER98–1943–000
Southwood 2000, Inc.
Docket No. ER98–2603–000
Sterling Power Partners, L.P.
Docket No. ER98–2782–000
Sunlaw Cogeneration Partners, L.P.
Docket No. ER99–213–000
UAE Lowell Power L.L.C.
Docket No. ER99–1744–000
Westchester Resco Company, L.P.
Docket No. ER98–3030–000
Williams Generating Company—Hazelton
Docket No. ER97–4587–000
Wolverine Power Supply Cooperative, Inc.
Docket No. ER98–411–000

Erratum Notice

June 2, 1999.

Order Denying Rehearing, Revising Reporting Requirements for Power Marketers and Power Producers With Market-Based Rate Authorization, Staying Effect of the Revised Reporting Requirements, and Establishing Procedures

Issued May 27, 1999.

The order denying rehearing, revising reporting requirements for power marketers and power producers with market-based rate authorization, staying effect of the revised reporting requirements, and establishing procedures, which was issued May 27, 1999, was published in the **Federal Register** on June 4, 1999, at 64 FR 30001.

On page 30007, column 2, the last 3 lines of the first paragraph, delete the following sentence: ''We are also eliminating the requirement that power marketers file informational reports on their purchases.''

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14302 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91–150–012, ER91–326–004 and ER91–570–009]

Southern Company Services, Inc; Filing

June 3, 1999.

Take Notice that on May 19, 1999, Southern Company Services, Inc. (Southern Company), tendered for filing a compliance filing in the above-referenced docket number.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before June 14, 1999. 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. This filing may also be viewed on the Internet at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14566 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–290–003]

Viking Gas Transmission Company; Tariff Filing

June 3, 1999.

Take notice that on May 28, 1999, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective July 1, 1999.

Sixteenth Revised Sheet No. 6
Tenth Revised Sheet No. 6a

Viking states that the purpose of this filing is to comply with the Offer of Settlement and Stipulation and Agreement (Settlement) filed by Viking on March 16, 1999 in the above-referenced docket and approved by the Commission by order issued May 12, 1999 by filing to place the Stage I Settlement Rates into effect in accordance with the terms and conditions of the Settlement

Viking states that copies of this filing have been served on all parties designated on the official service list in this proceeding, on all Viking's jurisdictional customers and to affected state regulatory 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. This filing may be viewed on the web at http://www.ferce.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14553 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–82–001]

Viking Gas Transmission Company; Tariff Filing

June 3, 1999.

Take notice that on May 28, 1999, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective as discussed below.

1st Revised Fifteenth Revised Sheet No. 6
2nd Revised Fifteenth Revised Sheet No. 6
1st Revised Ninth Revised Sheet No. 6A
2nd Revised Ninth Revised Sheet No. 6A

Viking states that the purpose of this filing is to revise Fifteenth Revised Sheet No. 6 and Ninth Revised Sheet No. 6A to reflect properly the effective date of the Fuel and Loss Retention Percentages accepted in Docket No. TM99–2–82–000. Accordingly, Viking respectfully requests an effective date of January 1, 1999 for 1st Revised Fifteenth Revised Sheet No. 6 and 1st Revised Ninth Revised Sheet No. 6A and an effective date of April 1, 1999 for 2nd Revised Fifteenth Revised Sheet No. 6 and 2nd Revised Ninth Revised Sheet No. 6A.

Viking states that copies of this filing have been served on all Viking's jurisdictional customers and to affected state regulatory 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14561 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EG99–151–000 et al.]

IGC/ERI Pan Am Thermal Generating Limited, et al.; Electric Rate and Corporate Regulation Filings

June 2, 1999.

Take notice that the following filings have been made with the Commission:

1. IGC/ERI Pan Am Thermal Generating Limited

[Docket No. EG99–151–000]

Take notice that on May 26, 1999, IGC/ERI Pan Am Thermal Generating Limited (IGC/ERI), with its address c/o NORESCO, 255 Main Street, Suite 500, Hartford, CT 06106, filed with the Federal Energy Regulatory Commission (FERC or the Commission) an application for determination of exempt wholesale generator status pursuant to Part 365 of the Commission's Regulations. IGC/ERI is a Cayman Island limited liability company that will be engaged directly and exclusively in the business of owning or operating, or both owning and operating, all or part of one or more eligible facilities to be located

in Panama. The eligible facilities will consist of an approximately 96 MW diesel-fired electric generation project and related interconnection facilities. The output of the eligible facilities will be sold at wholesale.

Comment date: June 23, 1999, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

2. Western Massachusetts Electric Company, Northeast Utilities Service Company, Consolidated Edison Energy, Inc., Consolidated Edison Energy, and Massachusetts Inc.

[Docket Nos. EC99–75–000 and ER99–3060–000]

Take notice that on May 25, 1999, Western Massachusetts Electric Company (WMECO), Northeast Utilities Service Company (NUSCO) and Consolidated Edison Energy Massachusetts, Inc., (collectively, Applicants) tendered for filing an application under Section 203 of the Federal Power Act for approval of the transfer of certain jurisdictional facilities associated with the sale of certain WMECO generating facilities. The Applicants also tendered for filing under Section 205 of the Federal Power Act certain agreements and a proposed amendment to NUSCO Tariff No. 9 pertaining to services related to the transfer of facilities.

The Applicants state that copies of this filing have been sent to the Connecticut Department of Public Utility Control, the Massachusetts Department of Telecommunications and Energy and the New Hampshire Public Utilities Commission.

Comment date: June 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Wabash Valley Power Association, Inc., and American Municipal Power—Ohio, Inc., Complainants, vs. American Electric Power Service Corporation, Respondent

[Docket No. EL99–66–000]

Take notice that on May 27, 1999, Wabash Valley Power Association, Inc. (Wabash Valley) and American Municipal Power—Ohio, Inc. (AMP-Ohio) filed a complaint against American Electric Power Service Corporation (AEP) alleging that AEP's transmission rates and revenue requirements are unjust and unreasonable because historical costs have changed dramatically and AEP's revenues from use of its transmission system by third parties and by AEP for off-system sales have substantially increased.

Comment date: June 28, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Maine Public Service Company

[Docket Nos. ER95–836–004 and ER99–2472–001]

Take notice that on May 27, 1999, Maine Public Service Company (MPS), tendered for filing a compliance refund report for three of its customers, Houlton Water Company, Central Maine Power Company (AVEC), and Energy Atlantic, LLC as required by the Commission's December 22, 1998, order in Docket No. ER95–836–000 and the Commission's May 10, 1999, letter order approving the settlement in Docket Nos. ER95–836–004 and ER99–2472–000.

Copies of this filing were served upon all parties on the Commission's official service lists for these proceedings, affected state commissions, and all customers taking service under MPS's open access transmission tariff.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Enserco Energy Inc., P & T Power Company

[Docket Nos. ER96–2964–009 and ER97–18–003]

Take notice that on May 24, 1999, the above-mentioned power marketers filed quarterly reports with the Commission in the above-mentioned proceedings for information only. These filings are available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

6. OGE Energy Resources, Inc.

[Docket No. ER97–4345–009]

Take notice that on May 21, 1999, the above-mentioned power marketer filed a revised quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

7. StratErgy, Inc.

[Docket No. ER99–1410–001]

Take notice that on May 27, 1999, the above-mentioned power marketer filed a quarterly report with the Commission in the above-mentioned proceeding for information only. This filing is available for public inspection and copying in the Public Reference Room or on the web at www.ferc.fed.us/online/rims.htm for viewing and downloading (call 202–208–2222 for assistance).

8. Dayton Power and Light Company

[Docket No. ER99–1987–000]

Take notice that on May 24, 1999, Dayton Power and Light Company (DP&L), in accordance with the Commission's order in North American Electric Reliability Council, 85 FERC ¶ 61,353 (1998), tendered for filing a statement concerning interim approaches to parallel flows associated with native load and network service, and to regional congestion problems.

DP&L states that it agrees to accept and implement NERC's procedures relating to parallel flows associated with native load and network service and its redispatch pilot program for the summer of 1999. DP&L also states that its Open Access Transmission Tariff should be considered modified by NERC's procedures.

Comment date: June 14, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. Southern Energy Lovett, L.L.C., Southern Energy Bowline, L.L.C., Southern Energy NY-Gen, L.L.C.

[Docket Nos. ER99–2043–001, ER99–2044–001, and ER99–2045–001]

Take notice that on May 27, 1999, Southern Energy Lovett, L.L.C., Southern Energy Bowline, L.L.C., Southern Energy NY-Gen, L.L.C. (collectively the Southern Parties), tendered for filing revised rate schedules in compliance with the letter order issued by the Federal Energy Regulatory Commission on April 28, 1999, in the above-captioned dockets.

Copies of this filing were served on all parties designated on the official service list.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Incorporated

[Docket No. ER99–2076–001]

Take notice that on May 14, 1999, Cinergy Services, Incorporated (Cinergy) tendered for filing a refund report.

Comment date: June 22, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Niagara Mohawk Power Corporation

[Docket No. ER99–2244–001]

Take notice that on May 27, 1999, Niagara Mohawk Power Corporation tendered for filing a revised Attachment

J—Form of Service Agreement For Retail Transmission Service—in compliance with the Commission's May 12, 1999, order in this proceeding.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. FirstEnergy Trading Services, Inc.

[Docket No. ER99–3063–000]

Take notice that on May 27, 1999, FirstEnergy Trading Services, Inc. (FirstEnergy Trading) (formerly, FirstEnergy Trading and Power Marketing, Inc.), tendered for filing an Electric Power Service Agreement for sales of power and energy to Cleveland Electric Illuminating Company, Ohio Edison Company, Pennsylvania Power Company, and Toledo Edison Company under Rate Schedule FERC No. 1, Market Based Rate Schedule.

FirstEnergy Trading has asked that the Electric Power Service Agreement be permitted to become effective on June 1, 1999.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. Central Vermont Public Service Corporation

[Docket No. ER99–3064–000]

Take notice that on May 26, 1999, Central Vermont Public Service Corporation (Central Vermont), tendered for filing an amended power sales tariff, FERC Electric Tariff, Original Volume No. 5. The filing eliminates provisions regarding resales of transmission rights from the power sales tariff. Central Vermont states that provisions for the resale of transmission rights are available pursuant to Central Vermont's amended and restated market-based sales tariff filed on April 30, 1999, in Docket No. ER99–2733–000.

Central Vermont requests waiver of the Commission's notice requirements so that the amended power sales tariff may become effective on May 1, 1999, which is coincident with the requested effective date of Central Vermont's amended and restated market-based sales tariff.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. Southern Energy Canal, L.L.C.

[Docket Nos. ER99–3065–000]

Take notice that on June 3, 1999, Southern Energy Canal, L.L.C. (Southern Canal), tendered for filing the following agreement as a service agreement under its Market Rate Tariff accepted by the Commission in the Docket No. ER98–4115–000:

1. Master Index Purchase and Sale Agreement by and between Southern Company Energy Marketing L.P. and Southern Energy Canal, L.L.C.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Southern Energy Kendall, L.L.C.

[Docket Nos. ER99–3066–000]

Take notice that on May 27, 1999, Southern Energy Kendall, L.L.C. (Southern Kendall), tendered for filing the following agreement as a service agreement under its Market Rate Tariff accepted by the Commission in the Docket No. ER98–4116–000:

1. Master Index Purchase and Sale Agreement by and between Southern Company Energy Marketing L.P. and Southern Energy Kendall, L.L.C.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Alliant Energy Corporate Services, Inc.

[Docket No. ER99–3067–000]

Take notice that on May 27, 1999, Alliant Energy Corporate Services, Inc., tendered for filing two executed Service Agreements. One agreement is for short-term firm point-to-point transmission service. The other agreement is for non-firm point-to-point transmission service. The agreements are signed by Alliant Energy Industrial Services, Inc., and Alliant Energy Corporate Services, Inc., and provide for transmission service under the Alliant Energy Corporate Services, Inc., open access transmission tariff.

Alliant Energy Corporate Services, Inc., requests an effective date of May 18, 1999, and accordingly, seeks waiver of the Commission's notice requirements.

A copy of this filing has been served upon the Illinois Commerce Commission, the Minnesota Public Utilities Commission, the Iowa Department of Commerce, and the Public Service Commission of Wisconsin.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Entergy Services, Inc.

[Docket No. ER99–3068–000]

Take notice that on May 27, 1999, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., submitted for filing Amendment A, to the Independence Steam Electric Station Operating Agreement between Entergy Arkansas, Inc., the Arkansas Electric Cooperative Corporation, the Cities of Conway, Jonesboro, Osceola, and West Memphis, Arkansas and Entergy Power, Inc., dated July 31, 1979 (Operating Agreement). Entergy Services states that Amendment A formally adds the East Texas Electric Cooperative, Inc., as a Participant to the Operating Agreement.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

18. Central Illinois Public Service Company

[Docket No. ER99–3069–000]

Take notice that on May 27, 1999, Central Illinois Public Service Company (CIPS), tendered for filing a Fourth Amendment to the Power Supply Agreement (PSA) between CIPS and the Illinois Municipal Electric Agency (IMEA) including Service Schedules C, F and H, a Fourth Amendment to the Transmission Services Agreement between CIPS and IMEA and a letter agreement specifying certain additional terms and conditions applicable under the PSA for the period January 1, 1999 through December 31, 2000.

CIPS requests an effective date of May 1, 1998, for Service Schedules F and H and of January 1, 1999, for the other agreements. Accordingly, CIPS requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Illinois Municipal Electric Agency and the Illinois Commere Commission.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

19. Central Maine Power Company

[Docket No. ER99–3070–000]

Take notice that on May 27, 1999, Central Maine Power Company (CMP), tendered for filing an executed service agreement for sale of capacity and/or energy entered into with Central Vermont Public Service Corporation. Service will be provided pursuant to CMP's Wholesale Market Tariff, designated rate schedule CMP—FERC Electric Tariff, Original Volume No. 4.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

20. Carolina Power & Light Company

[Docket No. ER99–3072–000]

Take notice that on May 27, 1999, Carolina Power & Light Company (CP&L), tendered for filing an executed Service Agreement with Avista Energy, Inc., under the provisions of CP&L's Market-Based Rates Tariff, FERC Electric Tariff No. 4. This Service Agreement supersedes the un-executed

Agreement originally filed in Docket No. ER98–3395–000 and approved effective May 18, 1998.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

21. Avista Corporation

[Docket No. ER99–3073–000]

Take notice that on May 27, 1999, Avista Corporation tendered for filing that Rate Schedule FERC No. 219, previously filed with the Federal Energy Regulatory Commission by Avista Corporation, formerly known as The Washington Water Power Company, under the Commission's Docket No. ER95–677–000 with City of Riverside is to be terminated, effective May 30, 1999 by the request of City of Riverside per its letter dated September 28, 1998.

Notice of the cancellation has been served upon The City of Riverside Public Utilities Department.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

22. Avista Corporation

[Docket No. ER99–3074–000]

Take notice that on May 27, 1999, Avista Corporation, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR Part 35 of the Commission Rules and Regulations, a Service Agreement under Avista Corporation's FERC Electric Tariff First Revised Volume No. 9, with Idaho County Light & Power.

Avista Corporation requests waiver of the prior notice requirement and that the Service Agreement be accepted for filing with an effective date of May 1, 1999.

Notice of the filing has been served upon Idaho County Light & Power.

Comment date: June 16, 1999, in accordance with Standard Paragraph E at the end of this notice.

23. Western Resources, Inc.

[Docket No. ES99–20–001]

Take notice that on May 26, 1999, Western Resources, Inc. (Western), requested an exemption from the reporting requirements of 18 CFR 34.10, in connection with the common stock authorized in ES99–20–000. Western states that the shares of common stock made under their Direct Stock Purchase Plan, will be issued on a continual and frequent basis, making the reporting requirements of 18 CFR 34.10 burdensome. Due to the complications and difficulties involved in reporting such frequent issuances, Western respectfully requests an exemption from the aforementioned reporting requirements.

Comment date: June 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

24. Western Resources, Inc.

[Docket No. ES99–23–001]

Take notice that on May 26, 1999, Western Resources, Inc. (Western), requested an exemption from the reporting requirements of 18 CFR 34.10, in connection with the common stock authorized in ES99–23–000. Western states that the grants of common stock made under their Employee Stock Purchase Plan, will be made on a continual and frequent basis, making the reporting requirements of 18 CFR 34.10 burdensome. Due to the complications and difficulties involved in reporting such frequent grants, Western respectfully requests an exemption from the aforementioned reporting requirements.

Comment date: June 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

25. Western Resources, Inc.

[Docket No. ES99–26–001]

Take notice that on May 26, 1999, Western Resources, Inc. (Western), requested an exemption from the reporting requirements of 18 CFR 34.10, in connection with the securities authorized in ES99–26–000. Western states that the issuance and sale of the securities referenced in the original docket will proceed on a continual and frequent basis, making the reporting requirements of 18 CFR 34.10 burdensome. Due to the complications and difficulties involved in such frequent issuances and sales, Western respectfully requests an exemption from the aforementioned reporting requirements.

Comment date: June 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

26. Western Resources, Inc.

[Docket No. ES99–27–001]

Take notice that on May 26, 1999, Western Resources, Inc. (Western), requested an exemption from the reporting requirements of 18 CFR 34.10, in connection with the shares of common stock authorized in ES99–27–000. Western states that the shares of common stock made under their Direct Stock Purchase Plan, will be issued on a continual and frequent basis, making the reporting requirements of 18 CFR 34.10 burdensome. Due to the complications and difficulties involved in reporting such frequent issuances, Western respectfully requests an exemption from the aforementioned reporting requirements.

Comment date: June 23, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14529 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Declaration of Intention and Soliciting Comments, Motions To Intervene, and Protests

June 3, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Declaration of Intention.

b. *Docket No:* DI99–8–000.

c. *Date Filed:* May 4, 1999.

d. *Applicant:* Gene A. Shanks.

e. *Name of Project:* Elfin Cove Hydro Project.

f. *Location:* Located on an unnamed stream, near Elfin Cove, Chichagof Island, Inian Peninsula, AK (T. 42 S., R. 55 E., sec. 36, Copper River Meridian). The project will occupy Federal lands located in the Tongass National Forest.

g. *Filed Pursuant to:* Section 23(b)(1) of the Federal Power Act, 16 U.S.C. 817(b).

h. *Applicant Contact:* Gene A. Shanks, P.O. Box 47, Elfin Cove, AK 99825 (907) 239–9220.

i. *FERC Contact:* Any questions on this notice should be addressed to Diane M. Murray at (202) 219–2682, or E–mail address: diane.murray@ferc.fed.us.

j. *Deadline for filing comments and/or motions:* July 15, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426.

Please include the docket number (DI99–8–000) on any comments or motions filed.

k. *Description of Project:* The proposed project will consist of: (1) an intake; (2) a 1,020-foot-long penstock; (3) a proposed generator with a capacity of 2.5 kilowatts; and (4) appurtenant facilities.

When a Declaration of Intention is filed with the Federal Energy Regulatory Commission, the Federal Power Act requires the Commission to investigate and determine if the interests of interstate or foreign commerce would be affected by the project. The Commission also determines whether or not the project: (1) would be located on a navigable waterway; (2) would occupy or affect public lands or reservations of the United States; (3) would utilize surplus water or water power from a government dam; or (4) if applicable, has involved or would involve any construction subsequent to 1935 that may have increased or would increase the project's head or generating capacity, or have otherwise significantly modified the project's pre-1935 design or operation.

l. *Location of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room located at 888 First Street, NE., Room 2A, Washington, D.C. 20426, or by calling (202) 208–1371. This filing may be viewed on http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h. above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', 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, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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 Applicants's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14565 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application Ready for Environmental Analysis and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

June 3, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* New Major License.

b. *Project No.:* 10942–001.

c. *Date filed:* March 8, 1994.

d. *Applicant:* Skykomish River Hydro.

e. *Name of Project:* Martin Creek Hydroelectric Project.

f. *Location:* On Kelley and Martin Creeks, Kings County, about 7 miles east of Skykomisk, Washington; the project is within the Mt. Baker-Snoqualmie National Forest.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791–(a)–825(r).

h. *Applicant Contacts:* Scott Jacobs, Skykomish River Hydro, 1422 130th Avenue N.E., Bellevue, Washington, 98005, (425) 3455–0234 and Frank Frisk, Jr., 1054 31st St. NW, Suite 125, Washington, D.C. 20007, (202) 333–8433.

i. *FERC Contact:* David Turner, david.turenr@ferc.fed.us, (202) 219–2844.

j. *Deadline for filing comments, recommendations, terms and conditions and prescriptions:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. Status of environmental analysis: This application has been accepted for filing and is ready for environmental analysis at this time.

l. The proposed project would consist of: (1) a 60-foot-long and 9-foot-high rock-rubble water diversion structure on Martin Creek with a gated sluiceway, (2) a 42-foot-long, 9-foot-high rock-rubble water diversion structure on Kelley Creek with a gated sluiceway, (3) a 0.14-Acre impoundment on Martin Creek and a 0.025-acre impoundment on Kelley Creek, (4) a 10,436-footlong buried penstock, (5) a 40-foot by 50-foot concrete powerhouse containing one single Pelton wheel turbine generating 10.2-megawatt total rated capacity, (6) a 25-foot by 35-foot transformer substation located adjacent to the powerhouse, (7) 20-foot-wide groveled access roads totaling 4,200 feet, and (8) a 2.3-mile-long, buried 35.1-kilovolt transmission line connecting the project to Pudget Sound Power and Light Company's Skykomish substation, and (9) appurtenant facilities.

m. A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, N.E., Room 2A, Washington, D.C. 20426, or by calling

(202) 208–1371. The application may be viewed on the web at http://www.ferc.fed.us/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection in item h above.

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.

Any 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 358.2001 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, N.E., Washington, D.C. 20426. An additional copy must be sent to the 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 Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14569 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application Accepted for Filing and Soliciting Motions To Intervene and Protests

June 3, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11718–000.

c. *Date filed:* April 12, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Patoka Lake Dam Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Patroka Dam on the Patoka River, near the Town of Jasper, Dubois County, Indiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2808 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Patoka Dam and Reservoir, and would consist of the following facilities: (1) a new 50-foot-long and 4-foot-diameter steel penstock; (2) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 638 kilowatts; (3) a new 400-foot-long, 14.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 4 gigawatthours. The cost of the studies under the permit will not exceed $500,000.

m. *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, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commissions' mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a motion of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Any one 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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named document 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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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 any 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14570 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application Accepted for Filing and Soliciting Motions To Intervene and Protests

June 3, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11720–000.

c. *Date filed:* April 14, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Cecil M. Hardin Dam Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Cecil M. Hardin Dam on the Raccoon Creek, near the Town of Mansfield, Parke County, Indiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (303) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2809 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Cecil M. Hardin Dam and Reservoir, and would consist of the following facilities: (1) a new 50-foot-long and 58-inch-diameter steel penstock; (2) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 750 kilowatts; (3) a new 1,000-foot-long, 14.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 4.6 gigawatthours. The cost of the studies under the permit will not exceed $500,000.

m. *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, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a

notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Any one 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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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 any 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14571 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application Accepted for Filing and Soliciting Motions To Intervene and Protests

June 3, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11721–000.

c. *Date filed:* April 14, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* J. Edwards Roush Dam Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' J. Edwards Roush Dam on the Wabash River, near the Town of Huntington, Huntington County, Indiana.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2809 or E-mail address at Ed.Lee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' J. Edwards Roush Dam and Reservoir, and would consist of the following facilities: (1) a new 50-foot-long and 78-inch-diameter steel penstock; (2) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 2300 kilowatts; (3) a new 4-mile-long, 14.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 14 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

m. *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, N.E., Room 2–A, Washington, D.C. 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing

preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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 an 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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named document 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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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 any 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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14572 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Application Accepted for Filing and Soliciting Motions To Intervene and Protests

June 3, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11724–000.

c. *Date filed:* April 14, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* John Stennis Dam Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' John Stennis Dam on the Tombigbee River, near the Town of Columbus, Lowndes County, Mississippi.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* Ed Lee (202) 219–2809 or E-mail address at Ed.Lee@FERC.fed.us

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' John Stennis Lock and Dam, and would consist of the following facilities: (1) two new steel penstocks, each about 80-foot-long and 6-foot-in-diameter; (2) a new powerhouse to be constructed on the downstream side of the dam having an installed capacity of 2700 kilowatts; (3) a new 300-foot-long, 14.7-kilovolt transmission line; and (4) appurtenant facilities. The proposed average annual generation is estimated to be 17 gigawatthours. The cost of the studies under the permit will not exceed $1,000,000.

m. *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, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing

application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

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.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''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, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

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.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–14573 Filed 6–8–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00590; FRL–6070–2]

Maximum Residue Limit Petitions for Pesticides on Food/Feed and New Inert Ingredients; Renewal of Pesticide Information Collection Activities and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this notice announces that the EPA is seeking public comment on the following Information Collection Request (ICR): ''Maximum Residue Limit Petitions for Pesticides on Food/Feed and New Inert Ingredients,'' (EPA ICR No. 0597.07, OMB No. 2070–0024). This ICR involves a collection activity that is currently approved. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments must be received on or before August 9, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the ''SUPPLEMENTARY INFORMATION'' section of this notice.

FOR FURTHER INFORMATION CONTACT: Cameo Smoot, Office of Pesticide Programs, Mail Code 7506C, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, telephone: 703–305–5454, fax: 703–305–5884, e-mail: smoot.cameo@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Notice Apply to Me?

You may be potentially affected by this notice if you have submitted a petition for a Maximum Residue Limit (MRL) or an exemption to the requirement for a MRL for an active or inert ingredient used in pesticides. By law, to protect the public health from unsafe pesticide residues, EPA is authorized to set MRLs on the nature and level of residues permitted to remain on food or feed (see sections 408(a)(1)(A) and (a)(1)(B) and section 408(b)(1) of the Federal Food, Drug and Cosmetic Act (FFDCA)). This ICR covers all requests for MRLs, or exemptions from the requirement of a MRL and the type of data that is required to be submitted.

Potentially affected categories and entities may include, but are not limited to the following:

Category	NAICS Code	SIC Codes	Examples of Potentially Affected Entities
Pesticide and other agricultural chemical manufacturing	325320	286—Industrial organic chemicals 287—Agricultural chemicals	Pesticide manufacturing companies, pesticide registrants, Interregional Research Project No. 4 (IR–4) petitioners, and third party registrants

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. You or your business are affected by this action if you have a conditional pesticide registration with the Agency. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of this Document or Other Support Documents?

A. Electronic Availability

Electronic copies of this document and the ICR are available from the EPA Home Page at the **Federal Register** - Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/). You can easily follow the menu to find this **Federal Register** notice using the publication date or the **Federal Register** citation for this notice. Although a copy of the ICR is posted with the **Federal Register** notice, you can also access a copy of the ICR by going directly to http://www.epa.gov/icr/. You can then easily follow the menu to locate this ICR by the EPA ICR number, the OMB control number, or the title of the ICR.

B. Fax-on-Demand

Using a faxphone call 202–401–0527 and select item 6071 for a copy of the ICR.

C. In Person or By Phone

If you have any questions or need additional information about this notice or the ICR referenced, please contact the person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

In addition, the official record for this notice, including the public version, has been established under docket control number OPP–00590, (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in the Office of Pesticide Programs (OPP) Public Docket, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The OPP Public Docket telephone number is 703–305–5805.

III. How Can I Respond to this Notice?

A. How and to Whom Do I Submit the Comments?

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket control number, OPP–00590, in your correspondence.

1. *By mail.* Submit written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: OPP Public Docket, Public Information and Records Integrity Branch, Rm. 119, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, Telephone: 703–305–5805.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epa.gov. Please note that you should not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00590. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI Information that I Want to Submit to the Agency?

You may claim information that you submit in response to this notice as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must also be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

C. What Information is EPA Particularly Interested in?

Pursuant to section 3506(c)(2)(A) of PRA, EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are 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 estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

D. What Should I Consider When I Prepare My Comments for EPA?

We invite you to provide your views on the estimates provided, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.

• Provide specific examples to illustrate your concerns.

• Offer alternative ways to improve the collection activity.

• Make sure to submit your comments by the deadline in this notice.

• At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket control number assigned to the notice, along with the EPA and OMB ICR numbers.

IV. What Information Collection Activity or ICR Does this Notice Apply to?

EPA is seeking comments on the following ICR:

Title: Maximum Residue Limit Petitions for Pesticides on Food/Feed and New Inert Ingredients.

ICR numbers: EPA ICR No. 0597.07, OMB No. 2070–0024.

ICR status: This ICR is currently scheduled to expire on June 30, 1999. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: To protect the public health from unsafe pesticide residues, the EPA is authorized to set MRLs on the nature and level of residues permitted to remain on food or feed (see sections 408(a)(1)(A) and (a)(1)(B) and section 408(b)(1) of the FFDCA). The use of pesticides to increase crop production often results in pesticide residues in or on the crop. While EPA is authorized to set pesticide MRLs, the Food and Drug Administration (FDA) is responsible for their enforcement. Food or feed commodities found to contain pesticide residues in excess of established MRLs are considered adulterated and are subject to seizure.

This ICR covers all requests for MRLs, or exemptions from the requirement of a MRL, for both active and inert ingredients in pesticides. The type of data that is required to be submitted is dependent on the type of MRL that is sought. There are five types of MRL petitions that may be submitted and EPA may request the submission of data and/or other relevant information to assist it in its review and in setting the appropriate MRLS. The five types are as follows:

1. Temporary MRL (or an exemption from the requirement for a temporary MRL) to permit sale of commodities containing residues resulting from authorized experimental use of an unregistered pesticide. In the absence of such a MRL or exemption, all such commodities must be destroyed. Because exposure is limited by the nature of the experimental use, the range of data required to support a temporary MRL is generally less than for a permanent MRL.

2. Permanent MRL (or an exemption from the requirement for a permanent MRL) for residues which would result from a pesticide use registered under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

3. Permanent MRL (or an exemption from the requirement for a permanent MRL) petitioned by third parties for residues resulting from registered uses, usually on minor crops for which the pesticide registrant is unwilling to seek a MRL. When minor crops are involved, the range of data requirements is adjusted to be commensurate with the extent of pesticide use.

4. MRLs for other ingredients in pesticides, such as solvents, baits, dust carriers, fillers, wetting or spreading agents, propellants, emulsifiers, etc.

5. MRLs for residues on commodities which are not grown in the United States, and therefore for which there is no U.S. registrant (i.e., import MRLs).

When necessary, EPA will also establish an MRL as part of the Agency's review of a state application for an emergency exemption for pesticides under section 18 of FIFRA. However, this information collection does not cover state submitted MRL data pursuant to section 18 activities since EPA collects relevant state MRL data under the ICR entitled ''Application and Summary for an Emergency Exemption for Pesticides'' (OMB No. 2070–0032).

It is EPA's responsibility to ensure that the maximum residue levels likely to be found in or on food/feed are safe for human consumption through a careful review and evaluation of residue chemistry and toxicology data. In addition, it must ensure that adequate enforcement of the MRL can be achieved through the testing of submitted analytical methods. Once the data are deemed adequate to support the findings, EPA will establish the MRL or grant an exemption from the requirement of a MRL.

On August 3, 1996, the Food Quality Protection Act (FQPA) was signed into law. Effective upon signature, the new statute significantly amended the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug and Cosmetic Act. The new amendment establishes a strong health based safety standard for setting MRLs for pesticides in food. The FQPA requires that MRLs be set at a level to ensure that there be ''a reasonable certainty that no harm will result from aggregate exposure.'' Among other things, FQPA requires EPA to consider a number of new factors when setting such MRLs or registering pesticide products, including: (1) Special protection for infants and children; (2) aggregate of exposure and risk from foods and other known sources, such as drinking water and household pesticide use; and (3) consideration of common mechanisms of toxicity (some chemicals have different molecular structures but cause deleterious effects in the same manner).

Since FQPA passed, EPA is applying this tough, new standard to all MRLs for newly-registered chemicals and food uses. In addition, FQPA has set a schedule for reassessing all 10,000 existing MRLs under this new standard by 2006. The new law did not provide for a phase-in period for many of the new requirements which had not previously been a part of EPA's risk assessment process. EPA has not changed the informational requirements of this ICR from the previous ICR. But while EPA does not require registrants to submit any additional information under this ICR, the new FQPA provisions requires EPA to consider additional information in order to make the necessary regulatory decisions. Therefore, petitioners, who submitted data to the Agency prior to passage of FQPA, are encouraged to supplement their original submissions with additional information. Respondents submitting new petitions may want to submit supplemental information to the Agency even without a requirement to do so. To allow for the most efficient processing and review of MRL petitions, the Agency has provided a description of the types of information that EPA considers helpful in the Appendices to Pesticide Registration (PR) Notice No. 97–1.

PR 97–1 applies to most applicants with registration applications, non-crop-destruct experimental use permit applications, and MRL or MRL exemption petitions pending within the Agency. It also applies to most future applicants seeking new or amended pesticide registrations and all actions involving synthetic chemicals, antimicrobial, biochemical and microbial pesticides. However, the notice does not apply to applicants

seeking fast track ''me-too'' registrations or amendments not involving new uses. There are no forms associated with this information collection.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for the MRL reporting information collection is estimated to average 1,442 hours per response. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: Pesticide registrants, pesticide companies, Interregional Research Project No. 4 (IR–4) petitioners, and third party registrants.

Estimated total number of potential respondents: 150.

Frequency of response: Once for each raw or processed commodity on which the pesticide is used.

Estimated total/average number of responses for each respondent: 1.

Estimated total annual burden hours: 216,300.

Estimated total annual burden costs: $18,466,650.

VI. Are There Changes in the Estimates from the Last Approval?

No. The annual registrant burden estimate for this information collection will remain at 1,442 hours per year with the number of respondents submitting MRL petitions remaining at 150 annually. Changes to the ICR reflect the cost increase for labor rates only. The individual burden per product for PRA reporting has remained constant at 455 hours.

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

List of Subjects

Environmental protection, Information collection requests.

Dated: May 19, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–14363 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00586; FRL–6063–4]

Formation and Request for Nominations to Serve on the Food Quality Protection Act, Science Review Board

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the formation and solicits nominations to serve on the Food Quality Protection Act, Science Review Board. The names, addresses, and professional affiliations of persons already serving on the Science Review Board are provided below. Section 104 of the Food Quality Protection Act of 1996 established the Science Review Board consisting of at least 60 scientists who shall be available to the Federal Insecticide, Fungicide, and Rodenticide Act, Scientific Advisory Panel on an ad hoc basis to assist in reviews conducted by the Panel. The Scientific Advisory Panel was established under section 25(d) of Federal Insecticide, Fungicide, and Rodenticide Act.

ADDRESSES: By mail, submit comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Environmental Protection Agency, 401 M St., SW., Washington, DC, 20460. In person, bring comments to: Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, telephone: (703) 305–5805.

Comments and data also may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data also will be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number OPP–00586. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic comments may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Paul I. Lewis, FIFRA Scientific Advisory Panel (7101C), Office of Science Coordination and Policy, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 117, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, telephone: (703) 305–5369 or 305–7351; e-mail: lewis.paul@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Amendments to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) enacted November 28, 1975 (7 U.S.C. 136w(d)), include a requirement under section 25(d) that notices of intent to cancel or reclassify pesticide regulations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel (SAP) prior to being made public or issued to a registrant. In accordance with FIFRA section 25(d), the SAP is to have an opportunity to comment on the health and environmental impact of such actions. The Panel shall also make comments, evaluations, and recommendations for operating guidelines to improve the effectiveness and quality of analyses made by Agency scientists.

Section 104 of the Food Quality Protection Act of 1996 (FQPA) (Pub. L. 104–170) established the FQPA Science Review Board (SRB) consisting of at least 60 scientists. These scientists shall be available to the SAP on an ad hoc basis to assist in reviews conducted by the Panel.

The Food Quality Protection Act mandated that members of the SRB shall be selected in the same manner as a member of SAP temporary subpanels.

The chair of the SAP, after consultation with the Administrator, may create temporary subpanels on specific projects to assist the full SAP in expediting and preparing its evaluations, comments, and recommendations. These subpanels will be composed of scientists to evaluate scientific studies relied upon by the Administrator with respect to the proposed action. Such additional scientists shall be selected by the SAP.

II. Applicability of Existing Regulations

With respect to the requirements of FIFRA section 25(d) that the Administrator promulgate regulations regarding conflicts of interest, EPA's existing regulations applicable to special government employees, which include advisory committee members, will apply to the members of the SRB. These regulations appear at 5 CFR part 2635.

III. Nominees to the Science Review Board

The Agency announces and solicits nominations of scientists to serve on the SRB. The Agency has already selected members to the SRB and seeks additional participants (a list of current SRB members follows). Members shall be scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. Members will be selected from among, but are not limited to, toxicology, pathology, environmental biology, and related sciences (e.g. pharmacology, biotechnology, biochemistry and biostatistics). No persons shall be ineligible to serve on the SRB by reason of their membership on any other advisory committee to a Federal department or agency or their employment by a Federal department or agency (except the EPA). All nominees to the SRB should furnish information concerning their professional qualifications, educational background, employment history, and scientific publications.

If a SRB nominee is considered to assist in a review by the SAP for a particular session, the SRB nominee is subject to the provisions of 5 CFR part 2634, Executive Branch Financial Disclosure, as supplemented by the EPA in 5 CFR part 6401. As such, the SRB nominee is required to submit a Confidential Financial Disclosure Report (OGE Form 450) which shall fully disclose, among other financial interests, the nominee's employment, stocks and bonds, and where applicable, sources of research support. The EPA will evaluate the nominee's financial disclosure form prior to the nominee being appointed to a panel reviewing agency actions. This evaluation will identify conflicts that may arise between the member's financial interests and the agency actions under review. If the SRB nominee's financial disclosure form is approved by the EPA, the nominee will be assigned to a SAP session and be hired as a Special Government Employee.

The SAP consists of 7 members appointed by the Administrator from a list of 12 nominees, 6 nominated by the National Institutes of Health and 6 by the National Science Foundation, utilizing a system of staggered terms of appointment. The members are: Dr. Ronald Kendall, The Institute of Environmental and Human Health/ Texas Tech University Health Sciences Center, Lubbock, TX (chairperson); Dr. Charles Capen, Ohio State University, School of Veterinary Medicine, Department of Veterinary Biosciences, Columbus, OH; Dr. Ernest McConnell, Toxpath, Inc., Raleigh, NC; Dr. Fumio Matsumura, University of California, Institute of Toxicology and Environmental Health, Davis, CA; Herbert Needleman, M.D., University of Pittsburgh, School of Medicine, Pittsburgh, PA; Dr. Christopher Portier, National Institutes of Environmental Health Sciences, Research Triangle Park, NC, and; Dr. Mary Anna Thrall, Colorado State University, College of Veterinary Medicine and Biomedical Science, Fort Collins, CO.

EPA Science Advisory Board members are also available to serve on the SRB (there are over 300 scientific consultants on the EPA Science Advisory Board). Several EPA Science Advisory Board scientific consultants have served in the past on the SRB to assist in reviews conducted by the Panel. The following are the names, addresses, and professional affiliations of current members on the SRB.

Current FQPA SRB Members

Dr. John Adgate, University of Minnesota, Minneapolis, MN
Dr. Marion Anders, University of Rochester, Rochester, NY
Dr. Jack Barbash, United States Geological Service, Tacoma, WA
Dr. Osman Basaran, Purdue University, West Lafayette, IN
Dr. William Brimijoin, Mayo Clinic and Medical School, Rochester, NY
Dr. Arthur Buikema, Virginia Polytechnical Institute and State University, Blacksburg, VA
Dr. Allen Burton, Wright State University, Dayton, OH
Dr. Janice Chambers, Mississippi State University, Mississippi State, MS
Dr. Robert Chapin, National Institute of Environmental Health Sciences, Research Triangle Park, NC
Dr. Luz Claudio, Mount Sinai Hospital, New York, NY
Dr. Joel Coats, Iowa State University, Ames, Iowa
Dr. Rory Conolly, Chemical Industry Institute of Toxicology, Research Triangle Park, NC
Dr. Michael Cunningham, National Institute of Environmental Health Sciences, Research Triangle Park, NC
Dr. Terri Damstra, World Health Organization, Research Triangle Park, NC
Dr. Kenneth Davis, University of Memphis, Memphis, TN
Dr. Michael Doyle, University of Georgia, Griffin, GA
Dr. J. Larry Duda, Pennsylvania State University, University Park, PA
Dr. Amira Eldefrawi, University of Maryland, Baltimore, MD
Mr. James Fallon, United States Geological Service, Moundsview, MS
Dr. Richard Fenske, University of Washington, Seattle, WA
Dr. David Ferro, University of Massachusetts, Amherst, MA
Dr. John Fletcher, University of Oklahoma, Norman, OK
Dr. Paul Foster, Chemical Industry Institute of Toxicology, Research Triangle Park, NC
Dr. Natalie Freeman, Rutgers University, Piscataway, NJ
Dr. David Gaylor, Food and Drug Administration, Jefferson, AK
Dr. James Gibson, Dow AgroSciences LLC, Indianapolis, IN
Dr. Christian Grue, Washington Cooperative Fish and Wildlife Research Unit, Seattle, WA
Dr. Philip Guzelian, University of Colorado, Denver, CO
Dr. Robert Hale, Virginia Institute of Marine Science, Gloucester Point, VA
Dr. George Hallberg, The Cadmus Group, Waltham, MA
Dr. Lenwood Hall, University of Maryland, Queenstown, MD
Dr. James Hanson, National Institutes of Health, Bethesda, MD
Dr. Gordon Hard, American Health Foundation, Valhalla, NY
Dr. Jerry Hatfield, National Soil Tilth Laboratory, Ames, IA
Dr. Dale Hattis, Clark University, Worcester, MA
Dr. Paul Hendley, Zeneca AG Products, Richmond, CA
Dr. Diane Henshel, Indiana University, Bloomington, IN
Dr. Robert Herrick, Harvard University, Cambridge, MA
Dr. Elwood Hill, University of Nevada, Reno, NV
Dr. Robert Hill, University of Maryland, College Park, MD
Dr. Charles Hobbs, Lovelace Respiratory Research Institute, Albuquerque, NM
Dr. Bruce Hope, Oregon Department of Environmental Quality, Portland, OR
Dr. Art Hornsby, University of Florida, Gainesville, FL

Dr. Robert Horton, Iowa State University, Ames, IA
Dr. Lovell Jones, University of Texas, Houston, TX
Dr. Russell Jones, Rhone-Poulenc, Inc., Research Triangle Park, NC
Dr. Mont Juchau, University of Washington, Seattle, WA
Dr. Kathleen Keeler, University of Nebraska, Lincoln, NE
Dr. John Kissel, University of Washington, Seattle, WA
Dr. Robert Kreiger, University of California, Riverside, CA
Dr. Sam Kung, University of Wisconsin, Madison, WI
Dr. Tom LaPoint, University of North Texas, Denton, TX
George Lambert, M.D. University of Medicine and Dentistry of New Jersey, Piscataway, NJ
Dr. Peter Landrum, National Oceanic and Atmospheric Administration, Ann Arbor, MI
Dr. Dennis Laskowski, Dow AgroSciences LLC, Indianapolis, IN
Dr. Ross Leidy, North Carolina State University, Raleigh, NC
Dr. Martin Locke, United States Department of Agriculture, Stoneville, MS
Dr. Charles MacTutus, University of Kentucky, Lexington, KY
Dr. Margaret McCarthy, University of Maryland, Baltimore, MD
Dr. William McCarthy, Hoffman-LaRouche, Inc., Nutley, NJ
Dr. F.M. Anne McNabb, Virginia Polytechnical Institute and State University, Blacksburg, VA
Dr. Victor McFarland, United States Army Core of Engineers, Vicksburg, MS
Dr. Charles Menzie, Menzie-Cura and Associates, Inc., Chelmsford, MA
Dr. Karl Mierzejewski, Independent Consultant, State College, PA
Dr. Robert Moore, University of Wisconsin, Madison, WI
Dr. Tom Mueller, University of Tennessee, Knoxville, TN
Dr. Mark Nearing, United States Department of Agriculture, West Lafayette, IN
Dr. Benjamin Nelson, National Institute for Occupational Safety and Health, Cincinnati, OH
Dr. Jeff Novak, United States Department of Agriculture, Florence, SC
Dr. Raymond O'Connor, University of Maine, Orono, ME
Dr. John O'Donoughe, Eastman Kodak, Rochester, NY
Dr. Jim Oris, Miami University, Oxford, OH
Dr. Reynaldo Patino, Texas Cooperative Fish and Wildlife Research Unit, Lubbock, TX
Robert Peiffer, DVM, University of North Carolina, Chapel Hill, NC
Dr. James Petty, United States Geological Survey, Columbia, MO
Dr. Carey Pope, Northeast Louisiana University, Monroe, LA
Dr. Nu-may Ruby Reed, California Environmental Protection Agency, Sacramento, CA
J. Routt Reigart, M.D. Medical University of South Carolina, Charleston, SC
Dr. James Render, Michigan State University, East Lansing, MI
Mr. Darryl Rester, Louisiana State University, Baton Rouge, LA
Dr. Lorenz Rhomberg, Harvard Center for Risk Analysis, Boston, MA
Dr. George Roderick, University of Hawaii, Honolulu, HI
Dr. Tim Roland, United States Department of Agriculture, Edinburg, TX
Dr. William Rutula, University of North Carolina, Chapel Hill, NC
Dr. Ali Sadeghi, United States Department of Agriculture, Beltsville, MD
Dr. Syed Sattar, University of Ottawa, Ottawa, Ontario, Canada
Dr. Daniel Saunders, Frito Lay, Dallas, TX
Dr. Jay Schreider, Department of Pesticide Regulation, Sacremento, CA
Dr. Jeffery Scott, United States Department of Commerce, Charleston, SC
Dr. Lynne Sehulster, Centers for Disease Control, Atlanta, GA
Dr. Dhiren Shah, Food and Drug Administration, Washington, DC
Dr. James Shih, National Institutes of Health, Bethesda, MD
Dr. Lawrence Sirinek, Ohio Environmental Protection Agency, Columbus, OH
Dr. William Slikker, National Center for Toxicological Research, Jefferson, AK
Dr. David Smith, Mississippi State University, Mississippi State, MS
Dr. Tom Sobotka, Food and Drug Administration, Laurel, MD
Dr. Mark Sobsey, University of North Carolina, Chapel Hill, NC
Dr. Tammo Steenhuis, Cornell University, Ithaca, NY
Dr. James Swenberg, University of North Carolina, Chapel Hill, NC
Dr. Harold Thistle, United States Department of Agriculture, Forest Service, Missoula, MT
Dr. Mark Tumeo, Cleveland State University,Cleveland, OH
Dr. Harold van Es, Cornell University, Ithaca, NY
Dr. Ian van Wesenbeeck, Dow Elanco, Indianapolis, IN
Dr. John Vandenbergh, North Carolina State University, Chapel Hill, NC
Dr. Joel Walker, University of Arkansas, Fayetteville, AK
Dr. John Wargo, Yale University, New Haven, CT
Dr. R. Don Wauchope, U.S. Department of Agriculture, Tifton, GA
Dr. Carol Weisskopf, Washington State University, Richland, WA
Dr. Richard (Rick) Wetzler, Tufts University, Medford, MA
Dr. Mark Whalon, Michigan State University, East Lansing, MI
Dr. Willis Wheeler, Institute of Food and Agricultural Sciences, Gainesville, FL

List of Subjects

Environmental protection.

Dated: May 17, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 99–14358 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100143; FRL–6083–6]

Lockheed Martin Energy Research Corp. and Summitec Corp.; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Lockheed Martin Energy Research Corp. and its subcontractor, Summitec Corp., under an Interagency Agreement (IAG) with the Department of Energy (DOE), IAG No. DW89938591–01, will perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Lockheed Martin Energy Research Corp. and Summitec Corp. consistent with the requirements of 40 CFR 2.307(h)(3), 2.309(c), and 2.308(I)(2) and will enable Lockheed Martin Energy Research Corp. to fulfill the obligations of the contract.

DATES: Lockheed Martin Energy Research Corp. and Summitec Corp. will be given access to this information no sooner than June 21, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Schmitt, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 703, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5484; e-mail: schmitt.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under IAG No. DW89938591–01, which supports the OPP regulatory efforts, Lockheed Martin Energy Research Corp. and Summitec Corp. will (1) conduct analysis and evaluation of registrant submissions for FIFRA registration and (2) perform special technical assistance projects to assist the Office of Pesticide Programs/EPA with issues associated with setting standards.

OPP has determined that access to this information is necessary for the preformation of these tasks.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(3), 2.08(h)(2), and 2.209(c), this IAG with Lockheed Martin Energy Research Corp. and Summitec Corp., prohibits use of the information for any purpose not specified in the IAG and this contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Lockheed Martin Energy Research Corp. is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided under this IAG until the above requirements have been fully satisfied. Records of information provided under this IAG will be maintained by the Project Officers for each task in the EPA Office of Pesticide Programs.

All information supplied to Lockheed Martin Energy Research Corp. and Summitec Corp. by EPA for use in connection with this IAG will be returned to EPA when Lockheed Martin Energy Research Corp. and Summitec Corp. have completed their work.

List of Subjects

Environmental protection, Transfer of data.

Dated: May 27, 1999.

Richard D. Schmitt,

Acting Director, Information Resources Services Division, Office of Pesticide Programs.

[FR Doc. 99–14359 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100145; FRL–6083–8]

Research Triangle Institute; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Research Triangle Institute has been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Research Triangle Institute consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(I)(2), and will enable Research Triangle Institute to fulfill the obligations of the contract.

DATES: Research Triangle Institute will be given access to this information no sooner than June 14, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Schmitt, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 703, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5484; e-mail: schmitt.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68–W9–8208, Research Triangle Institute will perform activities in support of the environmental chemistry methods programs. This includes validation of analytical methods to detect pesticide residues in foods. This contract involves no sub-contractors.

OPP has determined that access by Research Triangle Institute to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Research Triangle Institute prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the Research Triangle Institute sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Research Triangle Institute is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this Research Triangle Institute until the above requirements have been fully satisfied. Records of information provided to this Research Triangle Institute will be maintained by the Project Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to Research Triangle Institute by EPA for use in connection with this contract will be returned to EPA when Research Triangle Institute has completed its work.

List of Subjects

Environmental protection, Transfer of data.

Dated: May 27, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–14360 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–100144; FRL–6083–7]

Dynamac Corporation; Transfer of Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This is a notice to certain persons who have submitted information to EPA in connection with pesticide information requirements imposed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and the Federal Food, Drug, and Cosmetic Act (FFDCA). Dynamac Corporation (Dynamac) has been awarded a contract to perform work for the EPA Office of Pesticide Programs (OPP), and will be provided access to certain information submitted to EPA under FIFRA and the FFDCA. Some of this information may have been claimed to be confidential business information (CBI) by submitters. This information will be transferred to Dynamac consistent with the requirements of 40 CFR 2.307(h)(3) and 2.308(i)(2), and will enable Dynamac to fulfill the obligations of the contract.

DATES: Dynamac will be given access to this information no sooner than June 14, 1999.

FOR FURTHER INFORMATION CONTACT: By mail: Richard Schmitt, Information Resources Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 703, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, (703) 305–5484; e-mail: schmitt.richard@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: Under Contract No. 68D–W9–9014, Dynamac will review and evaluate toxicological and pharmacological studies reporting tests of pesticides in laboratory animals, clinical reports, monitoring and epidemiological studies, and accidental pesticide exposure incident studies. Additionally, Dynamac will develop and evaluate new procedures or methodologies for testing pesticides for hazards to humans; conduct expert reviews of complex science issues; and perform data extraction/entry from toxicological data summaries, using computerized data bases. This contract involves no subcontractor.

OPP has determined that access by Dynamac to information on all pesticide chemicals is necessary for the performance of this contract.

Some of this information may be entitled to confidential treatment. The information has been submitted to EPA under sections 3, 4, 6, and 7 of FIFRA and under sections 408 and 409 of the FFDCA.

In accordance with the requirements of 40 CFR 2.307(h)(2), the contract with Dynamac prohibits use of the information for any purpose not specified in the contract; prohibits disclosure of the information to a third party without prior written approval from the Agency; and requires that each official and employee of the contractor sign an agreement to protect the information from unauthorized release and to handle it in accordance with the *FIFRA Information Security Manual*. In addition, Dynamac is required to submit for EPA approval a security plan under which any CBI will be secured and protected against unauthorized release or compromise. No information will be provided to this contractor until the above requirements have been fully satisfied. Records of information provided to this contractor will be maintained by the Project Officers for this contract in the EPA Office of Pesticide Programs. All information supplied to Dynamac by EPA for use in connection with this contract will be returned to EPA when Dynamac has completed its work.

List of Subjects

Environmental protection, Transfer of data.

Dated: May 27, 1999.

Richard D. Schmitt,

Acting Director, Information Resources and Services Division, Office of Pesticide Programs.

[FR Doc. 99–14361 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00273; FRL–6085–8]

Notice of Availability of FY 1999 Multimedia Environmental Justice Through Pollution Prevention Grant Funds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: EPA is soliciting grant proposals under the Environmental Justice Through Pollution Prevention (EJP2) grant program. EPA anticipates that approximately $750,000 will be available in Fiscal Year (FY) 1999. This program promotes pollution prevention approaches that address environmental justice concerns in affected communities. The grant funds support: (1) Local environmental, environmental justice, and community grassroots organizations, including religious and civic organizations, as well as tribal governments; (2) national and regional organizations working in partnership with local organizations, or tribal governments; (3) state and local governments; and (4) academic institutions.

DATES: All applications must be received by the EPA contractor, Eastern Research Group (ERG), on or before August 12, 1999. You must submit your application in accordance with the instructions contained in Unit V. of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Danielle Fuligni, Pollution Prevention Division (7409), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 703–841–0483; e-mail address: fuligni.danielle@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe the entities potentially affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information, Including Copies of this Document and the Application Package?

1. *Electronically*. You may obtain copies of the EJP2 grant program guidance and application package from the EPA Internet Home Page at http://www.epa.gov/opptintr/ejp2/.

You may obtain copies of this document from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''Federal Register - Environmental Documents.'' You can also go directly to the ''Federal Register'' listings at http://www.epa.gov/fedrgstr/.

2. *By mail*. You may mail a request for this information to the technical person listed in the ''FOR FURTHER INFORMATION CONTACT'' section, at the address listed.

II. Scope and Purpose of the EJP2 Grant Program

The FY 1999 EJP2 grant program supports the use of pollution prevention approaches to address the environmental problems of minority and low-income communities and Federally recognized tribes. This grant program is designed to fund projects that have a direct impact on affected communities. Funds awarded must be used to support pollution prevention programs in minority and/or low-income communities. The Agency strongly encourages cooperative efforts between communities, businesses, industry, and government to address common pollution prevention goals. Project grants may involve public education, training, demonstration projects, collaborative public-private partnerships, or innovative approaches to develop, evaluate, and demonstrate non-regulatory strategies and

technologies. EPA will award grants to national organizations for projects to assess the results of previous and ongoing EJP2 grants as well as to develop tools for bringing pollution prevention approaches to bear on the problems of environmental justice.

Over the past 4 years, the EJP2 grants have been used to fund a broad range of innovative approaches and partnerships. EPA has funded 176 grants totaling over $14 million. There is less money for these grants this year. While in previous years, EPA has been able to fund 50 or more grants, this year we anticipate being able to fund no more than 10. This year, we will therefore focus our resources on a narrower set of priorities, including:

- *Information products and assistance*: Grantees would develop and disseminate information on effective environmental justice approaches, based in part on the results of earlier EJ/P2 grants.
- *New projects in priority areas*: Priorities include small business projects in environmental justice communities, tribal projects, projects using prevention approaches to protect children from toxics exposure, and projects to promote liveable communities.
- *Wrap-up of existing grants*: Existing grantees may apply for additional funding to bring ongoing or unfinished projects to completion, explore new implications resulting from work already undertaken in the project, or replicate results of a project in a new setting or with a new audience.

You may get more information from the grant application itself at the internet address previously provided or by calling the technical information contact person. The EJP2 grant application guidance provides more information on the above priorities.

III. Definition of Environmental Justice and Pollution Prevention

Environmental justice is defined by EPA as the fair treatment of people of all races, cultures, and incomes with respect to the development, implementation, and enforcement of environmental laws, regulations, programs, and policies. Fair treatment means that no racial, ethnic, or socio-economic group should bear a disproportionate share of the negative environmental consequences resulting from the operation of industrial, municipal, and commercial enterprises, and from the execution of Federal, state, local, and tribal programs and policies.

The Pollution Prevention Act of 1990 establishes a hierarchy of environmental protection practices. These practices include, in order of preference: Pollution prevention, recycling, treatment, and disposal.

Pollution prevention means source reduction; it includes any practice that reduces or eliminates any pollutant at the source of generation prior to recycling, treatment, or disposal. Pollution prevention also includes practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water, or other resources, or by protection of natural resources by conservation.

This grant program implements practices at the top of the hierarchy--pollution prevention/source reduction--to bring about better environmental protection.

IV. Eligibility

Any affected, nonprofit community organizations with section 501(c)(3) or section 501(c)(4) Internal Revenue Service tax status or Federally recognized tribal organizations may submit an application upon the publication of this solicitation. A nonprofit organization is defined as any corporation, trust, association, cooperative, or other organizations that:

- Operates primarily for scientific, educational, service, charitable, or similar purposes in the public interest.
- Is not organized primarily for profit.
- Uses its net proceeds to maintain, improve, and/or expand its operations.

State and local governments and academic institutions are also eligible. Organizations must be incorporated by August 12, 1999, to be eligible to receive funds. Private businesses, Federal agencies, and individuals are ineligible for this grant. Organizations excluded from applying directly, as well as those inexperienced in grant writing, are encouraged to develop partnerships and prepare joint proposals with eligible national, regional, or local organizations.

As a result of the Lobbying Disclosure Act of 1995, EPA (and other Federal agencies) may not award grants to nonprofit, section 501(c)(4) organizations that engage in lobbying activities. This restriction applies to any lobbying activities of a secton 501(c)(4) organization without distinguishing between lobbying funded by Federal money and lobbying funded by other sources.

No applicant can receive two grants for the same project at one time. EPA will consider only one proposal for a given project. Applicants may submit more than one application; however, applications must be for separate and distinct projects.

Organizations seeking funds from the EJP2 grant program can request up to $100,000 for local projects or projects that involve multiple communities located in more than 1 of the 10 EPA Regions, or projects that are national in scope. In accordance with 40 CFR parts 23 and 30, EPA no longer requires cost sharing or matching under this grant program.

V. How and to Whom Do I Submit My Application?

By mail or by person or courier submit your application to: EJP2 Grant Program, c/o ERG, 2200 Wilson Blvd., Suite 400, Arlington, VA 22201.

List of Subjects

Environmental protection, Grants, Pollution prevention.

Dated: June 3, 1999.

Joseph A. Carra,

Director, Office of Pollution Prevention and Toxics.

[FR Doc. 99–14639 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00603; FRL–6083–2]

Ecological Committee for FIFRA Risk Assessment Methods Scientific Peer Input Workshop on Probabilistic Methods

AGENCY: Environmental Protection Agency (EPA).

ACTION: Supplemental notice.

SUMMARY: This is a supplemental notice to the May 12, 1999 **Federal Register** notice (64 FR 25501) (FRL–6076–3) of EPA's Office of Pesticide Programs (OPP), announcing two public workshops to review the Ecological Committee for FIFRA Risk Assessment Methods' (ECOFRAM) proposed probabilistic tools and methods for evaluating the impact of pesticides on aquatic and terrestrial non-target organisms.

DATES: The Aquatic workshop will be held on Tuesday, June 22, 1999, from 8:30 a.m. to 5 p.m. and Wednesday, June 23, l999, from 8 a.m. to 12 p.m. The Terrestrial workshop will be held on Wednesday, June 23, 1999 from 1 p.m. to 5 p.m. and Thursday, June 24, 1999 from 8 a.m. to 4 p.m.

ADDRESSES: The meeting will be held at the Old Town Holiday Inn Select, 480 King Street (corner of King and Royal Streets), Alexandria, Virginia 22314.

FOR FURTHER INFORMATION CONTACT: By mail: Ingrid Sunzenauer (7507C), or Gail

Maske (7507C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Telephone numbers and e-mail addresses are as follows: Ingrid Sunzenauer (703) 305–5196, sunzenauer.ingrid@epa.gov; and Gail Maske (703) 305–5245, maske.gail@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Seating Availability

Seating for each session of the ECOFRAM Workshops will be limited to approximately 60 people and will be available on a first come, first served basis. If the number of attendees exceeds the capacity of the room, individuals can register at the door to receive copies of the workshop summaries.

II. Public Comment

The total public comment period will be limited to 1 hour for each workshop and 5 minutes for each individual, depending on the number of people who plan to make comments. Anyone who intends to make a public comment should sign in before the workshop begins.

List of Subjects

Environmental protection.

Dated: May 28, 1999.

Denise M. Keehner,

Acting Director, Environmental Fate and Effects Division, Office of Pesticide Programs.

[FR Doc. 99–14364 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PF–876; FRL–6082–6]

Notice of Filing Pesticide Petition

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of a pesticide petition proposing the establishment of regulations for residues of a certain pesticide chemical in or on various food commodities.

DATES: Comments, identified by the docket control number PF–876, must be received on or before July 9, 1999.

ADDRESSES: By mail submit written comments to: Information and Records Integrity Branch, Public Information and Services Division (7502C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically by following the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information (CBI) should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as CBI. CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Vera Soltero, Registration Support Branch, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 713G, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 308–9359; e-mail: soltero.vera@epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received a pesticide petition as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemical in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that this petition contains data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–876] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket control number (PF-876) and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Feed additives, Food additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: May 27, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Summaries of Petition

Petitioner summary of the pesticide petition is printed below as required by section 408(d)(3) of the FFDCA. The summary of the petition was prepared by the petitioner and represents the views of the petitioner. EPA is publishing the petition summary verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

AgrEvo USA Company

PP 9E5060

EPA has received a pesticide petition (9E5060) from AgrEvo USA Company, Little Falls Centre One, 2711 Centerville Road, Wilmington, Delaware 19808 proposing, pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate (CAS 163520-33-0) herbicide safener AE F122006 in or on the raw agricultural commodities (RAC) rice grain at 0.05 parts per million (ppm) and rice straw

at 0.2 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of AE F122006 (ethyl 5,5-diphenyl-2-isoxazoline-3-carboxylate) in rice has been investigated and is understood. Total residue levels in animal and rice commodities (particularly grain) were very low. The initial metabolic transformation of AE F122006 in plants is hydrolysis of the prominent ester function, yielding the carboxylic acid, AE F129431 (4,5-dihydro-5,5-diphenyl-3-isoxazolecarboxylic acid). In rice grain, the primary metabolite identified was AE C637375 (β-hydroxy-β-benzenepropanenitrile), which was found only in trace amounts. AE F129431 and its hydroxylated analog AE F162241 (4,5-dihydro-5-(4-hydroxyphenyl)-5-phenyl-3-isoxazolecarboxylic acid) comprised the major metabolic residues in rice straw.

2. *Analytical method*. Based on the results of the metabolism studies, the analytical targets selected were parent compound (AE F122006), and the metabolites AE F129431, AE F162241, and AE C637375. A practical analytical method utilizing capillary gas chromatography and a mass spectrometer detector is available for detecting and measuring levels of these residue targets. The limit of quantification (LOQ) is 0.02 ppm in rice grain and 0.05 ppm in rice straw.

3. *Magnitude of residues*. Eighteen residue trials were conducted in the major United States rice growing areas over 2-years (1996 to 1997). When applied twice at a single application rate of 0.071 pound of the safener per acre (80 g/ha) with the second application made at 65-days before harvest, combined residues in rice grain did not exceed the LOQ (0.02 ppm) with the exception of the results from one trial where the residues were 0.03 and 0.04 ppm for AE F122006 and AE C637375, respectively. In rice straw, the combined maximum residues did not exceed 0.2 ppm. Thus, the tolerances are proposed at 0.05 ppm in rice grain and 0.2 ppm in rice straw. Based on the results of the animal metabolism studies, no residues are anticipated in milk, meat, and eggs due to feeding rice grain or straw. Therefore, tolerances for these commodities are not required.

B. Toxicological Profile

1. *Acute toxicity*. AE F122006 is slightly toxic following acute oral exposure, no more than slightly toxic following acute dermal exposure and practically non-toxic following acute inhalation exposure. The acute rat oral LD_{50} of AE F122006 was 1,740 milligrams/kilograms (mg/kg). The acute rat dermal LD_{50} was greater than 2,000 mg/kg and the 4-hour rat inhalation LC_{50} was > 5 milligrams per liter (mg/l). AE F122006 was slightly irritating to rabbit eyes and non-irritating to rabbit skin. Based on these results, AE F122006 would be classified as EPA Category III for oral and dermal toxicity and eye irritation, and EPA Category IV for inhalation toxicity and dermal irritation. Technical AE F122006 was shown to be a dermal sensitizer in a guinea pig maximization assay, but no evidence of sensitization has been observed in a Buehler assay when formulated into a commercial product.

2. *Genotoxicity*. No evidence of genotoxicity was noted in *Salmonella* and *E. coli* reverse bacterial mutation assays, an *in vitro* mammalian gene mutation assay in Chinese hamster lung (V79) cells, an *in vivo* unscheduled DNA synthesis assay in rat hepatocytes, or a mouse micronucleus assay. An increase in chromosomal aberrations was observed in an *in vitro* assay in Chinese hamster lung (V79) cells, but only at toxic concentrations. Thus, the overall weight of evidence indicates that AE F122006 does not possess significant genotoxic activity.

3. *Reproductive and developmental toxicity*. A rat developmental toxicity study was conducted at dose levels of 0, 15, 120, and 1,000 mg/kg/day. Maternal toxicity (including one death) was noted at 1,000 mg/kg/day. Slight developmental toxicity (an increase in resorptions) but no evidence of teratogenicity was also noted at this level. No effects were noted at 120 mg/kg/day, which was considered to be the no-observed adverse effect level (NOAEL) for both maternal and developmental toxicity.

A rabbit developmental toxicity study was conducted at dose levels of 0, 5, 50, and 500 mg/kg/day. Maternal effects at 500 mg/kg/day consisted of decreased food consumption, slight weight loss during gestation days 6-8, and one death. In addition, one animal at 500 mg/kg/day had only two empty implantation sites. No evidence of teratogenicity or developmental toxicity was noted. Thus, 50 mg/kg/day was considered to be the NOAEL for maternal toxicity while 500 mg/kg/day was the NOAEL for developmental effects.

Although generally not a prerequisite for the establishment of tolerances for an inert safener, a 2-generation rat reproduction study with AE F122006 is in progress. In this study, AE F122006 was administered at dietary concentrations of 0, 20, 200, and 4,000 ppm. Although histopathology is still in progress, the preliminary results from the in-life data indicate that the NOAEL will likely be 200 ppm, based on decreased body weight (bwt) gain in both adults and weanlings (beginning at day 21) at 4,000 ppm. No reproductive effects have been observed at any dose level.

4. *Subchronic toxicity*. In a 90-day rat feeding study, AE F122006 was administered at dietary concentrations of 0, 20, 200, 2,000, and 4,000 ppm. The NOAEL for this study was considered to be 200 ppm (approximately 15.3 mg/kg/day) based on decreased weight gain at 2,000 ppm, and decreased weight gain, increased liver weights, and centrilobular hepatocyte enlargement at 4,000 ppm.

In a 90-day feeding study in mice, AE F122006 was administered at dietary concentrations of 13, 125, 1,250, and 2,500 ppm. Decreased kidney weights, increased liver weights, and histopathological changes in the liver (centrilobular hepatocyte enlargement and vacuolation) were noted at 1,250, and 2,500 ppm. The NOAEL for this study was 125 ppm (approximately 23 mg/kg/day).

In a 90-day dog feeding study, AE F122006 was administered to beagle dogs at dietary concentrations of 0, 25, 125, and 1,000 ppm. The NOAEL for this study was considered to be 25 ppm (approximately 1.3 mg/kg/day) based on slight histopathological effects in the kidneys at 125 ppm, and effects on the kidneys, spleen, liver, heart, and intestines at 1,000 ppm.

5. *Chronic toxicity*. Long-term studies in rats, mice, and dogs have not yet been completed. However, these studies are generally not a prerequisite to the establishment of tolerances for inert safeners, and no preneoplastic lesions were observed in any of the 90-day studies. Furthermore, AE F122006 is not closely related to any known human or animal oncogen, and a structure activity assessment revealed no structural alerts for oncogenicity.

6. *Animal metabolism*. AE F122006 was well absorbed and rapidly metabolized and excreted when administered to rats as a single oral dose in sesame oil. AE F122006 was poorly absorbed in dogs when administered as a single oral dose in 1% gum tragacanth.

A 2-fold increase in absorption was noted in dogs when administered via the diet. The primary metabolite in both rats and dogs was the carboxylic acid, AE F129431, which is the same as observed in plants.

The metabolism of AE F122006 in ruminants is adequately understood. A dairy cow was dosed with the compound at a level equivalent to 10 ppm in the diet for 7 days. Total residue levels were very low. Parent compound was seen in fats and milk only. The carboxylic acid, AE F129431, was the major metabolite identified in all of the tissues, with traces also being found in the milk.

The metabolism of AE F122006 in poultry is also adequately understood. Laying hens were fed the compound at a level equivalent to 10 ppm in the diet for 14 days. Residue levels were low in all commodities. The vast majority of the dose was excreted as AE F129431, with smaller amounts of AE F162241 and AE F122006. AE F129431 was the major metabolite identified in all of the tissues and yolks. Trace amounts of AE F122006 and AE F162241 were detected in liver and eggs with AE F122006 also being detected in the muscle.

7. *Endocrine disruption*. No special studies have been conducted to investigate the potential of AE F122006 to induce estrogenic or other endocrine effects. However, no evidence of estrogenic or other endocrine effects have been noted in any of the standard toxicology studies that have been conducted with this product, and there is no reason to suspect that any such effects would be likely.

C. Aggregate Exposure

1. *Dietary exposure*. AE F122006 will be used only as a herbicide safener and, at this time, only for use on rice. No non-agricultural uses are anticipated. Thus, the only potential sources of non-occupational exposure to AE F122006 would consist of any potential residues in food and drinking water. As previously indicated, in the absence of any acute toxicity concerns, only chronic exposures have been evaluated.

i. *Food*. AE F122006 is being proposed for use only in rice. In the animal metabolism studies with ruminants and poultry, the concentration of AE F122006 and its metabolites in the edible tissues, milk and eggs were very low. Based on these results, no secondary residues of AE F122006 are expected in meat, milk and eggs as a result of using AE F122006 treated rice and/or rice commodities as animal feed. Thus, only potential exposures from direct human consumption of rice containing residues of AE F122006 were evaluated.

The potential dietary exposures from consumption of treated rice have been assessed using the Exposure 1 software system (TAS, Inc.) and the 1977-78 USDA food consumption data. Two different dietary exposure scenarios were evaluated. In the first, worst-case scenario, it was assumed that 100% of the rice consumed contained residues of AE F122006 at the proposed tolerance level of 0.05 ppm. However, it is anticipated that AE F122006 would be used on no more than 10% of the rice grown in the United States. Furthermore, rice is a nationally distributed crop. Rice treated with AE F122006 would be mixed in grain elevators and processing plants with other rice which was not treated with this product. Thus, a second, more realistic scenario assumed that only 10% of the commodities consumed contained residues of AE F122006, but that these residues remained at the proposed tolerance level of 0.05 ppm.

ii. *Drinking water*. The potential for AE F122006 and its main acid metabolite AE F129431 to leach into ground water and reach surface water has been assessed in various laboratory studies. These studies clearly demonstrate that both compounds are rapidly degraded in the environment. AE F122006 is rapidly hydrolyzed in soil (half-life = 0.1-day) to AE F129431 which is further metabolized to carbon dioxide and soil bound residue (half-life = 6.5 days).

A screening evaluation of worst-case shallow ground water concentration was conducted using the EPA model SCIGROW and a simple calculation of worst-case long-term surface water concentrations following use in rice paddies. The results indicate that both compounds (parent and its primary degradate) will not contaminate shallow ground water or surface water. Concentrations of AE F122006 and its primary degradate, AE F129431 in ground or surface water were calculated to be < 0.01 ppb. Potential residues in drinking water would be even lower. Since the contribution of any potential residues of AE F122006 in water to the total dietary intake of AE F122006 would be negligible, these values were not included in the dietary exposure assessment.

D. Cumulative Effects

There is no information to indicate that AE F122006 may share a common mechanism of toxicity with any other chemical. Thus, this assessment was limited strictly to AE F122006.

E. Safety Determination

1. *U.S. population*. No acute toxicity concerns were noted in either the acute toxicity studies or the developmental toxicity studies in rats or rabbits. Since an acute toxicology endpoint has not been identified, an acute risk assessment with AE F122006 is not necessary and has not been conducted.

Long-term studies in rats, mice and dogs, although generally not a prerequisite for issuance of tolerances for inert safeners, have not yet been completed. Based on the subchronic toxicity data, it appears that the dog is the species most sensitive to AE F122006. Therefore, a provisional RfD (ADI) of 0.0013 mg/kg/day has been proposed by using the NOAEL of 1.3 mg/kg/day from the 90-day dog study and a 1,000-fold (rather than 100-fold) margin of safety. The extra ten-fold safety factor is used to account for the fact that the RfD is calculated from the NOAEL of a subchronic rather than chronic toxicity study.

Although there is no indication or expectation of any oncogenic effect from AE F122006, a worst-case Q1* can be estimated based on the potential worst-case results from the ongoing rodent oncogenicity studies. Using the linearized multistage model with hypothetical worst-case tumor responses from the ongoing studies, a hypothetical worst-case Q1* was calculated to be 1.2×10^{-2} $(mg/kg/day)^{-1}$. This hypothetical Q1* can be used to generate an upper bound on any potential oncogenic risk that might result from exposure to AE F122006.

Under the most conservative, worst-case scenario, in which it is assumed that all rice commodities contain residues of AE F122006 at the proposed tolerance level, the potential exposures to the ''General U.S. Population'' and the most highly exposed adult subgroup, ''Non-Hispanic other Than Black or White,'' would utilize about 0.7% and 3.2%, respectively, of the proposed provisional RfD. In a more realistic scenario, in which the treated rice is assumed to represent only 10% of the rice consumed in the United States and is assumed to be blended with non-treated rice prior to consumption, the potential exposures to the ''General U.S. Population'' and ''Non-Hispanic Other Than Black or White'' subgroup would utilize about 0.1% and 0.3% of the proposed provisional RfD, respectively. For chronic exposures, there is generally no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily exposure over a lifetime would not pose

appreciable risks to human health. Therefore, these dietary exposures clearly would not pose a significant risk to the health of the overall U.S. population.

As previously indicated, there is no indication that AE F122006 is likely to be oncogenic. Nevertheless, an upper bound on the potential oncogenic risks was estimated using the hypothetical Q1* of 1.2 x 10^{-2} (mg/kg/day)$^{-1}$. Under the worst-case scenario in which all rice contained tolerance level residues of AE F122006, the theoretical 95% upper bound estimates of potential oncogenic risk for the overall ''U.S. Population'' and ''Non-Hispanic Other Than Black or White'' subgroup would be 1 x 10^{-7} and 5 x 10^{-7}, respectively. Taking into account the expected market share of AE F122006, the upper bounds on the potential oncogenic risks for these 2 groups would be 1 x 10^{-8} and 5 x 10^{-8}, respectively. Thus, regardless of the outcome of the ongoing oncogenicity studies, the potential oncogenic risks to the overall U.S. population from dietary exposure to AE F122006 following its use in rice are clearly negligible.

2. *Infants and children*. Data from rat and rabbit developmental toxicity studies and rat multigeneration reproduction studies are generally used to assess the potential for increased sensitivity of infants and children. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from potential exposure during prenatal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from potential prenatal and postnatal exposure to the pesticide.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children to take into account possible increased sensitivity or based upon the completeness of the data base. No evidence of increased sensitivity to fetuses was noted in developmental toxicity studies in rats or rabbits. Although histopathology examinations from the 2-generation rat reproduction study have not yet been completed, there has been no indication of any reproductive effects or indication of increased sensitivity to the offspring. Furthermore, the proposed provisional RfD of 0.0013 mg/kg/day (which is derived from the NOAEL from the 90-day dog study and a 1,000-fold safety factor) is about 1,000-fold lower than the tentative (pending histopathology) NOAEL of 200 ppm (about 15 mg/kg/day) in the reproduction study. Thus, no additional safety factor to protect infants and children is deemed necessary.

According to the results of the dietary assessment, the population subgroup with the highest potential exposures to AE F122006 under scenarios previously described would be non-nursing infants (<1-year old). In the first, worst-case scenario, in which all rice and rice commodities contained residues of AE F122006 at the proposed tolerance levels, the potential dietary exposure to AE F122006 would utilize 4.5% of the proposed provisional RfD. Taking into account the fact that less than 10% of the rice consumed will be treated with AE F122006, the potential exposure to infants and children would utilize no more than 0.5% of the proposed provisional RfD. These values are substantially below the RfD and therefore would not pose an appreciable risk to human health.

Regardless of the outcome of the ongoing oncogenicity studies, the hypothetical upper bound estimate of potential oncogenic risk to infants and children under the worst-case exposure scenario was estimated to be approximately 7 x 10^{-7}. Under the more realistic scenario incorporating percent crop treated, the potential upper bound estimate of oncogenic risk would be no more than 7 x 10^{-8}. Thus, even under a worst-case scenario, the use of AE F122006 on rice would pose no more than a negligible risk of oncogenicity to infants and children.

F. International Tolerances

There are no Codex Alimentarius Commission (CODEX) maximum residue levels (MRLs) established for residues of AE F122006.

[FR Doc. 99–14362 Filed 6–8–99; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

Sunshine Act Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on June 10, 1999, from 9:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts of this meeting will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

—May 13, 1999 (Open and Closed)

B. New Business

Regulation

—Leasing Authorities [12 CFR Parts 614, 616, 618, and 621]

***Closed Session**

C. Report

—OSMO Report

Dated: June 4, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–14694 Filed 6–7–99; 9:33 am]

BILLING CODE 6705–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE AND TIME: Tuesday, June 15, 1999 at 10 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.

* * * * *

DATE AND TIME: Thursday, June 17, 1999 at 10 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–12: Campaign

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Advisory Opinion 1999–12: Campaign for Working Families, by Bobby R. Burchfield, counsel.

Progress Report on PricewaterhouseCoopers (Pwc) Recommendations.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer. Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 99–14790 Filed 6–7–99; 3:36 pm]

BILLING CODE 6715–01–M

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 June 24, 1999.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Community Financial Services, Inc., Atlanta, Georgia, and Independent Bankers Financial Corp., Irving, Texas; to engage *de novo* through their subsidiary, Internet Banking Communications, LLC, Atlanta, Georgia, and thereby engage in the development and marketing of software products and related services to financial institutions, pursuant § 225.28(b)(14) of Regulation Y.

Board of Governors of the Federal Reserve System, June 4, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–14622 Filed 6–8–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL ACCOUNTING OFFICE

Federal Accounting Standards Advisory Board

AGENCY: General Accounting Office.

ACTION: Notice of two-day meeting on July 1 and 2, 1999.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. No. 92–463), as amended, notice is hereby given that the Federal Accounting Standards Advisory Board will hold a two-day meeting on Thursday, July 1 and Friday, July 2, 1999, from 9:00 to 4:30 p.m. in room 7C13, the Comptroller General's Briefing Room, of the General Accounting Office Building, 441 G St., NW, Washington, DC.

The purpose of the meeting is to:

- Receive FASAB staff update reports on FASAB Projects Plans and Financial Statement Reviews, and
- Discuss Property, Plant, and Equipment; Stewardship Reporting; Social Insurance; and Multi-use Heritage Assets.

Any interested person may attend the meeting as an observer. Board discussions and reviews are open to the public.

FOR FURTHER INFORMATION, CONTACT: Wendy Comes, Executive Director, 441 G St., NW, Room 3B18, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act. Pub. L. 92–463, Section 10(a)(2), 86 Stat. 770, 774 (1972) (current version at 5 U.S.C. app. section 10(a)(2) (1988); 41 CFR 101–6.1015 (1990).

Dated: June 4, 1999.

Wendy M. Comes,

Executive Director.

[FR Doc. 99–14642 Filed 6–8–99; 8:45 am]

BILLING CODE 1610–01–M

GENERAL SERVICES ADMINISTRATION

Privacy Act of 1974; System of Record

AGENCY: General Services Administration.

ACTION: Notice of a revised system of records subject to the Privacy Act of 1974.

SUMMARY: The General Services Administration (GSA) revises the Credentials, Passes, and Licenses (GSA/HRO–8) system of records. The revision updates the categories of individuals covered by the system and the categories of records in the system to include biometric identification information (e.g., electronic fingerprints) on employees participating in state-of-the-art identification methods.

DATES: The revision is effective on June 9, 1999.

FOR FURTHER INFORMATION CONTACT: GSA Privacy Program, Office of Management Services (CAI), 1800 F Street, NW., Washington, DC; phone (202) 501–1452.

GSA/HRO–8

SYSTEM NAME:

Credentials, Passes, and Licenses.

SYSTEM LOCATION:

This system of records is maintained by the Director, Office of Management Services (CA), 1800 F Street, NW., Washington, DC and by GSA regional offices listed in the appendix of this notice.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All employees whose assigned responsibilities require the issuance of credentials for identification and security purposes, including employees participating in identification methods using the latest technology, such as biometrics, e.g., electronic fingerprinting.

CATEGORIES OF RECORDS IN THE SYSTEM:

Employee passes, licenses, and identification credentials, which may include the following GSA-wide forms and/or similar regional forms:

a. GSA Form 15, Weekend and Holiday Pass (personal characteristics).

b. GSA Form 48, Request for and Record of Credential or Pass (name, photo, official address and phone number, home address, next of kin and next of kin phone number, issuance date, serial number, employee signature, and issuing official).

c. GSA Form 277, Employee Identification and Authorization Credential—General (photo, signature of bearer, name of employee, signature of issuing official, date issued, identification serial number, Social Security Number (SSN), position title, official address and phone number, home address and phone number, next

of kin, next of kin phone number, and medical information).

d. OF 7, Property Pass (name, building, description of property, agency, and effective date).

e. GSA Form 2941, Parking Application (name address, agency, correspondence symbol, office telephone number, and length of service).

f. Biometric information, such as fingerprints, collected electronically.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Federal Property and Administrative Services Act of 1949 (63 Stat. 377) as amended.

PURPOSE(S):

To assemble in one system information pertaining to passes and credentials for identification and security purposes; to facilitate the issuance and control of cards, parking permits, building passes, drivers licenses, and similar credentials; and to ensure only authorized access to secure areas and systems.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Information from this system may be disclosed as a routine use:

a. To the Federal, State, or local agency responsible for investigating, prosecuting, enforcing, or implementing a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

b. To a member of Congress or to a congressional staff member about an individual at the request of the individual.

c. To another Federal agency or to a court when the Government is party to a judicial proceeding before the court.

d. To a Federal agency, on request, in connection with the hiring and retention of an employee, the issuance of a security clearance, the conducting of a security or suitability investigation of an individual, the classifying of a job, the letting of a contract, or the issuance of license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision.

e. By the Office of Personnel Management in the production of summary descriptive statistics in support of the function for which the records are collected and maintained, or for related workforce studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in such a way as to make the data individually identifiable by inference.

f. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process.

g. To officials of the Merit Systems Protection Board, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

h. To an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee.

i. To the Office of Personnel Management in accordance with the agency's responsibility for evaluation of Federal personnel management.

j. To the extent that official personnel records in the custody of GSA are covered within the systems or records published by the Office of Personnel Management as Governmentwide records, they will be considered a part of that Governmentwide system. Other official personnel records covered by notices published by GSA and considered to be separate systems of records may be transferable to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

k. To an expert, consultant, or a contractor of GSA to the extent necessary to further the performance of a Federal duty.

l. To medical personnel in the event of a medical emergency.

POLICIES AND PRACTICES, FOR STORING, RETRIEVING, ACCESSING RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is collected electronically and on paper and may be stored as paper forms or in electronic chips in the individual's identification card, and in associated automated data systems.

RETRIEVABILITY:

Name, SSN, identification (badge) serial number.

SAFEGUARDS:

When not in use by an authorized person, paper records are stored in lockable metal file cabinets or secured rooms. Electronic records are protected by a password and may also have a personal identification number (PIN) as a second level of protection.

RETENTION AND DISPOSAL:

Disposition of records is according to the National Archives and Records Administration (NARA) guidelines, as set forth in the handbook, GSA Records Maintenance and Disposition System (OAD P 1820.2) and authorized GSA records schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Management Services (CA), General Services Administration, 1800 F St., NW., Washington, DC 20405. Since this is a geographically dispersed system, individuals may gain access to it by contacting the officials at locations listed in the appendix of this notice.

NOTIFICATION PROCEDURE:

Individuals may submit a request on whether a system contains records about them to the offices shown in the appendix. Individuals should provide name, social security number, period of employment, and position held to assist the office in locating the record.

RECORD ACCESS PROCEDURES:

An individual can obtain information on procedures for gaining access to records from the Director, Office of Management Services (CA), or the appropriate regional office listed in the appendix.

CONTESTING RECORD PROCEDURES:

GSA rules for access to systems of records, contesting the contents of systems of records, and appealing initial determinations are published in the **Federal Register**, 41 CFR part 105–64.

RECORD SOURCE CATEGORIES:

Information is provided by employees being issued credentials and the issuing officials.

Appendix: GSA regional office addresses.

New England Region (includes Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) Regional Privacy Act Coordinator, General Services Administration, 10 Causeway Street, Boston, MA 02222

Northeast and Caribbean Region (includes New Jersey, New York, Puerto Rico, and Virgin Islands), Regional Privacy Act Coordinator, General Services Administration, 26 Federal Plaza, New York, NY 10278

Mid-Atlantic Region (includes Delaware, Maryland, Pennsylvania, Virginia and West Virginia, (but excludes the

National Capital Region) Regional Privacy Act Coordinator, General Services Administration, 100 Penn Square East, Philadelphia, PA 19107

Southeast Sunbelt Region (includes Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee), Regional Privacy Act Coordinator, General Services Administration, Summit Building, 401 West Peachtree Street, Atlanta, GA 30365–2550

Great Lakes Region (includes Illinois, Indiana, Michigan, Ohio, Minnesota, and Wisconsin), Regional Privacy Act Coordinator, General Services Administration, 230 South Dearborn Street, Chicago, IL 60604–1696

The Heartland Region (includes Iowa, Kansas, Missouri, and Nebraska), Regional Privacy Act Coordinator, General Services Administration, 1500 East Bannister Road, Kansas City, MO 64131–3088

Greater Southwest Region (includes Arkansas, Louisiana, Oklahoma, New Mexico, and Texas), Regional Privacy Act Coordinator, General Sercices Administration, 819 Taylor Street, Fort Worth, TX 76102

Rocky Mountain Region (includes Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming), Regional Privacy Act Coordinator, General Services Administration, Denver Federal Center, Bldg 41, Lakewood, CO 80011

Pacific Rim Region 9includes Arizona, California, Hawaii, and Nevada), Regional Privacy Act Coordinator, General Services Administration, 450 Golden Gate Avenue, San Francisco, CA 94102–3488

Northwest/Arctic Region (includes Alaska, Idaho, Oregon, and Washington), Regional Privacy Act Coordinator, General Services Administration, 400 15th Street SW, Auburn, WA 98001–6599

National Capital Region (includes the District of Columbia; the counties of Montgomery and Prince George's in Maryland; the city of Alexandria, Virginia; and the counties of Arlington, Fairfax, Loudoun, and Prince William in Virginia), Regional Privacy Act Coordinator, General Services Administration, 7th and D Streets, SW, Washington, DC 20407

Dated: June 4, 1999.

Daniel K. Cooper,

Director, Administrative, Services Division.

[FR Doc. 99–14645 Filed 6–8–99 8:45 am]

BILLING CODE 6820–34–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Meeting of the Secretary's Advisory Committee on Genetic Testing

AGENCY: Office of the Secretary, DHHS.

ACTION: Meeting notice.

Pursuant to Public Law 92–463, notice is hereby given of the first meeting of the Secretary's Advisory Committee on Genetic Testing (SACGT), U.S. Public Health Service. The meeting will be held from 9 a.m. to 5 p.m. on June 30, 1999 at the National Institutes of Health, Building 31, C Wing, Conference Room 10; 9000 Rockville Pike, Bethesda, MD 20892. The meeting will be open to the public from 9 a.m to adjournment with attendance limited to space available. The first SACGT meeting will be for orientation and organizational purposes. There will be a limited period of time provided for public comment and interested individuals should contact the SACGT Executive Secretary as shown below.

Under authority of 42 U.S.C. 217a, section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established the SACGT to advise and make recommendations to the Secretary through the Assistant Secretary for Health on all aspects of the development and use of genetic tests. The SACGT is directed to (1) recommended policies and procedures for the safe and effective incorporation of genetic technologies into health care; (2) assess the effectiveness of existing and future measures for oversight of genetic tests; (3) and identify research needs related to the Committee's purview. The establishment of the SACGT was recommended by the Task Force on Genetic Testing (TFGT) of the NIH-DOE Working Group on the Ethical, Legal, and Social Implications (ELSI) of the Human Genome Project as well as the Joint NIH-DOE Committee to Evaluate the ELSI Program of the Human Genome Project.

The SACGT is composed of 13 non-governmental experts in relevant medical, scientific, and professional fields, including genetic testing, medical genetics, genetic counseling, primary health care, public health, clinical laboratory management, diagnostic technology, ethics, law, psychology, and social sciences, as well as patient/consumer advocates. Since the Clinical Laboratory Improvement Advisory Committee (CDC) and the Medical Devices Advisory Committee (FDA) have relevant roles in ensuring the quality and safety of genetic testing laboratories and genetic test kits, one current member of each of these committees serve on the SACGT. The heads, or their designees, of six DHHS agencies are nonvoting, *ex officio* members of the SACGT. The agencies are the Agency for Health Care Policy and Research; Centers for Disease Control and Prevention; Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; and National Institutes of Health.

The draft meeting agenda and other information about the SACGT will be available at the following web site: *http://www.nih.gov/od/orda/sacgtdocs.htm*. Individuals who wish to provide public comments or who plan to attend the meeting and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the SACGT Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or E-mail at *sc112c@nih.gov*. The SACGT office is located at 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892.

Dated: June 2, 1999.

David Satcher,

Assistant Secretary for Health and Surgeon General.

[FR Doc. 99–14531 Filed 6–8–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 99130]

Improving Effectiveness of Tuberculosis; Prevention and Control Programs in Developing Countries Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of fiscal year (FY) 1999 funds for a grant to provide education and technical assistance to improve the quality, efficiency, and effectiveness of programs for the prevention and control of tuberculosis (TB) in Central America, Southeast Asia, and Africa. This program addresses the ''Healthy People 2000'' priority areas of HIV Infection and Immunization and Infectious Diseases.

The purpose of this grant is to assist the recipient in providing technical assistance and conducting training

programs in countries of mutual interest to the CDC and the recipient. This project is designed primarily for TB control program managers working with TB control programs in developing countries whose TB situation is of strategic interest to the United States including Central America (Mexico) and Southeast Asia (Vietnam and the Philippines).

B. Eligible Applicants

Applications may be submitted by public and private nonprofit organizations and by governments and their agencies; that is, universities, colleges, research institutions, hospitals, other public and private organizations, State and local governments or their bonafide agents, and federally recognized Indian tribal governments, Indian tribes or Indian tribal organizations.

Note: Public Law 104–65 states that an organization described in section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $125,000 is available in FY 1999 to fund one award. The award is anticipated to begin on or about September 1, 1999, for a 12-month budget period within a five-year project period. The funding estimate is subject to change. Continuation awards within the project period will be made on the basis of satisfactory progress and the availability of funds.

D. Program Requirements

1. Assess the TB-related public health infrastructure, TB informational needs, and training needs of health care providers and TB control program personnel in developing countries with a high rate of TB and that are contributing to the U.S. immigrant population, especially Mexico, Vietnam, and the Philippines.

2. Encourage collaboration between TB control programs in the Unites States that have a high prevalence of TB among the foreign-born and developing countries in their TB control efforts.

3. Identify and propose project activities in response to findings in 1 and 2 above. Activities may include support of regional and international meetings designed to improve information transfer on a regional or international basis, and program assessments that can be used to improve the diagnosis and treatment of TB and improve TB control in developing countries contributing to the U.S. immigrant population, especially Mexico, Vietnam, and the Philippines.

4. Disseminate publications developed by international TB controllers throughout the world in developing countries, such as documents related to TB epidemiology.

5. Facilitate the incorporation of epidemiologic principles in TB international prevention and control programs and expedite the dissemination of epidemiologic findings in order to improve these programs.

6. Provide technical support for the North American Region Meetings regarding issues of international TB issues, such as programmatic research, training, and new technology transfer in international TB strategies.

7. Provide technical support of CDC Sponsored/Co-Sponsored Symposia at international conferences, including the 1999 conference in Madrid, Spain in the form of programmatic research, training, and new technology transfer in international TB strategies.

8. Support travel to meetings of selected staff from countries with extremely high TB rates, who will actively participate in these meetings by developing agendas, providing presentations on international TB topics and coordinating and participating in training seminars. These areas should include countries that are having an impact on U.S. morbidity, such as the Philippines and Vietnam, in addition to the top ten countries on the World Health Organization's (WHO) list of 22 high burden countries.

9. Develop a training program (mini-fellowship) to train international TB Control staff and other key personnel working in TB control activities and provide technical assistance to countries of mutual interest to the CDC and the recipient.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than 35 double-spaced pages, printed on one side, with one inch margins, and 12 CPI font.

1. *Understanding of the Project:* Describe the problems to be addressed with the requested assistance and briefly propose a programmatic plan for each.

2. *Objectives and Operational Plan:* Establish long-(five year) and short-term (one year) objectives for programmatic plans. Objectives must be specific, measurable, time phased, and realistic. Describe the operational plan for achieving each objective. Concisely describe each component or major activity and how it will be carried out. Include a time line for completing each component or major activity.

3. *Evaluation Plan:* Discuss the plan for monitoring progress toward each of the objectives.

4. *Program Management:* Describe the professional personnel involved in the management of this project, their qualifications, and past achievements.

5. *Budget:* Submit a detailed budget and line-item justification that is consistent with the program purpose and proposed activities.

F. Submission and Deadline

Submit the original and two copies of the application PHS Form 5161–1 (Revised 7/92, OMB Control Number 0937–0189). Forms are available at the following Internet address: www.cdc.gov/...Forms, or are in the application kit. On or before July 12, 1999, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

Deadline: Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent 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 shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet the criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Applications will be reviewed and evaluated by a CDC appointed review committee according to the following criteria:

1. Extent to which the applicant understands the requirements, problems, objectives, complexities, and interactions required of this project (20 Points).

2. Degree to which the proposed objectives are clearly stated, realistic, time phased, and related to the purpose of this project (20 Points).

3. Adequacy of the plans for administering the project. (30 Points)

4. Extent to which the professional personnel proposed to be involved in this project are qualified, including evidence of past achievements appropriate to this project. In addition, the extent to which the applicant demonstrates having a large, world-wide constituency. (30 Points)

5. Budget: Consideration will be given to the extent to which the budget is reasonable, clearly justified, and consistent with the intended use of funds. (Not scored)

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Annual progress reports. Progress reports must include the following for each program, function, or activity involved:

a. a comparison of actual accomplishments to the goals established for the period;

b. the reasons for slippage if established goals were not met; and

c. other pertinent information including, when appropriate, analysis and explanation of unexpected high costs for performance.

2. Financial status report no more than 90 days after the end of the budget period; and

3. Final financial and performance reports no more than 90 days after the end of the project period.

Send all reports to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' section of this announcement.

The following additional requirements are applicable to this program. For a complete description of each, see Attachment I in the application kit.

AR–6 Patient Care

AR–9 Paperwork Reduction Act Requirements

AR–10 Smoke-Free Workplace Requirements

AR–11 Healthy People 2000

AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance

This program is authorized under section 301(a), 317(k)(1) and 317(k)(2) of the PHS Act, as amended [42 U.S.C. 241(a), 247b(k)(1) and 247b(k)(2)]. The Catalog of Federal Domestic Assistance Number is 93.947, TB Demonstration, Research, Public and Professional Education Projects.

J. Where To Obtain Additional Information

To receive additional written information and to request an application kit, call 1–888–GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from: Juanita Crowder, Grants Management Specialist, Grants Management Branch, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341–4146; Telephone (770) 488–2734; Email address: JDD2@CDC.GOV.

See also the CDC home page for this and other announcements on the Internet: http://www.cdc.gov. You may also download applications forms at this site.

Programmatic technical assistance may be obtained from: Harry Stern, Division of Tuberculosis Elimination, National Center for Prevention Services, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop E–10, Atlanta, GA 30333; Telephone (404) 639–8120; Email Address: HAS3@CDC.GOV.

Dated: June 3, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–14543 Filed 6–8–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Center for Disease Control and Prevention

Meeting; National Institute for Occupational Safety and Health

The National Institute for Occupational Safety and Health (NIOSH) of the Center for Disease Control and Prevention (CDC) announces the following meeting.

Name: Developing a NIOSH Strategic Plan for Surveillance of Occupational Diseases, Injuries, and Hazards.

Time and Date: 9 a.m.–4:30 p.m., July 29, 1999.

Place: Hubert H. Humphrey Building, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 70 people. Seating will be limited to approximately 50 people.

Purpose: The purpose of this meeting is to request public advice in identifying gaps in the NIOSH's surveillance activities of occupational diseases, injuries, and hazards.

NIOSH is developing a strategic plan to guide its surveillance activities. NIOSH is one of several Federal agencies mandated to contribute to the development of an effective national surveillance system for occupational diseases, injuries, and hazards. Two separate, but interrelated activities are underway. One is the development of a NIOSH strategic plan for occupational disease and injury surveillance of the nation's work force. The second one is the development of a plan specific for the ongoing surveillance of hazards in the workplace (prior similar efforts include the National Occupational Hazard Survey [1972–74], the National Occupational Exposure Survey [1981–83] and the National Occupational Hazard Survey of Mining [1984–89]). To obtain input from occupational health and safety practitioners, researchers, and interested organizations, we plan to have a meeting where NIOSH will ask the attendees for their views on what specific surveillance objectives should be incorporated into the NIOSH Surveillance Strategic Plan.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card should plan to arrive at the building each day either between 8 and 8:30 a.m. or 12:30 and 1 p.m. so they can be escorted to the meeting. Entrance to the meeting at other times during the day cannot be assured.

Contact Persons for Additional Information: Lawrence J. Fine, M.D., Dr.P.H., NIOSH, CDC, M/S R12, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4428, and DeLon Hull, Ph.D., NIOSH, CDC, M/S R12, 4676 Columbia Parkway, Cincinnati, Ohio 45226, telephone 513/841–4366.

The Director, Management Analysis and Services office has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 2, 1999.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–14544 Filed 6–8–99; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Food Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Food Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on June 24 and 25, 1999, 8:30 a.m. to 5 p.m.

Location: Holiday Inn at Ballston, Ballroom, 4610 North Fairfax Dr., Arlington, VA.

Contact Person: Catherine M. DeRoever, Center for Food Safety and Applied Nutrition (HFS–22), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–205–4251, FAX 202–205–4970, or e-mail ''cderoeve@bangate.fda.gov'', or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 10564. Please call the Information Line for up-to-date information on this meeting.

Agenda: On June 24, 1999, the committee will discuss a science-based enforcement strategy for filth and extraneous materials that emphasizes food safety. Further, there will be a discussion regarding the public health implications of patulin, a mycotoxin frequently found in apple juice and products containing apple juice. On June 25, 1999, the committee will be conducting an informational meeting during which it will be receiving reports of several working groups, including reports on ''significant scientific agreement'' for health claims, dietary supplement good manufacturing practices, whether food labels can and should be used to communicate information on emerging science to consumers, and research incentives for health claims for food products.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by June 21, 1999. Oral presentations from the public will be scheduled between approximately 10:30 a.m. and 11 a.m. and between approximately 4 p.m. and 4:30 p.m. on Thursday, June 24, 1999, and between approximately 8:30 a.m. and 9 a.m. on June 25, 1999. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before June 21, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: June 2, 1999.

Sharon Smith Holston,

Acting Commissioner of Food and Drugs.

[FR Doc. 99–14549 Filed 6–8–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1080–N]

Medicare Program; Meeting of the Competitive Pricing Demonstration Area Advisory Committee, Maricopa County, AZ

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

ACTION: Notice of meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, this notice announces a meeting of the Area Advisory Committee (AAC) for the Maricopa County Competitive Pricing Demonstration on June 30 and July 1, 1999.

The Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. The BBA requires the Secretary to appoint an AAC in each designated demonstration area to advise on implementation of the project, including the marketing and pricing of the plan and other factors. AAC meetings are open to the public.

DATES: The 2-day meeting is scheduled for June 30 and July 1, 1999, from 10:30 a.m. until 5 p.m., m.s.t.

ADDRESSES: The meeting will be held at the YWCA of the USA, Leadership Development Conference Center, 9440 North 25th Avenue, Phoenix, AZ 85021, (602) 944–0569.

FOR FURTHER INFORMATION CONTACT: Elizabeth C. Abbott, Regional Administrator, Health Care Financing Administration, 75 Hawthorne Street, 4th Floor, San Francisco, CA 94105, (415) 744–3501.

SUPPLEMENTARY INFORMATION: Section 4011 of the Balanced Budget Act of 1997 (BBA) requires the Secretary of the Department of Health and Human Services (the Secretary) to establish a demonstration project under which payments to Medicare+Choice organizations in designated areas are determined in accordance with a competitive pricing methodology. Section 4012(a) of the BBA requires the Secretary to appoint a Competitive Pricing Advisory Committee (CPAC) to make recommendations concerning the designation of demonstration sites and appropriate research designs for implementation. Once an area is designated as a demonstration site, section 4012(b) of the BBA requires the Secretary to appoint an Area Advisory Committee (AAC) to advise on the marketing and pricing of the plan in the area and other factors. Thus far, the Kansas City metropolitan area and Maricopa County in Arizona have been designated as demonstration sites.

The Maricopa County AAC has previously met on March 31, 1999, April 20, 1999, May 18 and 19, 1999, and June 7 and 8, 1999. The Maricopa County AAC is composed of representatives of health plans, providers, employers, and Medicare beneficiaries in the area. The members are: Joseph Anderson, Schaller Anderson Inc.; Rick Badger, Pacificare of Arizona; Reginald Ballantyne III, PMH Health Resources, Inc.; Donna Buelow, Arizona State Retirement System; Charles Cohen, Arizona Department of Insurance; John Hensing, M.D., Samaritan Health Systems; Mary Lynn Kasunic, Area Agency on Aging; Anne Lindeman, Governor's Advisory Council on Aging; Ben Lopez, Honeywell Corp.; Thomas Marreel, William M. Mercer Associates; Anthony Mitten, Maricopa County Medical Society; Edward Munno, Jr., Intergroup of Arizona; Susan Navran, Blue Cross Blue Shield of Arizona; Erik Olsen, D.D.S., American Association of Retired Persons; Leland Peterson, Sun Health Corp.; Donna Redford, Arizona Bridge to Independent Living; Herb Rigberg, M.D., Health Services Advisory Group; Martha Taylor, Arizona SHIP; Clyde Wright, M.D., Cigna of Arizona; Arthur Pelberg, M.D., Schaller Anderson Inc.; Joseph Hanss, M.D., physician; and Phyllis Biedess, Director, Arizona Health Care Cost Containment System (AHCCCS). In accordance with section 4012(b) of the BBA, the AAC will exist for the duration of the project in the area, expected to be five years from the January 1, 2000, start date.

This notice announces the June 30 and July 1, 1999, meeting of the

Maricopa County AAC. This meeting will be held from 10:30 a.m. to 5 p.m., m.s.t., at the YWCA of the USA, Leadership Development Conference Center in Phoenix, AZ.

The agenda for this 2-day meeting will include a report on the June 24, 1999, CPAC meeting, reports from the Maricopa County AAC benefit package subcommittee and the timeline subcommittee, discussion of a standard benefit package, and any other outstanding issues related to the decisions the AAC is charged with making.

Individuals or organizations that wish to make 5-minute oral presentations on the agenda issues should contact the San Francisco Regional Administrator by 12 noon on June 23, 1999. Anyone who is not scheduled to speak may submit written comments to the San Francisco Regional Administrator by June 25, 1999.

These meetings are open to the public, but attendance is limited to space available.

Authority: Section 4012 of the Balanced Budget Act of 1997, Public Law 105–33 (42 U.S.C.1395w–23 note) and section 10(a) of Public Law 92–463 (5 U.S.C. App.2, Section 10(a))

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

Dated: June 4, 1999.

Nancy-Ann Min DeParle,

Administrator, Health Care Financing Administration.

[FR Doc. 99–14630 Filed 6–8–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

Program Exclusions: May 1999

AGENCY: Office of Inspector General, HHS.

ACTION: Notice of program exclusions.

During the month of May 1999, the HHS Office of Inspector General imposed exclusions in the cases set forth below. When an exclusion is imposed, no program payment is made to anyone for any items or services (other than an emergency item or service not provided in a hospital emergency room) furnished, ordered or prescribed by an excluded party under the Medicare, Medicaid, and all Federal Health Care programs. In addition, no program payment is made to any business or facility, e.g., a hospital, that submits bills for payment for items or services provided by an excluded party. Program beneficiaries remain free to decide for themselves whether they will continue to use the services of an excluded party even though no program payments will be made for items and services provided by that excluded party. The exclusions have national effect and also apply to all Executive Branch procurement and non-procurement programs and activities.

Subject, city, state	Effective date
PROGRAM-RELATED CONVICTIONS	
ALDERMAN, JOHN ALLEN ..... FLORENCE, CO	06/17/1999
BENET, CONSTANCIA ..... MIAMI, FL	06/17/1999
BLESER, RAYMOND ALAN .... SCHENECTADY, NY	06/17/1999
BRIGMAN, SHERRY WRIGHT AYLETT, VA	06/17/1999
BRIM, CHARLES EDWARD .... DENVER, CO	06/17/1999
BUSHNELL, RONALD EARL ... LODI, CA	06/17/1999
CASTELLANOS, CARLOS ..... MIAMI, FL	06/17/1999
CONSOLIDATED AMBULETTE, INC ..... NEWBURGH, NY	06/17/1999
CUTRONE, DIANA M ..... FORT MILL, NC	06/17/1999
CUTRONE, ANTHONY ..... FORT MILL, SC	06/17/1999
CYR, HEIDI M ..... BLAINE, ME	06/17/1999
DALLMAN, JAMES HOWARD GRAND RAPIDS, MI	06/17/1999
DUONG, LINH HONG ..... SEVERN, MD	06/17/1999
FAYAD, BALIL ABDELKADER STERLING HGTS, MI	06/17/1999
FERNANDEZ, ESTEVAN P ..... MIAMI, FL	06/17/1999
FRIZZELL, ROBERT ..... NASHVILLE, TN	06/17/1999
HENRY, STEVEN ALONZO ..... ATLANTA, GA	06/17/1999
HSUE, KUZI ..... BELLEVUE, WA	01/06/1999
IANNIELLO, MICHAEL ..... NORTH BERGEN, NJ	06/17/1999
INTLEKOFER, MARK E ..... MAQUOKETA, IA	06/17/1999
JANOSKIE, KAREL SCOTT ..... GRAND JUNCTION, MI	06/17/1999
JASMIN, FRANTZ ..... BRONX, NY	06/17/1999
JLO DIAGNOSTIC OF MIAMI, INC ..... MIAMI, FL	06/17/1999
JOHN MICHKOVITS, DDS, PC SOUTH HAVEN, MI	06/17/1999
KRATZ, SUSAN V ..... WAUKESHA, WI	06/17/1999
LICHTL, KENNETH LEE ..... CANON CITY, CO	06/17/1999
LONG, JANET E ..... TROY, VA	06/17/1999
MEDEROS, RAYMOND R ..... TEGA CAY, SC	06/17/1999
MENESES, FRANCISCO ..... MIAMI, FL	06/17/1999
MICKAIL, VICTORIA ROSE GRABERT ..... MONROE, LA	06/17/1999
MURPH, JAMES T ..... LORIS, SC	06/17/1999
NAGALINGAM, KUMARALINGAM ..... OAKDALE, LA	06/17/1999
NGUYEN, TUOC KIM ..... SEVERN, MD	06/17/1999
NILSSON, CHERYL LYNN ..... GRANTSBURG, WI	06/17/1999
NORTON HEARING, INC ..... BARRINGTON, RI	06/17/1999
NOZAWA, RANDALL ..... FEDERAL WAY, WA	01/06/1999
OBREGON, JOSE ..... MIAMI, FL	06/17/1999
PARKER, ELIZABETH KAY ..... SMITHFIELD, NC	06/17/1999
PATEL, SHARAD BECHARBHAI ..... SAGINAW, MI	06/17/1999
PATSALOS, DEAN ..... NEWBURGH, NY	06/17/1999
PURSER, DANNY C ..... PROVO, UT	06/17/1999
RADFORD, WILLIAM FRANCIS ..... ATCHISON, KS	06/17/1999
RODRIGUEZ, MAUREEN ..... MIAMI, FL	06/17/1999
RODRIGUEZ, ISABEL ..... MIAMI, FL	06/17/1999
RODRIGUEZ, OLGA ..... MIAMI, FL	06/17/1999
ROOSEVELT MEDICAL CENTER, INC ..... COLLEGE PARK, GA	06/17/1999
SALDANA, TAMMY ..... MINOT, ND	06/17/1999
SEBREN, TAMMY ODELL ..... HAZEN, AR	06/17/1999
SHAPOSHNIKOV, LILLIAN ..... LAS VEGAS, NV	06/17/1999
STRUGATS, MICHAEL ..... N WOODMERE, NY	06/17/1999
TYSON, EVA ..... JUNCTION CITY, KS	06/17/1999
VULCANO, JOSEPH MICHAEL BRONX, NY	06/17/1999
WADEHRA, DWARKA N ..... CANTON, IL	06/17/1999
WASHINGTON DENTAL HEALTH CTR ..... TACOMA, WA	01/06/1999
FELONY CONVICTIONS FOR HEALTH CARE FRAUD	
SCHAAL, DAWN M ..... POSEN, IL	06/17/1999
FELONY CONTROL SUBSTANCE CONVICTIONS	
KOEHLER, PAMELA RAE	06/17/1999

Subject, city, state	Effective date
MCKINLEYVILLE, CA	
PATIENT ABUSE/NEGLECT CONVICTIONS	
ALBRIGHT, DONNA STOCKLAND, IL	06/17/1999
CANSLOR, STEPHEN JACKSON, MS	06/17/1999
CARROLL, KAREN SHAWANO, WI	06/17/1999
CHAND, NOBLE TUCUMCARI, NM	06/17/1999
CORBETT, FELICIA S COLUMBIA, SC	06/17/1999
FERNANDEZ, LUIS MORGANVILLE, NJ	06/17/1999
HERNANDEZ, SHARON CHRISTINE DENVER, CO	06/17/1999
LEWIS, ELIZABETH ANNE OLYMPIA, WA	06/17/1999
LONG, RICHARD LAZARUS JR SANTA BARBARA, CA	06/17/1999
LUCAS, BRENDA RUTH ALEXANDRIA, LA	06/17/1999
LUVINE, JENNIFER MOUNT OLIVE, MS	06/17/1999
MANDELLA, FRANCIS LUCILLE PORTERVILLE, CA	06/17/1999
MERRICK, CATRINA WILSON WESTWEGO, LA	06/17/1999
PERKINS, DONNA D AURORA, OH	06/17/1999
RICHARD, MICHAEL J SR BILOXI, MS	06/17/1999
SHANNON, RUTHIE PHILADELPHIA, MS	06/17/1999
TOWNSEND, BOBBY PEARL, MS	06/17/1999
TURRIETTA, EUGENE ALBUQUERQUE, NM	06/17/1999
VETAL, ANGELA E UTICA, NY	06/17/1999
WAGONER, ARCHIE EUGENE DETROIT, MI	06/17/1999
CONVICTION FOR HEALTH CARE FRAUD	
HAMPTON, VIRGINIA M ORANGEBURG, SC	06/17/1999
CONTROLLED SUBSTANCE CONVICTIONS	
ROACH, MARY PATRICIA PEAR, MS	06/17/1999
LICENSE REVOCATION/SUSPENSION/ SURRENDERED	
ADAMS, DAVID J RIVER RIDGE, LA	06/17/1999
ALEXANDER, JENNY H CHICAGO, IL	06/17/1999
ALLISON, SHIRLEE M GOSHEN, IN	06/17/1999
ALTLAND, DONNA FLEMING YORK HAVEN, PA	06/17/1999
AMBROZIC, LISA L DES MOINES, IA	06/17/1999
ANDERSON, MICHAEL RED BUD, IL	06/17/1999
ANDERSON, SCOTT P SR DERBY, VT	06/17/1999
APPIAH, ALICE PETERSBURG, VA	06/17/1999
AUSTIN, DAN E FAIRFAX, VA	06/17/1999
BAGA, JOHN JAMES ST PAUL, MN	06/17/1999
BAUER, CHARLES DONALD SALINAS, CA	06/17/1999
BEAVER, PATSY R RICEVILLE, IA	06/17/1999
BOLTON, RUBY B SHAWNEETOWN, IL	06/17/1999
BROADWELL, JEFFREY M PLYMOUTH, VT	06/17/1999
BROCKUNIER, CHARLES W MONMOUTH, IL	06/17/1999
BRUNAULT, PAULA BELMONT, NH	06/17/1999
BUCHHOLZ, MARIA HOBE SOUND, FL	06/17/1999
CARINO, ROMEO CHICAGO, IL	06/17/1999
CHARAPATA–FOLKS, LORETTA L LAGRANGE, IL	06/17/1999
CLAPP, ARLENE S NORFOLK, VA	06/17/1999
CLEGHORN, PATRICIA L ELK RUN HGTS, IA	06/17/1999
COLBURN, STACY M COLCHESTER, VT	06/17/1999
CROTEAU, MICHELLE MANCHESTER, NH	06/17/1999
CZARNECKI, WILLIAM A HOFFMAN ESTATES, IL	06/17/1999
DAVIS, MARIA PROVIDENCE, RI	06/17/1999
DAVIS, VINCENT W MURPHYSBORO, IL	06/17/1999
DEVINE, JAMES S CULVER CITY, CA	06/17/1999
ESPOSITO, AMY STRATFORD, CT	06/17/1999
FERGUSON, ROCHELLE H SCIOTA, PA	06/17/1999
FERGUSON, CYNTHIA WILLIAMSPORT, PA	06/17/1999
FISK, LINDA L BURLINGTON, VT	06/17/1999
FLUDE, DEBORAH LONDON MILLS, IL	06/17/1999
FOX, SUZANNE R DANVILLE, IL	06/17/1999
GANN, LAURA ROCK FALLS, IL	06/17/1999
GILBERT, KRISTEN H S SEATUCKET, NY	06/17/1999
GREEN, THEOPHILUS E CHICAGO, IL	06/17/1999
GREER, SHERRY RENEE CYPRESS, IL	06/17/1999
HAENIG, WENDY ROBINSON, IL	06/17/1999
HALL, MILDRED O MIDDLETOWN, OH	06/17/1999
HAMES, BETTY ASHLAND, MS	06/17/1999
HANDY, MYRA CHICAGO, IL	06/17/1999
HARTIG, TERESA LYNN ATASCADERO, CA	06/17/1999
HICKORY TREE RESCUE SQUAD BLUFF CITY, TN	06/17/1999
HITE, DEBRA KAY CUSHING, OK	06/17/1999
HITZIG, PIETR BALTIMORE, MD	06/17/1999
HOLLAND, RICHARD W SILVER SPRING, MD	06/17/1999
HORNE, AARON S TABB, VA	06/17/1999
JAMES, KIMBERLEE ANN BUTLER, AL	06/17/1999
JOHNSON, SUSAN J W FRANKFORT, IL	06/17/1999
JONES, ALVINA SPOKANE, WA	06/17/1999
KING, NANCY E CONCORD, VT	06/17/1999
KINNEY, TARAH L BENNINGTON, VT	06/17/1999
KLAWITTER, RUTH HEATHER SAN FRANCISCO, CA	06/17/1999
KLEIN, HARLENE E KNOXVILLE, IA	06/17/1999
KRAUSE, ROBERT A LAS VEGAS, NV	06/17/1999
LANE, JUDY LOUISE BRATTLEBORO, VT	06/17/1999
LEWIS, LYANA PENFIELD BURLINGTON, VT	06/17/1999
LILTON, ORA L E ST LOUIS, IL	06/17/1999
MAGNER, ERIN G WOONSOCKET, RI	06/17/1999
MANGELS, TONI GALATIA, IL	06/17/1999
MARTINEZ, IRMA JEAN HILMAR, CA	06/17/1999
MCCUMBER, JAMES RAYMOND TUSCOLA, IL	06/17/1999
MCNABB, RHONDA LAVIER BRANDON, MS	06/17/1999
MERCHANT, LEO C ST JOHNSBURY, VT	06/17/1999
METCALF, ANGELA PARIS, IL	06/17/1999
MICKEL, AUDREY F GREENBRAE, CA	06/17/1999
MINYARD, LAURA A MARISSA, IL	06/17/1999
MYERS, DENNIS L MCKEESPORT, PA	06/17/1999
NUNEZ, JOSEPH M BURLINGTON, VT	06/17/1999
O'LEARY, PATRICIA SALINAS, CA	06/17/1999
PALMER, JEAN M MOUNT HOLLY, VT	06/17/1999
PAYNE, STANLEY M HOUSTON, TX	06/17/1999
PETERS, HAROLD R MIDDLEBURG HGTS, OH	06/17/1999
PHELPS, LOUISE M N BENNINGTON, VT	06/17/1999
PRESSLEY, LEESA J MANCHESTER, TN	06/17/1999
ROSS, JAMES L QUINCY, MA	06/17/1999
ROUNDTREE, SILVERRENE P SNOW HILL, MD	06/17/1999
ROWAN, BRUCE W	06/17/1999

Subject, city, state	Effective date
TACOMA, WA	
SCHWALBEN, EUGENE BALDWIN, NY	06/17/1999
SMITH, SHARON ASHUELOT, NH	06/17/1999
SMITH, TAMMARA GLEN BURNIE, MD	06/17/1999
SMITH, JOYCE KEEL BALTIMORE, MD	06/17/1999
SNYDER, MICHAEL K NORTH ADAMS, MA	06/17/1999
SONG–ANDERSON, KALEN ANDREYAH HAYWARD, CA	06/17/1999
ST CLOUD, LOURDES WALTHAM, MA	06/17/1999
STONE, PATRICIA NEW HAVEN, CT	06/17/1999
STOODLEY, JE ANN BELLOWS FALLS, VT	06/17/1999
THOMPSON, KANDI E BENNINGTON, VT	06/17/1999
TILLARY, TERESA A DURHAM, NC	06/17/1999
TURNER, GUY K WORCESTER, MA	06/17/1999
VIRGA, CHRISTINE PEARL RANDOLPH, VT	06/17/1999
WARMINGTON, GAEL M PLYMOUTH, MA	06/17/1999
WEHREN, LOIS E ELLICOTT CITY, MD	06/17/1999
WIGGINGTON, KAREN CORINTH, MS	06/17/1999
FEDERAL/STATE EXCLUSION/ SUSPENSION	
MILLER, SANDRENE A ORANGE, NY	06/17/1999
WASSEF, ADEL A CEDAR GROVE, NJ	06/17/1999
OWNED/CONTROLLED BY CONVICTED/ EXCLUDED	
CCS MEDICAL EQUIPMENT DME, INC MIAMI, FL	06/17/1999
CORNER STONE COUNSELING ENID FT WORTH, TX	06/17/1999
FRIESEN READING CLINIC FT WORTH, TX	06/17/1999
MESA DRIVE PHARMACY MISSOURI CITY, TX	06/17/1999
OPIS MURRAY TRANSPORTATION MARKHAM, IL	06/17/1999
SHEPHERD PHARMACY PEARLAND, TX	06/17/1999
DEFAULT ON HEAL LOAN	
AHN, BUSUN VANCOUVER, WA	06/17/1999
BAKER, MARK LEE TREMONTON, UT	06/17/1999
BERTILSON, ROSS A MORA, MN	06/17/1999
BOATWRIGHT, HARRY WADE CHARLESTON, SC	06/17/1999
HARRIS, DENISE M NASHVILLE, TN	06/17/1999
HUSE, DEBRA LAREE WEST PLAINS, MO	06/17/1999
JAIN, ANUPAM NEW YORK, NY	06/17/1999
MCDANIEL, JULIUS C NEW YORK, NY	06/17/1999
MCDONALD, VICTORIA MOSELY BLUFFTON, SC	06/17/1999
MINHAS, MUJIB A BELLROSE, NY	06/17/1999
MORRIS, JEFFREY K LONGMONT, CO	06/17/1999
PERRY, MAURICE A HOUSTON, TX	06/17/1999
PHAN, DAI Q OAKLAND, NJ	06/17/1999
RICE, WILLIAM M MALDEN, MA	06/17/1999
ROBINSON–AKANDE, DEBORAH ANN CHICAGO, IL	06/17/1999
SANCHEZ, JAIME RAUL UNION CITY, NJ	06/17/1999
TIERNEY, RICHARD W ATLANTA, GA	06/17/1999
TOMPKINS, KEVIN A CHICAGO, IL	06/17/1999
TORRES, CARLOS R SAN JUAN, PR	06/17/1999
VANCE, JULIE E MILWAUKEE, WI	06/17/1999
VINTER, YELENA BROOKLYN, NY	06/17/1999
VOGEN, KENNETH W FOUNTAIN VALLEY, CA	06/17/1999
VOLPATO, RONALD N CHICO, CA	05/12/1999
WACH, JOHN R W VALLEY CITY, UT	06/17/1999
WAGNER, JOHN D E ELLIJAY, GA	06/17/1999
WALLACE, RICHARD LARRY JR ARTESIA, NM	06/17/1999
WALTON, TERI R PASADENA, CA	06/17/1999
SETTLEMENT AGREEMENTS	
KAWESCH, GLENN A LA JOLLA, CA	10/21/1997

Dated: May 28, 1999.

Joanne Lanahan,

Director, Health Care Administrative Sanctions, Office of Inspector General.

[FR Doc. 99–14625 Filed 6–8–99; 8:45 am]

BILLING CODE 4150–04–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Discretionary Funds for Projects To Establish Individual Development Accounts for Refugees

AGENCY: Office of Refugee Resettlement (ORR), ACF, DHHS.

ACTION: Notice of availability of FY 1999 Discretionary Social Service Funds to public and private, non-profit agencies for projects to establish and manage Individual Development Accounts for refugees.

SUMMARY: The Office of Refugee Resettlement invites eligible entities to submit competitive grant applications for projects to establish and manage Individual Development Accounts (IDAs) for low-income refugee [1] participants. Eligible refugee participants who enroll in these projects will open and contribute systematically to IDAs for specified Savings Goals, including homeownership, business capitalization, and post-secondary education. Grantees may use ORR funds to provide matches for the savings in the IDAs up to $2,000 per individual refugee and $4,000 per refugee household. Applications will be screened and evaluated as indicated in this program announcement. Awards will be contingent on the outcome of the competition and the availability of funds.

DATES: The closing date for submission of applications is August 9, 1999. See Part IV of this announcement for more information on submitting applications.

ANNOUNCEMENT AVAILABILITY: The program announcement and the application materials are available on the ORR website at www.acf.dhhs.gov/programs/orr.

FOR FURTHER INFORMATION CONTACT: Carmel Clay-Thompson, Director, Division of Community Resettlement (DCR), ORR, Administration for

[1] In addition to persons who meet all requirements of 45 CFR 400.43, eligibility for refugee social services also includes: (1) Cuban and Haitian entrants under section 501 of the Refugee Education Assistance Act of 1980 (Pub. L. 96–422); (2) certain Amerasians from Vietnam who are admitted to the U.S. as immigrants under section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, as included in the FY 1988 Continuing Resolution (Pub. L. 100–202); and (3) certain Amerasians from Vietnam, including U.S. citizens, under Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1989 (Pub. L. 100–461), 1990 (Pub. L. 101–167), and 1991 (Pub. L. 101–513). For convenience, the term ''refugee'' is used in this notice to encompass all such eligible persons.

Children and Families (ACF), (Telephone: (202) 401–4557; Fax: (202) 401–5487) or Henley Portner, Program Specialist, DCR, ORR, ACF, (Telephone: (202) 401–5363; Fax: (202) 401–5772; E-mail: HPortner@ACF.DHHS.GOV).

SUPPLEMENTARY INFORMATION: This program announcement consists of four parts:

Part I: Background—program purpose, program objectives, legislative authority, funding availability, CFDA Number, definition of terms

Part II: Project and Applicant Eligibility—funding priorities, preferences, eligible applicants, project and budget periods, multiple applications, treatment of program income

Part III: The Review Process—intergovernmental review, initial ACF screening, evaluation criteria and competitive review

Part IV: The Application—application materials, application development, application submission

Paperwork Reduction Act of 1995 (Pub. L. 104–13): Public reporting burden for this collection of information is estimated to average four hours per response, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information. The following information collection is included in the program announcement: OMB Approval No. 0970–0139, ACF UNIFORM PROJECT DESCRIPTION (UPD), which expires 10/31/2000. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Part I. Background

Program Purpose and Objectives: The Office of Refugee Resettlement invites qualified entities to submit competing grant applications for new projects that will establish, support, and manage Individual Development Accounts (IDAs) for eligible low-income refugee individuals and families. The Refugee IDA Program represents an anti-poverty strategy built on asset accumulation for low-income refugee individuals and families with the goal of promoting refugee economic independence. In particular, the objectives of this program are to: Increase the ability of low-income refugees to save; promote their participation in the financial institutions of this country; assist refugees in advancing their education; increase home ownership; and assist refugees in gaining access to capital. These new projects will accomplish these objectives by establishing programs that combine the provision of matched savings accounts with financial training and counseling.

Eligibility for this program is limited to refugees:

- Who have earned income and whose household earned income at time of enrollment does not exceed 200 percent of the federal poverty level; and
- Whose assets at time of enrollment do not exceed $10,000, excluding the value of a primary residence.

Grantees may target their projects to refugees with lower incomes and net worth than the limits described above. A copy of the HHS Poverty Guidelines is attached to this announcement. The Poverty Guidelines may also be found at http:/aspe.hhs.gov/poverty/99poverty.htm.

Grantees, in partnership with qualified financial institutions, will create Individual Development Accounts for refugee participants. Refugee participants will systematically contribute to the IDAs in order to purchase specified Savings Goals. Grantees may include any or all of the following Savings Goals in their IDA program:

- Home Purchase or Renovation;
- Post-Secondary Education, Vocational Training, or Recertification;
- Microenterprise Capitalization;
- Purchase of an Automobile;
- Purchase of a Computer.

Additional information on these Savings Goals is provided in the Definition of Terms section of this announcement.

ORR encourages applicants to include in their projects commitments of additional public or private funds for matching IDA deposits, operational overhead, or training. Documentation of additional funds should be provided in the application in writing, executed with the entity providing the non-ORR contribution, on letterhead of the entity, and signed by a person authorized to make a commitment on behalf of the entity.

The grantee will establish a ''Savings Plan Agreement'' with each refugee participant. The Savings Plan Agreement should include:

(1) A proposed schedule of savings deposits by the participant;
(2) The rate at which participant's savings will be matched;
(3) The Savings Goal for which the account is maintained;
(4) Any training or counseling which the participant agrees to attend;
(5) Agreement that the participant will not withdraw funds except for the specified Savings Goal or for an emergency and only after consultation with the grantee; and
(6) A procedure for amending the Agreement.

Applicants may propose additional provisions to be included in Savings Plan Agreements.

The IDA contains only the refugee participant's deposits and interest earned on those deposits. The grantee will create a parallel account (or parallel accounts), separate from the participants' IDAs, in a qualified financial institution, in which all matching ORR grant funds will be deposited and maintained on behalf of the refugee participants. Drawdown of the ORR grant funds and deposit of those funds into the parallel account(s) will be permitted no earlier than the time of the refugee's deposit to the IDA. Grantees must draw down ORR funds for matching IDA deposits within three months of the date that the refugee participant makes the deposit.

ORR funds may be used at a matching rate no greater than two-to-one for each dollar deposited in the IDA by the refugee participant. Grantees may choose to vary the amount of the match by type of Savings Goal and/or by income level of the refugee participants. Over the course of the five-year project period, not more than $2,000 in ORR grant funds may be provided through matching contributions to any one refugee individual and not more than $4,000 may be provided to any one refugee household.

The interest that accrues on the ORR matching funds deposited in the parallel account must be credited to the IDAs of the refugee participants. Interest on the matching funds is not subject to the $2,000/$4,000 limitation on total match for an individual and a household. The interest on the match funds in the parallel account may not be retained by the grantee for any purpose, including program administration, participant support services, or program data collection.

ORR strongly encourages applicants to incorporate in these projects financial training for the refugee participants. The training may be provided directly by the grantee or the grantee may choose to provide the training through subgrantees or other providers. The types of training provided by a grantee should reflect both the refugee population and the types of Savings Goals to be included in the program. Such training could include budgeting, cash management, savings, investment, and credit counseling. Specialized training and technical assistance should be provided for refugee participants whose Savings Goals are home purchase or microenterprise.

Legislative Authority: Section 412(c)(1)(A) of the Immigration and Nationality Act authorizes the Director ''to make grants to, and enter into contracts with, public or private nonprofit agencies for projects specifically designed—(i) To assist refugees in obtaining skills which are necessary for economic self-sufficiency, including projects for job training, employment services, day care, professional refresher training, and other recertification services; (ii) to provide training in English where necessary (regardless of whether the refugees are employed or receiving cash or other assistance); and (iii) to provide where specific needs have been shown and recognized by the Director, health (including mental health) services, social services, educational and other services.''

Funding Availability: ORR expects to award approximately $5 million in FY 1999 funds for the Refugee IDA Program among approximately eight to twelve grantees. Grants are expected to range from $200,000 to $800,000. Approximately 75–80 percent of the ORR grant funds should be designated for the purpose of providing matches for the refugee IDA accounts. The remaining 20–25 percent of ORR funds may be used for the administrative and operational costs of the project and for financial training, counseling, and technical assistance.

The Director reserves the right to award more or less than the funds described in the absence of worthy applications or such other circumstances as may be deemed to be in the best interest of the government. Applicants may be required to reduce the scope of selected projects based on the amount of the approved grant award.

The Catalog of Federal Domestic Assistance (CFDA) number assigned to this announcement is 93.576. The title of the program is the Refugee Individual Development Account Program.

Applicable Regulations: Applicable U.S. Department of Health and Human Services regulations can be found at 45 CFR part 74 or part 92.

Definition of Terms: Individual Development Accounts (IDAs) are leveraged, or matched, savings accounts. IDAs are established in insured accounts in qualified financial institutions; and the funds are intended for the Savings Goals specified in this announcement. Although the refugee participant maintains control of all funds that the participant deposits in the IDA, including all interest that may accrue on the funds, the participant must sign a Savings Plan Agreement with the grantee that specifies that the funds in the account will be used only for the participant's Savings Goal or for an emergency withdrawal. A signed Savings Plan Agreement is required for the refugee participant to be eligible for matching funds.

The Savings Goals, as specified below, are the purchases/investments for which the matching funds, and the interest on matching funds, are available when used in conjunction with the savings from the IDAs of refugee participants. The Savings Goal specified by a participant in the Savings Plan Agreement may be for the benefit of the refugee participant or of a refugee dependent of the refugee participant. Savings Goals are defined as follows:

- Home ownership: Includes costs of a principal residence including the downpayment and closing costs when purchasing a home; also renovation costs of a new home or of an existing primary residence. In the case of acquisition, the purchaser must be a first-time homebuyer.
- Microenterprise capitalization: Means costs described in a qualified business plan, such as capital, plant, equipment, working capital, and inventory expenses. The business plan must be approved by a financial institution, a microenterprise development organization, or a nonprofit loan fund. The plan must also describe services or goods to be sold and include a marketing plan and projected financial statements. Also included in microenterprise capitalization are expenditures for a business expansion.
- Post-secondary Education, Vocational Training, and Recertification: Tuition or fees, professional recertification fees, books, supplies, and equipment related to the enrollment or attendance of a refugee student at an educational institution.
- Purchase of an Automobile: If necessary for the purpose of maintaining or upgrading employment.
- Purchase of a Computer: Including hardware and software, to support a refugee student's enrollment in an educational, vocational, or recertification institution or for a microenterprise.
- Qualified financial institution means a Federally insured bank, credit union, or savings and loan institution or a State-insured bank, credit union, or savings and loan institution if no Federally insured bank, credit union, or savings and loan institution is available.
- A parallel account is an insured account (or accounts) opened by the grantee in a qualified financial institution for the purpose of depositing the matching funds for the savings deposited by refugee participants in their individual IDAs. Interest earned on the matching funds must remain in the parallel account and be credited to the refugee participants. Both the matching funds and the interest earned on those funds must be made available to the refugee participant at the time that the participant purchases the Savings Goal. The matching funds and the interest on the matching funds in the parallel account are not available to the refugee participant except for the Savings Goals defined in this announcement.
- An emergency withdrawal is a withdrawal of funds, or a portion of funds, deposited by the refugee participant in his/her Individual Development Account. The withdrawal may also include any of the interest that may have accrued to the participant's savings in the account. Such a withdrawal must be approved by the project grantee and be consistent with the terms of the Savings Plan Agreement between the grantee and the refugee participant. Causes for emergency withdrawals include, but are not limited to, medical expenses, payments to prevent eviction or foreclosure, or payments for necessary living expenses. If funds withdrawn for emergency purposes are not repaid within 12 months, the refugee participant forfeits the match on those funds. Emergency withdrawals may never be authorized from the parallel account(s).

Part II. Project and Applicant Eligibility

Eligible Applicants: To be eligible for funding under this announcement, projects must meet the following requirements. Eligible applicants for these funds include States and private, non-profit organizations. Applicants may request funding to administer a refugee IDA project directly with refugee participants or as an intermediary agency which will administer multiple projects through participating community-based organizations. Private, non-profit agency applicants must provide documentation of their 501(c)(3) tax-exempt status at the time of the application submission.

Applicants must also provide documentation of participation of a qualified financial institution(s) in the project. This documentation must be in writing, on letterhead of the financial institution, and signed by a person authorized to make the commitment on behalf of the financial institution. The documentation must include a commitment by the financial institution to establish IDAs for the refugee participants, to establish a parallel account (or accounts) for the matching funds, and to provide the grantee with

account activity data on the IDAs and the parallel account(s) in a timely manner.

Project and Budget Periods: This announcement invites applications for project periods up to five years. Awards, on a competitive basis, will be for a one-year budget period. Applications for continuation grants funded under these awards beyond the first one-year budget period but within the five-year project period will be entertained in subsequent years on a noncompetitive basis, subject to availability of funds, satisfactory progress of the grantee, and a determination that continued funding would be in the best interest of the Government.

Under these projects, grantees should schedule their account activities so that all IDA accounts reach their maximum savings, and refugee participants have purchased their Savings Goal, within the five-year project period. Applicants should include in their applications their proposal for handling accounts in the event that any refugee participant has not completed the Savings Goal purchase by the end of the five-year project period. (For instance, applicants may consider creating an escrow account for each participant's matching funds.)

Part III: The Review Process

A. Intergovernmental Review

This program is covered under Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' and 45 CFR part 100, ''Intergovernmental Review of Department of Health and Human Services Programs and Activities.'' Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs.

As of November 20, 1998, the following jurisdictions have elected not to participate in the Executive Order process. Applicants from these jurisdictions need take no action in regard to E.O. 12372: Alabama, Alaska, American Samoa, Colorado, Connecticut, Kansas, Hawaii, Idaho, Louisiana, Massachusetts, Minnesota, Montana, Nebraska, New Jersey, Ohio, Oklahoma, Oregon, Palau, Pennsylvania, South Dakota, Tennessee, Vermont, Virginia, and Washington.

Although the jurisdictions listed above no longer participate in the process, entities which have met the eligibility criteria of the program may still apply for a grant even if a State, Territory, Commonwealth, etc., does not have a SPOC. All remaining jurisdictions participate in the Executive Order process and have established SPOCs. Applicants from participating jurisdictions should contact their SPOCs as soon as possible to alert them of the prospective applications and receive instructions. Applicants must submit any required material to the SPOCs as soon as possible so that the program office can obtain and review SPOC comments as part of the award process. The applicant must submit all required materials, if any, to the SPOC and indicate the date of this submittal (or the date of contact if no submittal is required) on the Standard Form 424, item 16a. Under 45 CFR 100.8(a)(2), a SPOC has 60 days from the application deadline to comment on proposed new or competing continuation awards.

SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations, which may trigger the ''accommodate or explain'' rule.

When comments are submitted directly to ACF, they should be addressed to: Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Shirley B. Parker, ORR Grants Officer, 370 L'Enfant Promenade, SW., Washington, DC 20447.

A list of the Single Points of Contact for each State and Territory is included with the application materials for this program announcement.

B. Initial ACF Screening

Each application submitted under this program announcement will undergo a pre-review to determine that: (1) The application was received by the closing date and submitted in accordance with the instructions in this announcement; and (2) the applicant is eligible for funding.

C. Competitive Review and Evaluation Criteria

Applications that pass the initial ACF screening will be evaluated and rated by an independent review panel on the basis of specific evaluation criteria. The evaluation criteria were designed to assess the quality of a proposed project and to determine the likelihood of its success. The evaluation criteria are closely related and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications that are responsive to the evaluation criteria within the context of this program announcement. Proposed projects will be reviewed using the following evaluation criteria:

1. Description of Targeted Population and Need for Assistance. The application identifies the refugee population to be assisted by this project and describes the need for assistance of this population. Indicators of the need for assistance include low rates of: use of financial institutions, home ownership, education, and access to capital; and high rates of: reliance on public assistance and incomes below 200 percent of the Federal poverty level. (15 points)

2. Project Plan and Design. The application provides a clear explanation of a feasible, appropriate, and complete plan for establishing and managing IDAs for the refugee participants. The plan clearly describes the structure, uses, requirements, and management of the IDAs and includes procedures for: managing the parallel account(s); ensuring that interest on the matches is correctly credited to individual refugee participants; and providing financial training appropriate to the refugee population and to the Savings Goals included in the project. (25 points)

3. Organizational and Staff Experience. Applicant organization and staff and partner organizations have demonstrated capability to implement and manage new programs and to recruit and work with the refugee population. The applicant has developed a partnership with a financial institution(s) to implement the IDAs. (25 points)

4. Proposed Outcomes and Expected Benefits. The outcomes and benefits proposed are reasonable and reflect the objectives of this announcement. The methodology proposed for collecting outcome data is reasonable. (20 points)

5. Project Budget. The budget is reasonable and clearly justified. The methodologies for estimating the number of refugee participants and amount of matching funds are reasonable. (15 points)

Part IV. The Application

A. Application Development

In order to be considered for a grant under this program announcement, an application must be submitted on the Standard Form 424 and in the manner prescribed by ACF. Application materials including forms and instructions are available from the contacts named under the **FOR FURTHER INFORMATION CONTACT** section in the preamble of this announcement.

General Guidelines for Preparing a Project Description

Purpose: The project description provides a major means by which an application is evaluated and ranked to compete with other applications for available assistance. The project description should be concise and complete and should address the activity for which Federal funds are being requested. Supporting documents should be included where they can present information clearly and succinctly. Applicants are encouraged to provide information on their organizational structure, staff, related experience, and other information considered to be relevant. Awarding offices use this and other information to determine whether the applicant has the capability and resources necessary to carry out the proposed project. It is important, therefore, that this information be included in the application. However, in the narrative, the applicant must distinguish between resources directly related to the proposed project from those that will not be used in support of the specific project for which funds are requested.

General Instructions: Cross-referencing should be used rather than repetition. ACF is particularly interested in specific factual information and statements of measurable goals in quantitative terms. Project descriptions are evaluated on the basis of substance, not length. Extensive exhibits are not required. (Supporting information concerning activities that will not be directly funded by the grant or information that does not directly pertain to an integral part of the grant-funded activity should be placed in an appendix.) Pages should be numbered and a table of contents should be included for easy reference.

Project Summary/Abstract: Provide a summary of the project description (a page or less) with reference to the funding request.

Objectives and Need for Assistance: Clearly identify the economic, social, financial, institutional, and/or other problem(s) requiring a solution. The need for assistance must be demonstrated and the principal and subordinate objectives of the project must be clearly stated; supporting documentation, such as letters of support and testimonials from concerned interests other than the applicant, may be included. Any relevant data based on planning studies should be included or referred to in the endnotes/footnotes. Incorporate demographic data and participant/beneficiary information, as needed. In developing the project description, the applicant may volunteer, or be requested to provide, information on the total range of projects currently being conducted and supported (or to be initiated), some of which may be outside the scope of the program announcement.

Results or Benefits Expected: Identify the results and benefits to be derived from this project. ORR is particularly interested in the projected outcomes for the targeted refugee group, including the number of IDAs opened, rate of growth in savings, number and size of withdrawals for each of the Savings Goals, and the impact of the purchase of the Savings Goal on the participant's movement toward self-sufficiency.

Approach: Outline a plan of action that describes the scope and detail of how the proposed work will be accomplished. Account for all functions or activities identified in the application. Cite factors which might accelerate or decelerate the work and state your reason for taking the proposed approach rather than others. Describe any unusual features of the project such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvement. Provide quantitative monthly or quarterly projections of the accomplishments to be achieved for each function or activity in such terms as the number of people to be served and the number of IDAs to be opened. When accomplishments cannot be quantified by activity or function, list them in chronological order to show the schedule of accomplishments and their target dates. Identify the kinds of data to be collected, maintained, and/or disseminated. Note that clearance from the U.S. Office of Management and Budget might be needed prior to a ''collection of information'' that is ''conducted or sponsored'' by ACF. List organizations, cooperating entities, consultants, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution.

Geographic Location: Describe the precise location of the project and boundaries of the area to be served by the proposed project. Maps or other graphic aids may be attached.

Additional Information: Following is a description of additional information that should be placed in the appendix to the application.

Staff and Position Data: Provide a biographical sketch for each key person appointed and a job description for each vacant key position. A biographical sketch will also be required for new key staff as appointed.

Organization Profiles: Provide information on the applicant organization(s) and cooperating partners such as organizational charts, financial statements, audit reports or statements from CPAs/Licensed Public Accountants, Employer Identification Numbers, names of bond carriers, contact persons and telephone numbers, child care licenses and other documentation of professional accreditation, information on compliance with Federal/State/local government standards, documentation of experience in the program area, and other pertinent information. Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant'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 *or* by providing a copy of the currently valid IRS tax exemption certificate *or* by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

Third-Party Agreements: Include written agreements between grantees and subgrantees or subcontractors or other cooperating entities. These agreements must detail scope of work to be performed, work schedules, remuneration, and other terms and conditions that structure or define the relationship.

Letters of Support: Provide statements from community, public, and commercial leaders that support the project proposed for funding.

Budget and Budget Justification

Provide line item detail and detailed calculations for each budget object class identified on the Budget Information form. Detailed calculations must include estimation methods, quantities, unit costs, and other similar quantitative detail sufficient for the calculation to be duplicated. The detailed budget must also include a breakout by the funding sources identified in Block 15 of the SF–424. Provide a narrative budget justification that describes how the categorical costs are derived. Discuss the necessity, reasonableness, and allocability of the proposed costs.

General

The following guidelines are for preparing the budget and budget justification. Both Federal and non-Federal resources shall be detailed and justified in the budget and narrative

justification. For purposes of preparing the budget and budget justification, ''Federal resources'' refers only to the ACF grant for which you are applying. Non-Federal resources are all other Federal and non-Federal resources. It is suggested that budget amounts and computations be presented in a columnar format: First column, object class categories; second column, Federal budget; next column(s), non-Federal budget(s), and last column, total budget. The budget justification should be a narrative.

Personnel

Description: Costs of employee salaries and wages.

Justification: Identify the project director or principal investigator, if known. For each staff person, provide the title, time commitment to the project (in months), time commitment to the project (as a percentage or full-time equivalent), annual salary, grant salary, wage rates, etc. Do not include the costs of consultants or personnel costs of delegate agencies or of specific project(s) or businesses to be financed by the applicant.

Fringe Benefits

Description: Costs of employee fringe benefits unless treated as part of an approved indirect cost rate.

Justification: Provide a breakdown of the amounts and percentages that comprise fringe benefit costs such as health insurance, FICA, retirement insurance, taxes, etc.

Travel

Description: Costs of project-related travel by employees of the applicant organization (does not include costs of consultant travel).

Justification: For each trip, show the total number of traveler(s), travel destination, duration of trip, per diem, mileage allowances, if privately owned vehicles will be used, and other transportation costs and subsistence allowances. Travel costs for key staff to attend ORR-sponsored conferences should be detailed in the budget.

Equipment

Description: Costs of tangible, non-expendable, personal property, having a useful life of more than one year and an acquisition cost of $5,000 or more per unit. However, an applicant may use its own definition of equipment provided that such equipment would at least include all equipment defined above.

Justification: For each type of equipment requested, provide a description of the equipment, the cost per unit, the number of units, the total cost, and a plan for use on the project, as well as use or disposal of the equipment after the project ends. An applicant organization that uses its own definition for equipment should provide a copy of its policy or section of its policy which includes the equipment definition.

Supplies

Description: Costs of all tangible personal property other than that included under the Equipment category.

Justification: Specify general categories of supplies and their costs. Show computations and provide other information, which supports the amount requested.

Other

Enter the total of all other costs. Such costs, where applicable and appropriate, may include but are not limited to insurance, food, medical and dental costs (noncontractual), professional services costs, space and equipment rentals, printing and publication, computer use, training costs, such as tuition and stipends, staff development costs, and administrative costs.

Justification: Provide computations, a narrative description and a justification for each cost under this category.

Indirect Costs

Description: Total amount of indirect costs. This category should be used only when the applicant currently has an indirect cost rate approved by the Department of Health and Human Services (HHS) or another cognizant Federal agency.

Justification: An applicant that will charge indirect costs to the grant must enclose a copy of the current rate agreement. If the applicant organization is in the process of initially developing or renegotiating a rate, it should immediately upon notification that an award will be made, develop a tentative indirect cost rate proposal based on its most recently completed fiscal year in accordance with the principles set forth in the cognizant agency's guidelines for establishing indirect cost rates, and submit it to the cognizant agency. Applicants awaiting approval of their indirect cost proposals may also request indirect costs. It should be noted that when an indirect cost rate is requested, those costs included in the indirect cost pool should not also be charged as direct costs to the grant. Also, if the applicant is requesting a rate which is less than what is allowed under the program, the authorized representative of the applicant organization must submit a signed acknowledgement that the applicant is accepting a lower rate than allowed.

Program Income

Description: The estimated amount of income, if any, expected to be generated from this project.

Justification: Describe the nature, source and anticipated use of program income in the budget or refer to the pages in the application, which contain this information.

Non-Federal Resources

Description: Amounts of non-Federal resources that will be used to support the project as identified in Block 15 of the SF–424.

Justification: The firm commitment of these resources must be documented and submitted with the application in order to be given credit in the review process. A detailed budget must be prepared for each funding source.

Total Direct Charges, Total Indirect Charges, Total Project Costs

Self-explanatory.

B. Application Submission

1. Mailed applications postmarked after the closing date will be classified as late.

2. Deadline. Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, Attention: Shirley B. Parker, ORR Grants Officer, 370 L'Enfant Promenade, SW, Washington, DC 20447. Applicants must ensure that a legibly dated U.S. Postal Service postmark or a legibly dated, machine produced postmark of a commercial mail service is affixed to the envelope/package containing the application(s). To be acceptable as proof of timely mailing, a postmark from a commercial mail service must include the logo/emblem of the commercial mail service company and must reflect the date the package was received by the commercial mail service company from the applicant. Private metered postmarks shall not be acceptable as proof of timely mailing. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.) Applications handcarried by applicants, applicant couriers, or by other representatives of the applicant shall be considered as meeting an announced deadline if they are received on or before the deadline date, between

the hours of 8 a.m. and 4:30 p.m., EST, at the U.S. Department of Health and Human Services, Administration for Children and Families, Office of Refugee Resettlement, ACF Mailroom, Second Floor (near loading dock), Aerospace Center, 901 D Street, SW, Washington, DC 20024, between Monday and Friday (excluding Federal holidays). The address must appear on the envelope/package containing the application with the note ''Attention: Shirley B. Parker, ORR Grants Officer.'' ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

3. Late applications. Applications that do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

4. Extension of deadlines. ACF may extend an application deadline when circumstances such as acts of God (floods, hurricanes, etc.) occur, or when there is widespread disruption of the mail service, or in other rare cases. Determinations to extend or waive deadline requirements rest with ACF's Chief Grants Management Officer.

Reporting Requirements

Grantees under this program announcement will be required to provide quarterly program narrative reports, describing outcomes and activities under the grant. Grantees will also be required to submit semi-annual financial reports using the Financial Status Report (SF–269). A final financial and narrative report shall be due 90 days after the end of the Grant Project Period (i.e., after the final budget period).

Dated: June 3, 1999.

Lavinia Limòn,

Director, Office of Refugee Resettlement.

Attachment A—The 1999 HHS Poverty Guidelines

One Version of the [U.S.] Federal Poverty Measure

[Information Contracts/References—Poverty Guidelines & Thresholds—Also History of U.S. Poverty Lines]

There are two slightly different versions of the federal poverty measures:

- The poverty thresholds, and
- The poverty guidelines.

The poverty thresholds are the original version of the federal poverty measure. They are updated each year by the Census Bureau (although they were originally developed by Mollie Orshansky of the Social Security Administration). The thresholds are used mainly for statistical purposes—for instance, preparing estimates of the number of Americans in poverty each year. (In other works, all official poverty population figures are calculated using the poverty thresholds, not the guidelines.)

The poverty guidelines are the other version of the federal poverty measure. They are issued each year in the **Federal Register** by the Department of Health and Human Services (HHS). The guidelines are a simplification of the poverty thresholds for use of administrative purposes—for instance, determining financial eligibility for certain federal program. (The full text of the **Federal Register** notice with the 1999 poverty guidelines is available here.)

1999 HHS POVERTY GUIDELINES

Size of family unit	48 contiguous states, and DC	Alaska	Hawaii
1	$8,240	$10,320	$9,490
2	11,060	13,840	12,730
3	13,880	17,360	15,970
4	16,700	20,880	19,210
5	19,520	24,400	22,450
6	22,340	27,920	25,690
7	25,160	31,440	28,930
8	27,980	34,960	32,170
For each additional person, add	2,820	3,520	3,240

Source: *Federal Register,* Vol. 64, No. 52, March 18, 1999, pp. 13428–13430.

(The separate poverty guidelines for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. Notice that the poverty thresholds—the original version of the poverty measure—have never had separate figures for Alaska and Hawaii.)

Programs using the guidelines (or percentage multiples of the guidelines—for instance, 130 percent of the guidelines) in determining eligibility include Head Start, the Food Stamp Program, the National School Lunch Program, and the Low-Income Home Energy Assistance Program. Note that is general, public assistance programs (Aid to Families with Dependent Children and its block grant successor Temporary Assistance for Needy Families, and Supplemental Security Income) do NOT use the poverty guidelines in determining eligibility. The Earned Income Credit program also does NOT use the poverty guidelines to determine eligibility.

The poverty guidelines (unlike the poverty thresholds) are designated by the year in which they are issued. For instance, the guidelines issued in March 1999 are designated the 1999 poverty guidelines. However, the 1999 HHS poverty guidelines only reflect price changes through calendar year 1998; accordingly, they are approximately equal to the Census Bureau poverty thresholds for calendar year 1998. (The 1998 thresholds will be issued in final form about September or October 1999; a preliminary version of the 1998 thresholds is now available from the Census Bureau.)

The poverty guidelines are sometimes loosely referred to as the ''Federal poverty level'' (FPL), but that term is ambiguous, and should be avoided in situation (e.g., legislative or administrative) where precision is important.

Go to the page of *Information Contracts and References* on the Poverty Guidelines, the Poverty Thresholds, and the Development and History of U.S. Poverty Lines.

Return to the *Poverty Guidelines, Research, and Measurement* main page.

[FR Doc. 99–14575 Filed 6–8–99; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Ballast Water and

Shipping Committee of the Aquatic Nuisance Species Task Force. Meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The Ballast Water and Shipping Committee will meet from 9:30 a.m. to 4:30 p.m. on Wednesday, June 23, 1999.

ADDRESSES: The Ballast Water and Shipping Committee Meeting will be held in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: LT Mary Pat McKeown, Chair, Ballast Water and Shipping Committee, at 202–267–0500 or mmckeown@comdt.uscg.mil or Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–1718.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), we announce a meeting of the Ballast Water and Shipping Committee of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701–4741).

Topics to be addressed include an update on efforts to compile a directory of ballast water research and technologies, factors to be considered in evaluating treatment technologies and management practices, and the nature and process for developing strategic national priorities for ballast water management research and development. Time permitting, presentations will be made describing specific ballast water management technologies and practices.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622 and the Chair of the Ballast Water and Shipping Committee at Environmental Standards Division, Office of the Operations and Environmental Standards, U.S. Coast Guard (G–MSO–4), 2100 Second Street, SW, Room 1309, Washington, DC 20593–0001. Minutes for the meetings will be available at these locations for public inspection during regular business hours, Monday through Friday.

Dated: June 1, 1999.

Rowan W. Gould,

Acting Co-Chair, Aquatic Nuisance Species Task Force, Acting Assistant Director—Fisheries.

[FR Doc. 99–14628 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–910–1410–00]

Alaska Resource Advisory Council Meeting

SUMMARY: The BLM Alaska Resource Advisory Council will meet Monday, July 12, 1999, from 9:30 a.m. until 4:30 p.m. and Tuesday, July 13, 1999, from 9 a.m. until 3 p.m. The Council will continue the process of defining standards for management of natural resources on public lands in Alaska. As part of this process, the Council will take public comment on resource issues of concern.

The meeting will be held at the BLM Northern Field Office, 1150 University Avenue, Fairbanks, Alaska. The entire meeting is open to the public with public comment taken from 1–2 p.m. Monday, July 12. Written comments may be submitted at the meeting or mailed to the address below.

ADDRESSES: Inquiries about the meeting should be sent to External Affairs, Bureau of Land Management, 222 W. 7th Avenue, #13, Anchorage, AK 99513–7599.

FOR FURTHER INFORMATION CONTACT: Teresa McPherson, (907) 271–5555.

Dated: May 25, 1999.

Brenda Zenan,

Acting State Director.

[FR Doc. 99–14448 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–038; COC 62982]

Realty Action; Bureau Motion Recreation and Public Purposes (R&PP) Act Classification; Colorado

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The following public lands near the community of Pagosa Springs, Archuleta County, Colorado have been examined and found suitable for classification for lease and/or conveyance under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. *et seq.*).

New Mexico Principal Meridian, Colorado

T.35 N., R.2 W.,
Sec. 9, NE¼SW¼

Containing 40 acres more or less.

This action is a motion by the Bureau of Land Management to make available lands identified in the San Juan Resource Management Plan not needed for Federal purposes and having potential for disposal to support community expansion. Lease or conveyance of the lands for recreational or public purpose use is consistent with current BLM land use planning and would be in the public interest. Detailed information concerning this action is available for review at the office of the Bureau of Land Management, San Juan Field Office, 15 Burnett Court, Durango, Colorado 81301.

The lease or conveyance of the lands will be subject to the following terms, conditions, and reservations:

1. Provisions of the Recreation and Public Purposes Act and to all applicable regulations of the Secretary of the Interior.

2. All valid existing rights documented on the official public land records at the time of lease/patent issuance.

3. All minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove the minerals.

4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interest therein.

Upon publication of this notice in the **Federal Register**, the lands will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the Recreation and Public Purposes Act and leasing under the mineral leasing laws.

For a period of 45 days from the date of publication of this notice, interested persons may submit written comments regarding the classification of the public lands as being suitable for disposal under the R&PP Act, to the San Juan Field Office Manager, San Juan Field Office, 15 Burnett Court, Durango, Colorado 81301. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

FOR MORE INFORMATION CONTACT: Charlie Higby, phone (970) 247–4874.

Dated: May 27, 1999.

Kent Hoffman,

Associate Field Office Manager.

[FR Doc. 99–14198 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Boundary Revision, Saint Croix National Scenic Riverway, Wisconsin

SUMMARY: This notice announces a revision of the boundaries of the Saint Croix National Scenic Riverway to include approximately 28.75 acres of land. The National Park Service has determined this boundary revision is necessary: (1) For the proper care and management of the Riverway, and (2) to protect the immediate environment of the Namekagon River for the benefit and enjoyment of present and future generations.

FOR FURTHER INFORMATION CONTACT: Superintendent, Saint Croix National Scenic Riverway, 401 Hamilton Street, St. Croix Falls, Wisconsin 54024, or by telephone at 715–483 3284.

SUPPLEMENTARY INFORMATION: 16 U.S.C. 460l–9(c) authorizes the Secretary of the Interior to make this boundary revision. Notice is hereby provided that the boundary of Saint Croix National Scenic Riverway is revised, effective as of the date of publication of this notice, to include approximately 28.75 acres of privately owned land within the Riverway in Sawyer County, Wisconsin. The legal description for this land is as follows:

That part of the Southwest ¼ Southwest ¼, Section 31, Township 42 North, Range 8 West, 4th Principal Meridian, Sawyer County, Wisconsin, lying South of the southern right-of-way line of U.S. Highway 63.

The National Park Service has prepared a map bearing drawing number 5:630/60,007, dated March 1, 1999, which depicts the specific real property hereby included within the Riverway. Copies of this map are available at the following three locations: The Department of the Interior, National Park Service, Land Resources Division, 1849 ''C'' Street NW, Room 2444, Washington, DC 20240; National Park Service, Midwest Region Office, 1709 Jackson Street, Omaha, Nebraska 68102; and, Saint Croix National Scenic Riverway headquarters, at the address given above.

Dated: May 21, 1999.

William W. Schenk,

Regional Director, Midwest Region.

[FR Doc. 99–14589 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before MAY 29, 1999. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, 1849 C St. NW, NC400, Washington, DC 20240. Written comments should be submitted by June 24, 1999.

Carol D. Shull,

Keeper of the National Register.

ARKANSAS

Desha County

Trippe Holly Grove Cemetery, AR 4 or Crooked Bayou Rd., approx. 2 mi. S of McGehee, McGehee vicinity, 99000729

Washington County

Mrs. Young Building, 5 S Block Ave., Fayetteville, 99000731

Waterman—Archer House, 2148 Markham, Fayetteville, 99000730

ILLINOIS

Greene County

Eldrid, James John, House, Bluffdale Township Rd., E of IL 100, Eldrid vicinity, 99000732

INDIANA

Delaware County

Beech Grove Cemetery, 1400 W. Kilgore Ave., Muncie, 99000734

Riverside Historic District, Roughly bounded by University Ave., Dicks, Gilbert and Light Sts., Muncie, 99000733

Floyd County

New Albany National Cemetery (Civil War Era National Cemeteries MPS), 1943 Ekin Ave., New Albany, 99000735

IOWA

Clayton County

Franklin Hotel, 102 Elkader St., Strawberry Point, 99000740

Hardin County

Slayton Farms—Round Barn, 20478 135th St., Iowa Falls vicinity, 99000739

Lyon County

Reynolds, Charles B., Round Barn (Iowa Round Barns: The Sixty Year Experiment TR), 2382 Harrison Ave., Doon vicinity, 99000737

Woodbury County

Davidson Building, 505 6th St., Sioux City, 99000736

LOUISIANA

Caddo Parish

St. Paul's Bottom (Boundary Increase), 1002–1162 Texas Ave., 959–1057 Texas Ave., 1127 Milam, Shreveport, 99000741

MISSOURI

Cape Girardeau County

Frizel—Welling House, 209 W. Main St., Jackson, 99000742

Pott, Frederick W. and Mary Karau, House, 826 Themis St., Cape Giradeau, 99000745

Shivelbine, August and Amalia, House, 303 S. Spanish St., Cape Girardeau, 99000743

Chariton County

Thomas, Fabrishous and Sarah A., House, 302 E. Second St., Salisbury, 99000744

NEBRASKA

Douglas County

Livestock Exchange Building, 2900 O Plaza, Omaha, 99000751

Howard County

Dannevirke Danish Lutheran Church and Community Hall, Dannervirke Rd. and Wausa, Elba, 99000750

Lancaster County

Burckhardt House (African American Historic and Architectural Resources in Lincoln, Nebraska MPS), 1236 Washington St., Lincoln, 99000746

McWilliams House (African American Historic and Architectural Resources in Lincoln, Nebraska MPS), 1723 N. 29th St., Lincoln, 99000748

Quinn Chapel African Methodist Episcopal Church and Parsonage (African American Historic and Architectural Resources in Lincoln, Nebraska MPS), 1225 S. 9th St., Lincoln, 99000749

Ross, Nimrod, House (African American Historic and Architectural Resources in Lincoln, Nebraska MPS), 445 S. 30th St., Lincoln, 99000747

Platte County

First Welch Calvinistic Methodist Church and Cemetery, Rural Rte 2, Monroe vicinity, 99000762

NEW YORK

Monroe County

First Presbyterian Church, 35 State St., Brockport, 99000752

Westchester County

Stony Hill Cemetery, Buckout Rd., Harrison, 99000753

NORTH CAROLINA

Buncombe County

North Carolina Electrical Power Company Electric Generating Plant, 2024 Riverside Dr., Woodfin, 99000754

PENNSYLVANIA

Lancaster County

Griest, W.W., Building, 8 N. Queen St., Lancaster, 99000755

TENNESSEE

Bledsoe County

Ross, Dr. James A., House, 102 Frazier St., Pikeville, 99000758

Davidson County

Tennessee Manufacturing Company, 1400 Eighth Ave., N, Nashville, 99000759

Shelby County

South Main Street Historic District (Boundary Increase), 384 Mulberry and 129 Talbot, Memphis, 99000756

Wayne County

Evans Chapel United Methodist Church, Old Clifton Turnpike, Waynesboro vicinity, 99000757

WISCONSIN

Milwaukee County

Commerce Street Power Plant, 1338 N. Commerce St., Milwaukee, 99000761

Rock County

Janesville High School, 408 S. Main St., Janesville, 99000760

For a Procedural Error a request for REMOVAL has been made for the following resource:

IOWA

Jefferson County

Commercial Block, 106, 108, 110 N. Main St., Fairfield, 99000120

[FR Doc. 99–14542 Filed 6–8–99; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–393–396 (Preliminary) and 731–TA–829–840 (Preliminary)]

Certain Cold-Rolled Steel Products From Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty and antidumping investigations and scheduling of preliminary phase investigations.

SUMMARY: The Commission hereby gives notice of the institution of investigations and commencement of preliminary phase countervailing duty investigations Nos. 701–TA–393–396 (Preliminary) and antidumping investigations Nos. 731–TA–829–840 under section 703(a) and 733(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) and 19 U.S.C. 1673b(a) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Indonesia, Thailand, and Venezuela of certain cold-rolled steel products,[1] that are alleged to be subsidized by the Governments of Brazil, Indonesia, Thailand, and Venezuela and imports from Argentina, Brazil, China, Indonesia, Japan, Russia, Slovakia, South Africa, Taiwan, Thailand, Turkey, and Venezuela of certain cold-rolled steel products that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 702(c)(1)(B) or 732(c)(1)(B) of the Act (19 U.S.C. 1671a(c)(1)(B) or 19 U.S.C. 1673a(c)(1)(B)), the Commission must reach preliminary determinations in these investigations in 45 days, or in this case by July 19, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by July 26.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: June 2, 1999.

FOR FURTHER INFORMATION CONTACT: Olympia Hand (202–205–3182), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to a petition filed on June 2, 1999, by Bethlehem Steel Corp., Bethlehem, PA; Gulf States Steel, Inc., Gadsden, AL; Ispat Inland, Inc., East Chicago, IN; LTV Steel Co., Inc., Cleveland, OH; National Steel Corp., Mishawaka, IN; Steel Dynamics, Inc., Fort Wayne, IN; U.S. Steel Corp.; a unit of USX Corp., Pittsburgh, PA; Weirton Steel Corp., Weirton, WV; and United Steel Workers of America, Pittsburgh, PA.

Participation in These Investigations and Public Service List

Persons (other than petitioners) wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in these investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service list

Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in these investigations available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to these investigations under the APO issued in these investigations, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on June 23, 1999, at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC. Parties wishing to participate in the conference should contact Olympia Hand (202–205–3182) not later than June 16, 1999, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour

[1] For purposes of these investigations, the subject product includes all cold-rolled (cold-reduced) carbon steel flat products, including sheet and strip (whether or not in coils), the foregoing not clad, plated or coated with metal, and however provided for in the Harmonized Tariff System; interstitial free steels, motor lamination steels, and high strength low alloy steels are included in the scope.

within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before June 28, 1999, a written brief containing information and arguments pertinent to the subject matter of these investigations. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to these investigations must be served on all other parties to these investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: June 3, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–14600 Filed 6–8–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF LABOR

Employment and Training Administration

Welfare-to-Work Competitive Grants

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice of reduced fund availability.

SUMMARY: On January 26, 1999, the U.S. Department of Labor (DOL), Employment and Training Administration, (ETA) announced the third round of competitive grants under the Welfare-to-Work (WtW) grant program (64 FR 4010). The announcement described the conditions under which applications will be received under the WtW Competitive Grants program and how DOL/ETA planned to determine which applications to fund. Approximately $240 million was announced as available for WtW competitive grants under the Round Three announcement. This notice is to announce that the amount available for this competition has been reduced to approximately $200 million.

FOR FURTHER INFORMATION CONTACT: Cherly Turner, Welfare-to-Work, Room C–4524, 200 Constitution Avenue, NW, Washington, DC. 20210. Telephone: (202) 219–0180 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Of the $240 million originally announced as available for Round Three WtW competitive grants, up to $20 million has been set aside for an award to a single private entity to carry out the WtW Census 2000 Employment Project. This reduction leaves approximately $220 million available to be awarded as Round Three WtW competitive grants and is likely to reduce the number of grants to be awarded in Round Three by approximately five grant awards. The Solicitation for Grant Applications for the WtW Census 2000 Employment Project was published in the **Federal Register** on May 14, 1999 at 64 FR 26440.

Signed at Washington, DC, on June 3, 1999.

Janice Perry,

Grant Officer.

[FR Doc. 99–14577 Filed 6–8–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Maritime Advisory Committee for Occupational Safety and Health; Notice of Meeting

AGENCY: Occupational Safety and Health Administration (OSHA); Labor.

ACTION: Maritime Advisory Committee for Occupational Safety and Health: Notice of meeting.

SUMMARY: The Maritime Advisory Committee for Occupational Safety and Health (MACOSH), established under Section 7 of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor on issues relating to occupational safety and health programs, policies, and standards in the maritime industries in the United States, will meet in San Francisco, California.

DATES: The Committee will meet:

—On June 29, 1999, from 9:00 a.m. until approximately 5:00 p.m.; and

—On June 30, 1999, from 8:30 a.m. until approximately 5:00 p.m.

ADDRESSES: The Committee will meet at the Sir Francis Drake Hotel on Union Square at 450 Powell Street, San Francisco, California; telephone (415) 392–7755.

Mail comments, views, or statements in response to this notice to Chap Pierce, Director of Fire Protection Engineering and Systems Safety Standards, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue, NW, Washington, DC 20210. Phone: (202) 693–2255; fax: (202) 693–1663.

FOR FURTHER INFORMATION CONTACT: Bonnie Friedman, Director, Office of Information and Consumer Affairs, OSHA. Phone (202) 693–1999.

SUPPLEMENTARY INFORMATION: All interested persons are invited to attend the public meetings of MACOSH at the time and place indicated above. Individuals with disabilities wishing to attend should contact Theda Kenney at (202) 693–2222 no later than June 18, 1999, to obtain appropriate accommodations.

Meeting Agenda: This meeting will include discussion of the following subjects: vertical tandem lifts in the marine cargo handling environment; an update on At Risk Assessment Guidelines; training partnerships; an update on ergonomics projects; a general OSHA standards update (including a standards update and a discussion on the draft safety and health program regulation and on Personal Protective Equipment (PPE)); and an OSHA compliance update. MACOSH subgroups will also report on their activities.

Public Participation: Written data, views, or comments for consideration by MACOSH on the various agenda items listed above may be submitted, preferable with copies, to Chap Pierce. Submissions received by June 18, 1999, will be provided to the members of the Committee and will be included in the record of the meeting. Requests to make oral presentations to the Committee may be granted if time permits. Anyone wishing to make an oral presentation to the Committee on any of the agenda items noted above should notify Chap Pierce by June 22, 1999. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation.

Authority: This notice is issued under the authority of sections 6(b)(1) and 7(b) of the Occupational Safety and Health Act of 1970

(29 U.S.C. 655, 656), the Federal Advisory Committee Act (5 U.S.C. App. 2), and 29 CFR part 1912.

Charles N. Jeffress,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 99–14586 Filed 6–8–99; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Meeting Notice

June 4, 1999.

TIME AND DATE: 10:00 a.m., Friday, June 11, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider the location and terms of oral argument in *Morgan* v. *Arch of Illinois,* Docket No. LAKE 98–17–D.

TIME AND DATE: 10:00 a.m., Thursday, June 17, 1999.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor on behalf of Baier* v. *Durango Gravel,* Docket No. WEST 97–96–DM (Issues include whether substantial evidence supports the judge's determination that Durango Gravel's termination of the complainant violated section 105(c) of the Mine Act.)

Any person attending an open meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen: (202) 653–5629/ (202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 99–14747 Filed 6–7–99; 12:05 pm]

BILLING CODE 6735–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 040–8767]

Consideration of Amendment Request for Decommissioning the 600-Yard Bullet Catcher and the Southeast Wing of Building 3A of the Lake City Army Ammunition Plant in Independence, Missouri, and an Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuing a license amendment to Materials License No. SUC–1380), issued to the Department of the Army (the Army or the licensee), to authorize decommissioning of the 600-yard bullet catcher and the southeast wing of Building 3A of its Lake City Army Ammunition Plant (LCAAP) in Independence, Missouri.

The Army built the plant and still operates it for the purpose of manufacturing and testing small caliber conventional munitions for the U.S. Army. LCAAP was founded in 1941 as a Government-owned/contractor-operated facility. From its inception in 1941 until 1985, the plant operating contractor was Remington Arms.

During the 1960s and 1970s, there was a small depleted uranium (DU) operation at LCAAP. Part of their operation, the production of DU ordnance, occurred in the southeast wing of Building 3A. Developmental planning of the XM–101 DU spotting projectile started in 1959, and by 1961 LCAAP was producing the round. The Army designed these XM–101 rounds as ''spotters'' for small scale, shoulder fired weapons.

The maximum production capability was approximately 8,000 rounds per month although various supply problems resulted in a considerably lower production rate. The XM–101 (later M–101) round consisted of a fused, 20 millimeter (mm) projectile with a body constructed from DU. LCAAP also produced an XM–106 round that was identical to the XM–101, but without the explosive components. The installation designed, tested, manufactured and in later years, demilitarized some 75,000 20 mm DU spotter rounds. These spotter rounds were approximately six inches in length, 20 mm in diameter and weighed approximately one pound (lb) each. A machined DU body made up 0.45 lbs of the round's weight. The round contained a fused-white phosphorus charge that would detonate on impact with the ground.

By 1968, the program was terminated and LCAAP was left with an estimated 44,000 spotter rounds. In 1971, Remington Arms Company, Inc., the operator of LCAAP at the time, proposed a method for the disposal of approximately 44,000 remaining rounds of XM–101 ammunition. Because the rounds were fused, the safest demilitarization methodology involved shooting the rounds into a sand-filled catch box, identified as the ''600-yard Bullet Catcher.'' The catch box was filled with sand as an impact material. The impact material was periodically replaced in the catch box. Remington would remove the ''old'' impact material (i.e., DU contaminated sand) from the 600-yard bullet catcher box and place it in an area of the site known as ''Area 10.'' Remediation of ''Area 10'' is being addressed in a separate decommissioning plan approved on August 25, 1998.

NRC is requiring the licensee to remediate the 600-yard bullet catcher and the south east wing of Building 3A of LCAAP to meet NRC's decommissioning criteria and, during the decommissioning activities, to maintain effluents and doses within NRC requirements and as low as reasonably achievable.

Prior to approving the decommissioning plan, NRC will make the necessary findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment. Approval of the LCAAP the 600-yard bullet catcher and Building 3A decommissioning plan will be documented in an amendment to SUC–1380.

NRC hereby provides notice that this is a proceeding on an application for amendment of a license falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

2. By mail, telegram, or facsimile to the Secretary, U. S. Nuclear Regulatory Commission, Washington, DC 20555–

0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Department of the Army, Headquarters U.S. Army Industrial Operations Command, Rock Island, Illinois 61299–6000, Attention: Ms. Rosalene E. Graham; and

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays; or by mail, addressed to the Executive Director for Operations, U. S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceedings.

2. How that interest may be affected by the results of the proceedings, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action, the site decommissioning plan is available for inspection at the NRC's Public Document Room, 2120 L Street NW, Washington, DC 20555.

Dated at Rockville, Maryland, this 3rd day of June 1999.

For The Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–14581 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Duquesne Light Company; Ohio Edison Company; Pennsylvania Power Company; the Cleveland Electric Company; the Toledo Edison Company; Partial Withdrawal of Application for Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has granted the request of Duquesne Light Company (the licensee) to withdraw a portion of its July 9, 1998, application for proposed amendment to Facility Operating License Nos. DPR–66 and NPF–73 for the Beaver Valley Power Station, Unit Nos. 1 and 2, located in Shippingport, PA.

The withdrawn portion of the proposed amendment would have removed the values of the orifice diameter of each main steam safety valve (MSSV) from TS Table 3.7–3 (Unit 1) and Table 3.7–2 (Unit 2). This information will remain in the TSs.

The Commission had previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on August 12, 1998 (63 FR 43203). However, by letter dated March 31, 1999, the licensee withdrew this portion of the proposed change as discussed above.

For further details with respect to this action, see the application for amendment dated July 9, 1998, and the licensee's letter dated March 31, 1999, which partially withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the B.F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 3rd day of June 1999.

For the Nuclear Regulatory Commission.

Daniel S. Collins,

Project Manager, Section 1, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–14579 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos.: 040–08794 and 040–08778]

Receipt of An Amendment Request for the Temporary Storage of Decommissioning Waste From the Molycorp York, Pennsylvania Facility (License No. SMB–1408) at the Molycorp Washington, Pennsylvania Facility (License No. SMB–1393) and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of an amendment to Source Materials License No. SMB–1393, to Molycorp, Incorporated (the licensee), for the temporary (5–10 years) storage of waste from the former Molycorp rare earth processing facility (License No. SMB–1408) in York, Pennsylvania.

The licensee submitted the amendment in a letter dated February 8, 1996, requesting that License No. SMB–1393 be amended to allow temporary storage of waste from its York decommissioning operations at the Molycorp Washington, PA facility.

The waste from Molycorp's York facility consists of soils from decommissioning waste containing thorium-232 and uranium-238, with a volume of approximately 3,000–5,000 cubic yards, and resulted from operations to recover rare earth metals from bastnaesite ore containing uranium and thorium which are natural components of this ore. These operations were conducted from April 1962 to September 24, 1993. The NRC will require the licensee to demonstrate that the temporary storage facility provides: (1) adequate containment for the waste; (2) sufficient monitoring of effluents during the transfer and storage activities and; (3) an adequate radiation protection plan to help maintain doses as low as reasonably achievable.

Prior to the issuance of the proposed amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulation. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

The NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules and practice for domestic licensing proceedings in 10 CFR Part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

2. By mail, telegram, or facsimile to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR § 2.1205(f), each request for a hearing

must also be served, by delivering it personally or by mail, to:

1. The applicant, Molycorp Incorporated, 350 North Sherman Street, York, Pennsylvania 17403, Attention: Mr. John Daniels, and;

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requester in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requester should be permitted a hearing, with particular reference to the factors set out in § 2.1205(h);

3. The requester's areas of concern about the licensing activity that is the subject matter of the proceeding; and 4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action, the application for amendment request is available for inspection at the NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 28th day of May 1999.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–14580 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–275 and 50–323]

Pacific Gas and Electric Company; Diablo Canyon Power Plant, Units 1 and 2; Issuance of Amendments to Facility Operating Licenses

The United States Nuclear Regulatory Commission (Commission) has issued Amendment No. 135 to Facility Operating License Nos. DPR–80 and DPR–82 issued to Pacific Gas and Electric Company (the licensee) for operation of the Diablo Canyon Power Plant, Units 1 and 2 (DCPP) located in San Luis Obispo County, California.

Because the ITS were being issued as a single document for the two units, the licensee requested that the ITS be issued with the same amendment number for both units. This was acceptable to the Commission and the next amendment number for DCPP Unit 1 was used. Therefore, Amendment Nos. 133 and 134 for DCPP Unit 2 will never be used.

The amendments are effective as of the date of issuance and shall be implemented by May 31, 2000. The implementation of the amendments includes the two license conditions that are being added to Appendix D of the licenses as part of the amendments.

The amendments replace, in its entirety, the current Technical Specifications (TS) with a set of improved TS based on NUREG–1431, ''Standard Technical Specifications, Westinghouse Plants,'' Revision 1, dated April 1995, including all approved changes to the standard TS; the Commission's Final Policy Statement, ''NRC Final Policy Statement on Technical Specifications Improvements for Nuclear Power Reactors,'' published on July 22, 1993 (58 FR 39132); and 10 CFR 50.36, ''Technical Specifications,'' as amended July 19, 1995 (60 FR 36953). In addition, the amendments added two license conditions to Appendix D of the operating licenses that require (1) The relocation of current TS requirements into licensee-controlled documents, and (2) the first performance of new and revised surveillance requirements for the improved TS to be related to the implementation date for the improved TS. The implementation of the amendments and the license conditions will be completed by May 31, 2000, as stated in the amendments.

The application for the amendments, as supplemented, 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.

Notice of Consideration of Issuance of Amendments and Opportunity for Hearing in connection with this action was published in the **Federal Register** on March 29, 1999 (64 FR 14946). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment and has determined not to prepare an environmental impact statement related to the action to convert the current TS to the improved TS. Based on the Environmental Assessment, the Commission has concluded that the issuance of the amendments will not have a significant effect on the quality of the human environment beyond that described in the Final Environmental Statement (FES) related to the operation of DCPP dated May 1973, and in the addendum to the FES dated May 1976. The Environmental Assessment was published in the **Federal Register** on May 26, 1999 (64 FR 28532).

For CN 9–01–LG in CTS 3/4.4 (and associated CN 3–13–M in CTS 6.0), the licensee has proposed to relocate the pressure/temperature (P/T) limits and low-temperature overpressure protection (LTOP) system limits from the CTS to the pressure temperature limits report (PTLR) and proposed to reference WCAP–14040–NP–A, Revision 1, ''Methodology Used to Develop Cold Overpressure Mitigating System Setpoints and RCS Heatup and Cooldown Curves,'' as the methodology for calculating the P/T and LTOP limits. The staff approved the use of this WCAP report in its generic SE dated October 16, 1995. The licensee, however, has determined that it will operate DCPP for the near future with the existing approved P/T and LTOP limits in the CTS. Therefore, the limits addressed in the PTLR of ITS 5.6.6 are the limits that the staff has previously reviewed and approved in Amendments 133 and 131 for DCPP, respectively, dated May 3, 1999. The amendments approved P/T limit curves that are valid for 16 effective full power years. The licensee will use the methodology in WCAP–14040–NP–A to calculate the future P/T and LTOP limits before the time when the current values given in the amendments become invalid. The staff will review the licensee's future plant-specific application of the PTLR methodology to allow the licensee's future use of PTLR methodology to calculate new P/T and LTOP limits without prior staff approval. In the associated CN 3–13–M in CTS 6.0, the licensee proposed to add a reference to the staff's letter providing this SE that addresses these amendments to the PTLR in ITS 5.6.6. This letter explained that Amendments 133 and 131 for DCPP approved the limits that are listed in the PTLR and addressed the methodology used by licensee to calculate the limits. The staff believes that the staff's approval of the P/T and LTOP limits in Amendments 133 and 131 was not an approval for the licensee to make future changes to these limits using the methodology described in the amendments. Listing the staff's letter that addressed Amendments 133 and 131 in ITS 5.6.6 may imply this is true and the staff is not ready at this time to

approve these amendments for that purpose. The review of these amendments, or any other licensee submittal, for the purpose of allowing the licensee to make future changes to the P/T and LTOP limits in ITS 5.6.6 without prior staff approval will the subject of a future letter.

For further details with respect to the amendments see (1) The application for amendment dated June 2, 1997, as supplemented by letters in 1998 dated January 9, June 25, August 5, August 28, September 25, October 16, October 23, November 25, December 4, December 17, and December 30, and letters in 1999 dated February 24, March 10, April 28, May 11, May 19, and May 27, and (2) the Commission's related Safety Evaluation and Environmental Assessment. 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 located at the California Polytechnic State University, Robert E. Kennedy Library, Government Documents and Maps Department, San Luis Obispo, California 93407.

Dated at Rockville, Maryland, this 28th day of May 1999.

For the Nuclear Regulatory Commission.

Jack N. Donohew,

Senior Project Manager, Section 1, Project Directorate IV & Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–14578 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8027]

Notice of Consideration of an Amendment Request for Sequoyah Fuels Corp., Gore, Oklahoma and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (NRC) is considering issuance of a license amendment to materials license SUB–1010 to authorize decommissioning of the Sequoyah Fuels Corp. (SFC) site near Gore, Oklahoma. This license is issued to SFC to possess contaminated material at its Gore site. NRC licenses these facilities under 10 CFR part 40. Specifically, the license authorizes SFC to possess up to 20 million metric tons of source material in any form. The contaminated material at the Gore site is in the form of uranium, uranium oxides, uranium fluorides, thorium, radium, and decay-chain products in process equipment and buildings, soil, sludge, and groundwater.

On March 26, 1999, the licensee submitted a site decommissioning plan (SDP) to NRC for review. The SDP proposes placing radiologically contaminated materials in a single, on-site, above-grade disposal cell constructed to the technical criteria of 10 CFR part 40, appendix A. It concludes that long-term doses from the contaminated materials placed in the cell and those remaining in the soil and groundwater meet the requirements of the Radiological Criteria for License Termination rule (10 CFR part 20, subpart E) (62 FR 39058). Therefore, the licensee proposes that no other decommissioning is required.

Prior to the issuance of the amendment, NRC will have made findings required by the Atomic Energy Act of 1954, as amended, and NRC's regulations. These findings will be documented in a Safety Evaluation Report and an Environmental Assessment.

NRC provides notice that this is a proceeding on an application for a license amendment falling within the scope of subpart L, ''Informal Hearing Procedures for Adjudication in Materials Licensing Proceedings,'' of NRC's rules of practice for domestic licensing proceedings in 10 CFR part 2. Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing in accordance with § 2.1205(d). A request for a hearing must be filed within thirty (30) days of the date of publication of this **Federal Register** notice.

The request for a hearing must be filed with the Office of the Secretary either:

1. By delivery to the Rulemakings and Adjudications Staff of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

2. By mail, telegram, or facsimile addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff.

In accordance with 10 CFR 2.1205(f), each request for a hearing must also be served, by delivering it personally or by mail, to:

1. The applicant, Sequoyah Fuels Corp., P.O. Box 610, Gore, OK 74435 Attention: Mr. Craig Harlin, and;

2. The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852–2738, between 7:45 am and 4:15 pm Federal workdays, or by mail, addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

1. The interest of the requestor in the proceeding;

2. How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in 2.1205(h);

3. The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

4. The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(d).

For further details with respect to this action, the application for amendment is available for inspection at NRC's Public Document Room, 2120 L Street NW., Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: J. C. Shepherd, Decommissioning Projects Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–6712. Fax.: (301) 415–5398.

Dated at Rockville, Maryland, this 3rd day of June, 1999.

For the Nuclear Regulatory Commission.

John W.N. Hickey,

Chief, Decommissioning Branch, Division of Waste Management Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–14582 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Sunshine Act Meeting

DATE: Weeks of June 7, 14, 21, and 28, 1999.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of June 7

There are no meetings scheduled for the Week of June 7.

Week of June 14—Tentative

Monday, June 14

2:00 p.m.

Briefing on 10 CFR Part 70—Proposed Rule for Revised Requirements for Domestic Licensing of Special Nuclear Material (Public Meeting) (Contact: Ted Sherr, 301–415–7218)

Tuesday, June 15

10:30 a.m.
All Employees Meeting (Public Meeting) (''The Green'' Plaza Area)
1:30 p.m.
All Employees Meeting (Public Meeting) (''The Green'' Plaza Area)

Wednesday, June 16

9:00 a.m.
Briefing on Proposed Export of High Enriched Uranium to Canada (Public Meeting) (Contact: Ron Hauber, 301–415–2344)

Thursday, June 17

9:00 a.m.
Briefing on Status of Uranium Recovery (Public Meeting) (Contact: King Stablein, 301–415–7238)
11:00 a.m.
Affirmation Session (Public Meeting) (If needed)
1:30 p.m.
Discussion of Management Issues (Closed—Ex. 2 and 6)

Friday, June 18

9:30 a.m.
Briefing on NRC International Activities (Public Meeting) (Contact: Karen Henderson, 301–415–1771)

Week of June 21—Tentative

There are no meetings scheduled for the Week of June 21.

Week of June 28—Tentative

There are no meetings scheduled for the Week of June 28.

The Schedule for Commission meetings is subject to change on short notice. To verify the status of meetings call (recording)—(301) 415–1292.

CONTACT PERSON FOR MORE INFORMATION: Bill Hill (301) 415–1661.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at http://www.nrc.gov/SECY/smj/schedule.htm

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This notice is distributed by mail to several hundred subscribers; if you no longer wish to receive it, or would like to be added to it, please contact the Office of the Secretary, Attn: Operations Branch, Washington, D.C. 20555 (301–415–1661). In addition, distribution of this meeting notice over the Internet system is available. If you are interested in receiving this Commission meeting schedule electronically, please send an electronic message to wmh@nrc.gov or dkw@nrc.gov.

Dated: June 4, 1999.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 99–14719 Filed 6–7–99; 11:23 am]

BILLING CODE 7590–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–16 and 50–341]

Detroit Edison Company; Temporary Closing of Local Public Document Room

Notice is hereby given that the Ellis Reference and Information Center, Monroe, Michigan, which serves as the Nuclear Regulatory Commission (NRC) local public document room (LPDR) for the Detroit Edison Company's Enrico Fermi Atomic Power Plant, will close on May 27, 1999, for extensive building renovation. The renovation is scheduled to be completed in two months. During this period the LPDR collection will be inaccessible to the public.

Every effort will be made to meet the informational needs of LPDR patrons during the renovation. Requests for records may be addressed to the NRC's Public Document Room (PDR), Gelman Building, 2120 L Street NW, Washington, DC 20555–0001. The telephone number is 800–397–4209, toll-free.

In addition, other LPDRs maintain records for the Fermi plant on microfiche. For the locations of these LPDRs, contact the PDR staff.

Dated at Rockville, Maryland, this 27th day of May 1999.

For the Nuclear Regulatory Commission.

Russell A. Powell,

Chief, Information Services Branch, Information Management Division, Office of the Chief Information Officer.

[FR Doc. 99–14583 Filed 6–8–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Tour of Advo Inc.

AGENCY: Postal Rate Commission.

ACTION: Notice of Commission visit.

SUMMARY: Postal Rate Commission staff members will tour the Columbia, MD facility of Advo Inc. on Wednesday, June 9, 1999. Following the tour, the group will meet with executives of Advo to discuss postal matters.

DATES: The tour is scheduled for June 9, 1999, beginning at 9 a.m.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel, Postal Rate Commission, Suite 300, 1333 H Street NW., Washington, DC 20268–0001, 202–789–6820.

Dated: June 3, 1999.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 99–14534 Filed 6–8–99; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41468; File No. SR–NASD–97–76]

Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Granting Approval to Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval to Amendment Nos. 2 and 3 to Proposed Rule Change To Amend Its Rule 3230 Relating to Clearing Agreements

June 2, 1999.

I. Introduction

On October 14, 1997, the NASD Regulation, Inc. (''NASDR'') submitted to the Securities and Exchange Commission (''Commission'') on behalf of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend NASD Rule 3230 to monitor the activities of introducing firms that are parties to clearing agreements. On November 20, 1997, NASDR filed Amendment No. 1 to the proposed rule change.[3]

The proposed rule change, as amended, was published for comment in the **Federal Register** on December 1, 1997.[4] Three comment letters were received on the proposal.[5] On August 18, 1998, the NASDR submitted

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from John M. Ramsay, Deputy General Counsel, NASDR, to Katherine A. England, Assistant Director, Division of Market Regulation (''Division''), Commission, dated November 19, 1997 (''Amendment No. 1'').

[4] *See* Securities Exchange Act Release No. 39349 (November 21, 1997), 62 FR 63589.

[5] *See* Letters to Jonathan Katz, Secretary, Commission, from Alan G. Bower, Senior Vice President and Managing Counsel, Smith Barney, Inc., dated December 15, 1997 (''Smith Barney''); Henry H. Hopkins, Managing Director and Legal Counsel, and David Oestreicher, Associate Legal Counsel, T. Rowe Price Associates, Inc., dated December 19, 1997 (''T. Rowe Price''); and Thomas J. Berthel, Chairman, Local Firms Committee, Edward Schlitzer, Chairman, Clearing Firms Committee, and Thomas A. Franko, Ad Hoc Clearing Subcommittee, Securities Industry Association, dated December 29, 1997 (''SIA'').

Amendment No. 2 to the Commission.[6] On November 18, 1998, the NASDR submitted Amendment No. 3 to the Commission.[7] This order approves the proposed rule change and Amendment No. 1 and approves Amendment Nos. 2 and 3 on an accelerated basis.

II. Description of the Proposal

The NASDR proposes to revise NASD Rule 3230 to enhance the ability of the Association and other securities self-regulatory organizations (''SROs'') to monitor the activities of introducing firms that are parties to clearing agreements. NASD Rule 3230 governs the contractual agreements, known as clearing agreements, between a clearing firm and an introducing firm, that allocate certain functions and responsibilities associated with the clearing of, and transactions in, customer accounts. Generally, the proposed amendments to NASD Rule 3230 would provide for increased monitoring of customer complaints regarding introducing firms, require specific procedures for introducing firms requesting reports offered by clearing firms, and address procedures and responsibilities of introducing firms that are permitted to issue negotiable instruments of the clearing firms.

Specifically, the proposal, as amended, would require a clearing firm to provide promptly any written customer complaint it receives regarding the introducing firm to the introducing firm and the introducing firm's Designated Examining Authority (''DEA''). In addition, the proposal would require that the clearing firm notify the customer who submitted the written complaint in writing that the complaint was received and that it was provided to the introducing firm and the DEA. As initially proposed, the clearing firm would also have been required, in response to customer complaints, to inform customers of their right to transfer their accounts to another broker-dealer. As discussed further below, this provision was subsequently deleted from the proposal in response to comment letters received by the Commission.[8]

The proposal also would require the clearing firm to provide to each of its introducing firms, at the beginning of the agreement and annually thereafter, a list of all exception and other reports that it offers to assist its introducing firms in supervising and monitoring their customer accounts.[9] The proposal would require each introducing firm to notify its clearing firm of those specific reports offered that should be provided to the firm.[10]

In addition, the proposal would require the clearing firm to provide written notice, on an annual basis within 30 days of July 1 of each year (*i.e.*, between June 1 and July 31), to the introducing firm's Chief Executive Officer, Compliance Officer, and DEA, of the list of reports offered to the introducing firm and to specify those reports actually requested or supplied as of the report date.[11]

The proposal, as amended, would grant the NASD the discretion, upon a showing of good cause, to grant exemptions from the requirements relating to the handling of customer complaints and the provision of exception reports in instances where the introducing firm is an affiliated entity of the clearing firm.[12] The Association also proposes to amend NASD rule 9610(a) to add Rule 3230 to the list of rules for which exemptions are available.[13]

Finally, the proposal addresses those agreements that allow introducing firms to issue negotiable instruments (*e.g.*, checks) to their customers, for which the clearing firm is the maker or drawer. The proposed rule provides that the introducing firm must represent to the clearing firm that it has supervisory procedures in place, which it enforces and which are satisfactory to the clearing firm,[14] with respect to the issuance of such instruments.

III. Summary of Comments

The Commission received three comment letters on the proposed rule change.[15] As discussed further below, the commenters generally supported the proposed amendments to NASD Rule 3230; however, they recommended a number of modifications to the proposal.

A. Customer Complaints

One commenter stated that the proposed requirement that clearing firms must forward customer complaints may be unnecessary since NASD Rule 3070 already requires the reporting of customer complaints.[16] The NASDR declined to amend its proposal in response to this comment because the requirements differ and serve different purposes. Specifically, NASD Rule 3070 requires statistical reporting, while the proposal would require copies of the actual reports to be forwarded.

Two commenters recommended the deletion of the proposed requirement that the clearing firm notify complaining customers in writing that they have the right to transfer their accounts to another broker-dealer.[17] These commenters expressed concerns that the proposed requirement could be misleading as it could create the perception that the subject of the customer's complaint necessarily warranted a transfer.[18] For example, one commenter pointed out that the proposed statement ''might well cause

[6] *See* Letter from John M. Ramsay, Vice President and Deputy General Counsel, NASDR, to Katherine A. England, Assistant Director, Division, Commission, dated August 18, 1998 (''Amendment No. 2''). In Amendment No. 2, the NASDR responds to the comment letters received by the Commission and proposes to amend its filing to: (1) Delete the proposed requirement that, in response to customer complaints, the clearing firm must notify customers of their right to transfer their accounts; (2) delete the proposed requirement that the clearing firm provide, upon request of the introducing firm's Designated Examining Authority, reports that were offered to, but declined by, the introducing firm; (3) provide the NASD with the discretion to permit exemptions from the proposed customer complaint and exception report requirements for good cause shown; (4) modify its language relating to the issuance of negotiation instruments; and (5) conform the proposal to that of the New York Stock Exchange (''NYSE'') by specifying an as of date for the required annual notice of exception reports.

[7] *See* Letter from Alden S. Adkins, Senior Vice President and General Counsel, NASDR, to Katherine A. England, Assistant Director, Division, Commission, dated November 12, 1998 (''Amendment No. 3''). In Amendment No. 3, the NASDR proposes to amend the proposed rule language to limit the proposed exemption for good cause shown to instances in which the introducing firm is an affiliated entity of the carrying organization. The NASDR also proposes to amend NASD rule 9610(a) to add Rule 3230 to the list of rules for which exemptions are available.

[8] *See* Amendment No. 2, *supra* note 6.

[9] As initially proposed, the clearing firm would have been required to provide, upon request of the introducing firm's DEA, reports that were offered to the introducing firm, but which the introducing firm declined. This provision was subsequently deleted from the proposal. *See* Amendment No. 2, *supra* note 6.

[10] In addition, the clearing firm would be required to retain and preserve copies of the specific reports requested by or supplied to the introducing firm or have the capability to: (1) Recreate copies of reports provided, or (2) make available the report format and data elements provided in the original reports necessary to recreate the original reports.

[11] Under the original proposal, the clearing firm would have been required to notify the introducing firm and the introducing firm's DEA of exception and other reports offered or supplied to, or requested by, the introducing firm during the previous year. The NASDR now proposes to conform its proposal to that of the NYSE by clarifying that the requisite notice must be made as of a specific date, rather than during the course of the year. *See* Amendment No. 2, *supra* note 6.

[12] *See* Amendment No. 2, *supra* note 6; *see also* Amendment No. 3, *supra* note 7.

[13] *See* Amendment No. 3, *supra* note 7.

[14] To conform its proposal to that of the NYSE, the NASD proposes to require that the introducing firm's supervisory procedures, with respect to the issuance of negotiable instruments for which the clearing firm is maker or drawer, are ''satisfactory to the carrying organization.'' *See* Amendment No. 2, *supra* note 6.

[15] *See* note 5, *supra.*

[16] *See* T. Rowe Price Letter, *supra* note 5.

[17] *See* Letters from T. Rowe Price and SIA, *supra* note 5.

[18] *Id.*

the customer to infer wrongdoing and take his or her business elsewhere, regardless of the merit of the complaint or the underlying circumstances * * *'' [19] In response, the NASDR proposes to delete the provision that requires that customers be notified of their right to transfer their accounts to another broker-dealer, noting that investor education initiatives may more effectively accomplish the objectives of the proposed requirements.[20]

B. Exception Reports

One commenter recommended that the proposal should require clearing firms to produce and make available certain basic reports to their introducing firms, rather than to require clearing firms to provide notices of the reports that are offered to their introducing firms.[21] The NASDR declined to amend its proposal in response to this comment, noting that ''firms generally have wide latitude to tailor clearing arrangements to individual business situations, and there is not industry standard for such arrangements or for the exception and other reports made available pursuant to such arrangements.'' [22]

One commenter recommended that the NASDR conform its proposed rule language to that of the NYSE by specifying that the proposed notification requirements apply to reports offered, requested or supplied as of a specific date, because it would not be feasible for clearing firms to track all of the various reports that introducing firms may have been offered, requested or received over the course of a year.[23] In response, the NASDR proposes to amend its proposed rule language to require clearing firms to notify the introducing firms and the introducing firm's DEA of exception and other reports offered or supplied to, or requested by, the introducing firms as of a specific date, rather than through the course of the year.[24]

The same commenter also opposed the proposed requirement that, upon the request of the introducing firm's DEA, the clearing firm must provide reports that were offered to the introducing firm, but which the introducing firm declined to receive.[25] This commenter noted that compliance with this proposed requirement may be impossible, or, at a minimum, burdensome to the clearing firm.[26] In response, the NASDR proposes to delete this proposed requirement.[27]

C. Exemption for Good Cause Shown

One commenter expressed concerns that the proposed provisions relating to customer complaints and exception reports would be unnecessary in situations in which clearing firms were already performing these compliance functions for their introducing firm subsidiaries.[28] In response to this comment, the NASDR proposes to amend its filing to allow the Association to grant an exemption from the customer complaint and exception report provisions in instances where the introducing firm is an affiliated entity of the clearing firm.[29]

D. Negotiable Instruments

One commenter expressed concerns about the NASDR's description of the proposed provisions relating to negotiable instruments, noting that the NASDR's interpretation ''is misleading in that it implies that the [clearing firm] could be liable for the acts of the [introducing firm] independent of the [clearing firm's] obligations as maker or drawer.'' [30] In response, the NASDR proposes to amend its discussion in the proposal to clarify that the proposal ''simply requires introducing firms to establish clear safeguards and procedures that are satisfactory to the clearing member when the introducing member issues checks to customers drawn to the clearing member's account'' [31]

IV. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of Section 15A of the Act [32] and the rules and regulations thereunder applicable to a national securities association.[33] The Commission believes that the proposed rule change is consistent with and furthers the objectives of Section 15A(b)(6) of the Act,[34] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change, by assisting the NASD to better monitor the activities of introducing brokers, should help to prevent fraudulent and manipulative acts and practices. The proposal and the companion proposal submitted by the NYSE [35] represent an important step toward addressing recent concerns about questionable sales practices and potentially fraudulent activity engaged in by some introducing firms.[36] The Commission expects that the proposed rules, by establishing procedures for the handling of customer complaints, the offer and receipt of exception reports, and the introducing firm's issuance of negotiable instruments of the clearing firm, should assist the SROs in their regulatory efforts. In addition, by requiring clearing firms to provide to their introducing firms copies of customer complaints and lists of available exception reports, the proposal should help introducing firms to better monitor their customer accounts.

A. Customer Complaints

The proposed customer complaint provisions of the proposal would require clearing firms to provide any written customer complaint they receive regarding the introducing firm to the introducing firm and the introducing firm's DEA. In addition, the proposal would require that the customer who submitted the written complaint be notified in writing by the clearing firm that the complaint was received and that it was provided to the introducing firm and the DEA.

The Commission believes the proposed requirements relating to the handling of customer complaints received by clearing firms are reasonable. These procedures should enhance the ability of introducing firms and their DEAs to monitor complaints. In particular, DEAs and firms should be better able to identify patterns of complaints to determine, for example, whether there is a problem with the firm's supervisory procedures, operations, or an individual registered

[19] *See* SIA Letter, *supra* note 5 (incorporation by reference Letter to Jonathan Katz, Secretary, Commission, from Thomas J. Berthel, Chairman, Local Firms Committee, Edward Schlitzer, Chairman, Clearing Firms Committee, and Thomas A. Franko, Ad Hoc Clearing Subcommittee, Securities Industry Association, dated November 3, 1997, on File No. SR–NYSE–97–25).

[20] *See* Amendment No. 2, *supra note 6*.

[21] *See* T. Rowe Price Letter, *supra* note 5.

[22] *See* Amendment No. 2, *supra* note 6.

[23] *See* SIA Letter, *supra* note 5.

[24] *See* Amendment No. 2, *supra* note 6.

[25] *See*SIA Letter, *supra*, note. 5.

[26] *Id*.

[27] *See* Amendment No. 2, *supra* note 6.

[28] *See* Smith Barney Letter, *supra* note 5.

[29] *See* Amendment No. 2, *supra* note 6.

[30] *See* SIA Letter, *supra* note 5.

[31] *See* Amendment No. 2, *supra* note 6.

[32] 15 U.S.C. 78o–3.

[33] In approving this rule, the Commission considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[34] 15 U.S.C. 78o–3(b)(6).

[35] The Commission is simultaneously approving the NYSE's amended proposal, File No. SR–NYSE–97–25.

[36] The Commission encourages the NASD, the NYSE, and others to continue to consider additional measures focusing on introducing and clearing firm processes that would assist in detecting and deterring fraudulent and manipulative activities.

representative. The Commission notes one commenter's concern that the proposal is duplicative because existing NASD Rule 3070(c) requires member firms to report to the Association statistical and summary information regarding customer complaints.[37] The Commission, however, believes that because this proposal would require the submission of a copy of the actual complaint to the DEA, the proposed reporting requirements supplement, rather than duplicate, the existing reporting requirements.

Moreover, the Commission agrees with the commenters that the notification provisions, initially proposed, which required clearing firms to advise complaining customers of their right to transfer their accounts, could have created the perception that the subject of the customer's complaint warranted a transfer. Many customer complaints relate to operational issues, such as delayed dividend checks, and are easily resolved by the firm. The Commission believes that broader investor education initiatives designed to inform investors of their rights would more effectively achieve the same objectives without creating the possibility of unnecessary confusion. The Commission is working with the SROs on educational initiatives in this area. Accordingly, the Commission believes that the Association's proposal to delete the proposed notification provision is appropriate.

B. Exception Reports

The proposal also would require clearing firms to provide a list of all reports that are offered to their introducing firms and would require each introducing firm to provide its clearing firm with a list of specific reports requested. The proposal further would require clearing firms to provide to their introducing firms and their introducing firm's DEA written annual notice, within 30 days of July 1, of the list of reports offered to each introducing firm and to specify those reports actually requested or supplied as of the report date.

Exception and other reports are important in the monitoring and supervision of customer accounts, from both a risk management and customer services perspective. For example, reports that flag unusual account activity or possible unauthorized trades may allow for early detection and correction of potential problems with a firm's supervisory procedures, operations, or an individual registered representative. The Commission therefore believes that the Association's proposal will enhance the firm's supervisory procedures and give DEAs more information to identify potential weaknesses at individual firms.

The Commission disagrees with the comment that the Association's rules should dictate certain basic reports that every introducing broker should receive.[38] The Commission is concerned that because an industry standard has not been established at this time, encouraging the NASD to establish a list of ''basic'' reports would likely result in many introducing brokers obtaining no more than that minimum, despite the fact that a particular introducing firm may need more comprehensive information. That being said, however, the Commission notes that it is the responsibility of each introducing firm to obtain from its clearing firm or elsewhere all relevant information that the introducing firm requires to adequately supervise and monitor its operations, including the handling of customers' accounts.

The Commission believes that the Association's proposal to amend the rule language to require clearing firms to provide the requisite notification regarding exception and other reports offered, supplied to, or requested by the introducing firm as of a specific date, rather than through the course of the year, is reasonable. The Commission also supports the NASDR's proposed deletion of the requirement that, at the request of the introducing firm's DEA, the clearing firm must provide reports that were offered to the introducing firm, but which the introducing firm declined to receive.

The Commission believes that these revisions to the original proposal should not diminish the value of the proposed amendments to NASD Rule 3230 as a supervisory tool. Information regarding reports available and those reports requested as of a specific date should assist both the introducing firm in assessing its prospective needs and the introducing firm's DEA in its regulatory efforts. Even without a reporting requirement, the DEA will still be able to determine which reports were made available to the introducing firm, and which were not requested. In addition, the Commission notes that both of these proposed revisions to the Association's original filing seek to conform the NASD's proposal to that submitted by the NYSE. The Commission believes that uniformity between the NASD's and the NYSE's rules in this area should ease the compliance burden on introducing firms and their clearing brokers alike, as well as enhance the usefulness of the rules for the firms' respective DEAs.

Finally, the Commission notes that the proposed requirements relating to exception reports apply to all clearing firm/introducing firm relationships, regardless of the manner in which the data is transmitted from the clearing firm to the introducing firm. Therefore, the proposed rules are equally applicable to clearing agreements that provide for the transmission from the clearing firm to the introducing firm of raw data, rather than information organized in a formatted report. Under either scenario, the Commission expects the introducing firm to determine what information is needed for the proper supervision of its customer accounts, and to have the ability to use the data provided by its clearing firm in its supervisory efforts.

C. Exemption for Good Cause Shown

The NASD is proposing to include an exemption from the customer complaint and exception report provisions of the proposal for those situations in which clearing firms are already performing these compliance functions for their introducing firm affiliates. The Commission believes that it is reasonable for the Association to have the authority to grant such an exemption in the limited circumstances in which the introducing firm is an affiliated entity of the clearing firm to avoid duplication of efforts.

D. Negotiable Instruments

The Commission believes that the proposed procedures to be followed by introducing firms that issue negotiable instruments for which the clearing firm is the maker or drawer are reasonable. Specifically, the Commission believes that it is appropriate for the introducing firm to be required to represent to the clearing firm that it has supervisory procedures in place, which it enforces, and which are satisfactory to the clearing firm. A clearing firm that finds that its introducing firm does not have minimal safeguards and procedures for the issuance of checks drawn on the clearing firm's account should, at a minimum, reexamine its relationship with the introducing firm. The Commission views the proposed requirement as a supplement to, rather than a replacement for, any other obligation or legal liability of the clearing firm as maker or drawer of the instrument.[39]

[37] *See* T. Rowe Price, *supra* note 5.

[38] *See* T. Rowe Price Letter, *supra* note 5.

[39] *See e.g.,* NASD Guide to Rule Interpretations 1996, p. 75, Ability of a (k)(2)(ii) Broker/Dealer to

Continued

The Commission finds good cause for approving proposed Amendment Nos. 2 and 3 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. In Amendment No. 2, the NASDR modifies the original filing in response to specific comments raised in three comment letters. Specifically, Amendment No. 2 deletes the proposed rule language requiring clearing firms to include in their responses to customer complaints a statement regarding the customer's right to transfer the account to another broker-dealer. As discussed above, the Commission believes that alternative investor education initiatives should inform public customers of their rights without raising the possibility of customer confusion regarding whether the clearing firm believes such action is warranted. Amendment No. 2 also adds a good cause exclusion from certain provisions of the proposed rule in certain circumstances. In Amendment No. 2, the NASDR also proposes several amendments to conform its proposed rule language to that proposed by the NYSE. In Amendment No. 3, the NASDR limits the proposed good cause exemption to situations in which the introducing firm is an affiliated entity of the clearing firm. As the modifications proposed in Amendment Nos. 2 and 3 are reasonable and do not significantly alter the original proposal, the Commission believes that Amendment Nos. 2 and 3 raise no new issues of regulatory concern. Accordingly, the Commission believes that it is consistent with Section 6 of the Act[40] to approve Amendment Nos. 2 and 3 to the proposed rule change on an accelerated basis.

V. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment Nos. 2 and 3, including whether Amendment Nos. 2 and 3 are 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 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of all such filings will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File No. SR–NASD–97–76 and should be submitted by June 30, 1999.

VI. Conclusion

The Commission believes that the proposal, as amended, should significantly assist the efforts of introducing firms and their DEAs to fulfill their supervisory responsibilities. Specifically, the Commission believes that, by ensuring that clearing firms provide introducing firms with important information about their customers' accounts and by requiring that the introducing firms have in place supervisory procedures with respect to their issuance of negotiable instruments, the proposed rules should enhance good business practices by introducing firms. Further, by requiring that introducing firms receive copies of customer complaints and exception and other reports about their customers' accounts, the proposal should assist introducing firms in more quickly identifying and addressing potential problems with their supervisory procedures, operations, or an individual registered representative. This should reduce the risks to both the firm and its customers from questionable sales practices and potentially fraudulent activity.

In addition, the Commission believes that the proposal should also assist the regulatory efforts of the introducing firms' DEAs. Specifically, the Commission believes that the proposal may allow earlier detection by an introducing firm's DEA of potentially fraudulent activity, which will benefit investors and the public. Therefore, the Commission finds the approval of the proposed rule change, as amended, is consistent with the requirements of the Act applicable to a national securities association, and in particular, with the requirements of Section 15A(b)(6) of the Act[41] and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act,[42] that the proposed rule change (SR–NASD–97–76) is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[43]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–14576 Filed 6–8–99; 8:45 am]

BILLING CODE 8010–01–M

Write Checks on Behalf of the Clearing Firm, *see also* Amendment No. 2, *supra* note 6.

[40] 15 U.S.C. 78f.

[41] 15 U.S.C. 78o–3.

[42] 15 U.S.C. 78s(b)(2).

[43] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

Statement of Organization, Functions and Delegations of Authority

This statement amends Part S of the Statement of the Organization, Functions and Delegations of Authority which covers the Social Security Administration (SSA). Chapter S2 covers the Deputy Commissioner, Operations (DCO). Notice is hereby given that Section S2.20 and Subchapter S2N are being amended to reflect responsibility for coordinating and implementing a comprehensive, nationwide program for DCO focusing on systems security and programmatic fraud. The changes are as follows:

Section S2.20 *The Office of the Deputy Commissioner, Operations*—(Functions):

Amend as follows:

1. The Office of Public Service and Operations Support (OPSOS) (S2N) provides operations analysis, program support, service to the public and employee services for the Deputy Commissioner, Operations (DCO), and conducts studies and analyses. Provides broad operations support to FOs, TSCs, PSCs, and the Office of Central Operations. OPSOS also integrates operational delivery of public services under the RSDI, SSI and health insurance (HI) programs for domestic beneficiaries and delivery of RSDI program services for foreign beneficiaries. Provides broad operations support to the maintenance of activities associated with the overall effectiveness and efficiency of the DCO components. Coordinates and implements a comprehensive DCO nationwide program to focus on systems security and programmatic fraud. Directs and coordinates internal management support functions to ensure effective position management, workforce utilization and management analysis and planning. Directs the overall DCO budget process. Plans, implements, manages and assesses the interrelated duties of delivery of SSA program and related services to the public.

Section S2N.00 *The Office of Public Service and Operations Support*—(Mission):

Amend as follows:

The Office of Public Service and Operations Support (OPSOS) is responsible for providing operational/program support and conducting studies and analyses related to service to the public, employee services and activities associated with financial management, budget and management information. The office provides broad operations support to the FOs, TSCs, PSCs and the Office of Central Operations. OPSOS is also responsible for integrating operational delivery of public services under the RSDI, SSI and HI programs for domestic beneficiaries and for the delivery of RSDI program services to foreign beneficiaries. Additionally, the Office provides broad operations support to the maintenance of the basic earnings data which support the Social Security programs. It conducts studies, pilots and other activities associated with the overall effectiveness and efficiency of DCO components. OPSOS provides support and guidance to the DCO, Operations' Associate Commissioners, Regional Commissioners, regional and OCO security officers and managers, FOs, TSCs, and PSCs on a broad range of security and program integrity issues. It directs and coordinates internal management support functions to ensure effective position management, workforce utilization and management analysis and planning. It directs the overall DCO budget process and plans, implements, manages and assesses the interrelated duties of delivering SSA program and related services to the public.

Section S2N.20 *The Office of Public Service and Operations Support*—(Functions):

Amend as follows:

C. The Immediate Office of the Associate Commissioner for Public Service and Operations Support (S2N) provides the Associate Commissioner with staff assistance on the full range of his/her responsibilities. Ensures open and effective communication with employees and Union representatives. Coordinates and implements a comprehensive DCO nationwide program to focus on systems security and programmatic fraud.

Dated: May 27, 1999.

John R. Dyer,

Principal Deputy Commissioner of Social Security.

[FR Doc. 99–14528 Filed 6–8–99; 8:45 am]

BILLING CODE 4190–29–P

DEPARTMENT OF STATE

[Public Notice No. 3044]

Shipping Coordinating Committee; Subcommittee for the Prevention of Marine Pollution; Notice of Meeting

The Subcommittee for the Prevention of Marine Pollution (SPMP), a subcommittee of the Shipping Coordinating Committee, will conduct an open meeting on Tuesday, June 22, 1999, at 9:30 AM in Room 2415, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC.

The purpose of this meeting will be to review the agenda items to be considered at the forty-third session of the Marine Environment Protection Committee (MEPC 43) of the International Maritime Organization (IMO). MEPC 43 will be held from June 28–July 2, 1999. Proposed U.S. positions on the agenda items for MEPC 43 will be discussed.

The major items for discussion for MEPC 43 will begin at 9:30 AM and include the following:

a. Implementation of the OPRC Convention and the OPPR Conference resolutions

b. Harmful effects of the use of anti-fouling paints for ships

c. Harmful aquatic organisms in ballast water

d. Consideration and adoption of amendments to mandatory instruments

e. Identification and protection of Special Areas and Particularly Sensitive Sea Areas

f. Inadequacy of reception facilities

g. Prevention of air pollution from ships

h. Interpretation and amendments of MARPOL 73/78 and related Codes

i. Role of the human element with regard to pollution prevention

Members of the public may attend this meeting up to the seating capacity of the room. For further information or documentation pertaining to the SPMP meeting, contact Lieutenant Commander John Meehan, U.S. Coast Guard Headquarters (G–MSO–4), 2100 Second Street, SW, Washington, DC 20593–0001; Telephone: (202) 267–2714.

Dated: June 4, 1999.

Susan K. Bennett,

Director, Office of Transportation Policy.

[FR Doc. 99–14634 Filed 6–8–99; 8:45 am]

BILLING CODE 4710–07–P

DEPARTMENT OF STATE

[Public Notice 3059]

Bureau of Political-Military Affairs; Suspension of Munitions Export Licenses and Other Approvals Destined for Russian Companies and Related Matters

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: Notice is hereby given that, pursuant to Section 38 of the Arms Export Control Act and section 126.7 of the International Traffic in Arms Regulations, all licenses and other approvals for defense articles and defense services involving certain Russian entities, identified below, are suspended, effective immediately. Notice is further given that it is the policy of the United States to deny licenses, other approvals, exports and temporary imports of defense articles and defense services destined for these Russian entities.

EFFECTIVE DATE: June 9, 1999.

FOR FURTHER INFORMATION CONTACT: Rose Biancaniello, Deputy Director, Department of State, Office of Defense Trade Controls, Department of State, 703–812–2568.

SUPPLEMENTARY INFORMATION: Section 126.7 of the International Traffic in Arms Regulations (ITAR) provides that any application for an export license or other approval under the ITAR may be disapproved, and any license or other approval or exemption granted under the ITAR may be revoked, suspended or amended without prior notice under various circumstances, including whenever such action is deemed to be in furtherance of world peace, the national security or the foreign policy of the United States or is otherwise advisable.

Pursuant to section 126.7(a)(1) of the ITAR, it is deemed that suspending the following foreign entities from participating in any activities subject to Section 38 of the Arms Export Control Act would be in furtherance of the national security and foreign policy of the United States. Therefore, until further notice, the Department of State is hereby suspending all licenses and other approvals for: (a) Exports and other transfers of defense articles and defense services from the United States; (b) transfers of U.S.-origin defense articles and defense services from foreign destinations; and (c) temporary import of defense articles to or from the following entities:

(1) Tula Instrument Design Bureau (including at Tula 300001, Russia);

(2) Volsk Mechanical Plant (including at Saratov Region, 412013, Volsk, Russia);

(3) Central Scientific Research Institute of Precision Machine-Building, aka Tzniitochmash (including at 142080 Klimovsk, Russia).

Furthermore, it is the policy of the United States to deny licenses and other approvals for exports and temporary imports of defense articles and defense services destined for these Russian entities.

Dated: June 3, 1999.

Eric D. Newsom,

Assistant Secretary of State for Political-Military Affairs.

[FR Doc. 99–14635 Filed 6–8–99; 8:45 am]

BILLING CODE 4710–25–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DOT Partnership Council; Meeting

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of meeting.

SUMMARY: The Department of Transportation announces a meeting of the DOT Partnership Council (the Council). Notice of this meeting is required under the Federal Advisory Committee Act.

Time and Place: The Council will meet on Wednesday, June 23, 1999, at 10 a.m., at the Department of Transportation, Nassif Building, room 10214, 400 Seventh Street, SW., Washington, DC 20590. The room is located on the 10th floor.

Type of Meeting: These meetings will be open to the public. Seating will be available on a first-come, first-served basis. Handicapped individuals wishing to attend should contact DOT to obtain appropriate accommodations.

Point of Contact: Jean B. Lenderking, Corporate Human Resource Leadership Division, M–13, Department of Transportation, Nassif Building, 400 Seventh Street, SW., room 7411, Washington, DC 20590, (202) 366–8085.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to brief the Council on the Federal Employees Cancer Warmline, the Life with Cancer Signature Project in memory of the late American Federation of Government Employees (AFGE) President John Sturdivant; report sites identified for assessment during Phase II of DOT labor-management climate study; and showcase new DOT Partnership Council web-site.

Pubilc Participation: We invite interested persons and organizations to submit comments. Mail or deliver your comments or recommendations to Ms. Jean Lenderking at the address shown above. Comments should be received by June 14, 1999 in order to be considered at the June 23rd meeting.

Issued in Washington, DC, on June 3, 1999.

For the Department of Transportation.

John E. Budnik,

Associate Director, Corporate Human Resource Leadership Division.

[FR Doc. 99–14621 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Proposed Advisory Circular 21–38A, Disposition of Scrap or Salvageable Aircraft Parts and Materials

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: This notice announces the availability of the proposed Advisory Circular (AC) 21–38A, Disposition of Scrap or Salvageable Aircraft Parts and Materials, for review and comment. When an aviation part is not eligible for installation on an aircraft, aircraft engine, or aircraft propeller and the owner wishes to dispose of it, the part may either be salvageable or scrap. This AC provides information and recommendations to help manufacturers and other persons involved in the control, distribution, sale, maintenance, or disposal of scrap or salvageable aircraft engines, aircraft propellers, and aircraft parts and materials, by ensuring parts and materials are disposed of in a manner that does not allow them to be misrepresented as serviceable parts.

DATES: Comments submitted must be received no later than August 9, 1999.

ADDRESSES: Copies of the proposed AC 21–38A can be obtained from and comments may be returned to the following: Federal Aviation Administration, Production and Airworthiness Certification Division, AIR–200, Room 815, 800 Independence Avenue, SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Loyal Woodworth, Federal Aviation Administration, Production and Airworthiness Certification Division, AIR–200, Room 815, 800 Independence Avenue, SW, Washington, DC 20591, 202–267–8361. The e-mail address is loyal.woodworth@faa.gov.

SUPPLEMENTARY INFORMATION: Interested persons are invited to comment on the proposed AC 21–38A listed in this notice, by submitting such written data, views, or arguments as they desire to the aforementioned address. Comments must be marked ''Comments to AC 21–38A.'' All communications received on or before the closing date for comments will be considered by the Director, Aircraft Certification Service, before issuing the final AC. Comments received on the proposed AC 21–38A may be examined before and after the comment closing date in Room 815, FAA headquarters building (FOB–10A), 800 Independence Avenue, SW, Washington, DC 20591, between 8:30 a.m. and 4:30 p.m.

Issued in Washington, DC, on June 3, 1999.

Terry A. Allen,

Acting Manager, Production and Airworthiness Certification Division, AIR–200.

[FR Doc. 99–14615 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of the Record of Decision on the Potomac Consolidated Terminal Radar Approach Control (TRACON) Facility

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of availability of Record of Decision for the Potomac Consolidated TRACON.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 and FAA Order 1050.ID, Policies and Procedures for Considering Environmental Impacts, the Federal Aviation Administration (FAA) has made a final determination to consolidate the workforces and functions of the four Terminal Radar Approach Control (TRACON) facilities in the Baltimore-Washington area. These four stand-alone TRACONs are located at Baltimore-Washington International Airport (BWI), Ronald Reagan Washington National Airport (DCA), and Washington Dulles International Airport (IAD); and the FAA operated TRACON located at Andrews Air Force Base, Maryland (ADW). The facility will be called the Potomac Consolidated TRACON (PCT) and will be housed in a new building to be constructed at the former Vint Hill Farms Station in Fauquier County, Virginia.

The PCT will be established in a manner consistent with the alternative ''Consolidation of DCA, IAD, BWI, and ADW TRACONs'' described in the Final

Environmental Impact Statement (FEIS) as the preferred alternative. The FAA issued the FEIS on April 19, 1999. The FEIS analyzed two alternatives in detail. The first or No Action alternative would require physical replacement of the Baltimore and Dulles TRACONs, but would not consolidate the four facilities. The second or preferred alternative would provide full consolidation at one of two possible locations. The FEIS identified the preferred location as Vint Hill Farms.

FOR FURTHER INFORMATION OR TO OBTAIN A COPY OF THE RECORD OF DECISION CONTACT: Mr. Joseph Champley, Project Support Specialist, Federal Aviation Administration, (800) 762–9531, Email: joe.champley@faa.gov.

The Record of Decision can be viewed on the Internet at http://www.faa.gov/ats/potomac.

Dated: June 3, 1999 in Washington, DC.

John Mayrhofer,

Director, TRACON Development Program.

[FR Doc. 99–14616 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Factors Affecting Award of Airport Improvement Program (AIP) Discretionary Funding

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) reiterates four factors that may militate against a decision by the FAA to award AIP discretionary funding to an airport sponsor. These factors are: revenue diversion; delinquent submissions of financial reports; unsatisfactory progress on existing grant agreements; and use of AIP entitlements funds on low priority development as calculated under the FAA's National Priority System (NPS) equation.

FOR FURTHER INFORMATION CONTACT: Mr. Barry L. Molar, Manager, Airports Financial Assistance Division, APP–500, on (202) 267–3831.

SUPPLEMENTARY INFORMATION: The FAA manages the AIP in accordance with statutory direction and agency policies and criteria. Decisions to award discretionary grants are made on the basis of a number of factors, including project evaluation under the NPS. The Congress has directed that FAA take certain additional factors into consideration. The FAA hereby provides notice and explanation of those factors, and the manner in which the FAA will consider them in making decisions on discretionary grants.

1. Improper Diversion of Airport Revenue

Airport sponsors receiving federal grants under the Airport Improvement Program (AIP) are subject to a number of statutory conditions, one of which restricts the use of airport revenue. The FAA published a notice of final policy and procedures concerning the use of airport revenues (64 FR 7696). The Notice defines proper and improper uses of airport revenue and describes actions the FAA may take to address improper revenue use.

It is the intent of the FAA to generally withhold AIP discretionary funding to those airports requesting such funding that are being investigated by the FAA for misuse of airport generated revenue. Airports qualifying under Title 49 U.S.C. 47107(b)(2) are exempted from this policy. This provision recognizes the rights of ''grandfathered'' airport sponsors to use airport revenues for other purposes. However, as discussed below, payments permitted under the ''grandfather'' provision may be considered a militating factor against the award of discretionary grants in certain circumstances.

General Rule

Title 49 U.S.C., Sections 47107(b) and 47133; generally requires airport revenues to be used for the capital or operating costs of the airport, the local airport system, or other facilities owned or operated by the airport sponsor and directly and substantially related to the actual air transportation of persons or property. If the FAA finds that an airport is not complying with this statute, after providing notice and an opportunity for hearing, and the sponsor does not take satisfactory corrective action, various enforcement actions are mandated or authorized. The enforcement actions affecting AIP funding that the FAA is authorized or required to take include any of the following, or combination thereof: withholding of future AIP entitlement and discretionary grants (49 U.S.C. 47106(d), 47111(e)); withholding approval of the modification of existing grant agreements that would increase the amount of AIP funds available (section 47111(e)); and withholding payments under existing grants (section 47111(d)).

Grandfather Provision

Under the ''grandfather provision'' of the revenue use requirement, sections 47107(b) and 47133(b), an airport operator may use airport revenues for local purposes other than those proscribed in sections 47107 and 47133 if a provision of law controlling the airport operator's financing enacted on or before September 2, 1982 or a covenant or assurance in an airport operator's debt obligation issued on or before September 2, 1982 provides for the use of airport revenues from any facility of the airport operator to support general debt obligations or other facilities of the airport operator. The statutory revenue-use provisions also permit local taxes on aviation fuel in effect on December 30, 1997 to be used for any local purpose.

Thus, the use of airport revenue for local purposes under these exceptions does not preclude the award of AIP grants to an airport operator. However, under 49 U.S.C. § 47115(f), the FAA must, in certain circumstances, consider as a factor militating against the distribution of discretionary AIP funding, the use of airport revenue for local purposes under the ''grandfather provision.'' This militating factor applies only if the airport revenue so used in the airport's fiscal year preceding the date of the application for discretionary funds exceeds the amount of revenues used in the airport's first fiscal year ending after August 23, 1994, and adjusted for changes in the Consumer Price Index. In addition, the airport's failure to provide information needed by the FAA to determine whether Section 47115(f) applied to a specific grant application would prevent the FAA from making an evaluation required by Section 47115(f), and thus, would prevent the FAA from considering an application for discretionary funds.

2. Annual Financial Reports

Section 111(c) of the Federal Aviation Administration Authorization Act of 1994 (the 1994 Act) requires the Secretary of Transportation to submit to the Congress, and to make available to the public, in annual report listing in detail certain financial information requiring individual airport revenues and expenditures. The data is derived from reports by airport owners or operators, also required by Section 111(a)(19) of the 1994 Act. Under the authority of Assurance 26 of the Airport Sponsor Assurances, airport sponsors are required to submit annual reports. The FAA's September 10, 1998, Advisory Circular (AC) titled *Guide for Airport Financial Reports Filed by Airport Sponsors* specifies the report format and due dates.

Failure of an airport sponsor to file airport financial reports by the due date will cause FAA to withhold award of AIP discretionary funds. The sponsor will not be considered for discretionary funds until it provides acceptable corrective action and is determined by the FAA to be in compliance with the reporting requirements. If the FAA makes a determination that the sponsor is in noncompliance with Assurance 26, it may withhold all sources of AIP funding (both discretionary and entitlement). The FAA will suspend processing of discretionary grants (grants for funds not apportioned under Section 47111(e)) immediately upon determining that a sponsor's airport financial reports are overdue.

3. Progress on Existing Grant Agreements

As a general policy, the FAA encourages sponsors to take construction bids prior to submitting an application of AIP grants. Bid-based grants more accurately reflect actual project costs, allow for more efficient management of AIP obligations, and help to ensure sponsors proceed timely with projects. When AIP funds are obligated by a grant, airport sponsors are encouraged, to the extent practicable, to make timely AIP draw downs as they incur costs leading to completion of their projects. FAA financially closes AIP projects as soon as possible following physical completion of the project. Close adherence to this policy helps to ensure that AIP funds do not remain idle after they are obligated in a grant, that a sponsor complete projects in a timely manner, and that the need to amend grants to accommodate higher costs is minimized. This policy has been developed and applied by the FAA, prior to the advent of the AIP, to foster effective financial management of federal grant funds.

The airport sponsor's management of past AIP grants can influence FAA's consideration of AIP discretionary funds for proposed projects. Efficient and expeditious implementation by airport sponsors of past grant is encouraged. Factors which may militate against the distribution of discretionary funds include: failure to financially close a physically completed project in a timely manner; inability to commence or complete work under an approved grant in a timely manner; and, having an excessive number of open, uncompleted grants.

The FAA understands that there may be compelling that justify relaxation of the general policy in light of specific local factors. FAA will take these factors into consideration when evaluating requests that contemplate the use of discretionary funds, and in accordance with FAA policy, thoroughly document exceptions to this general rule.

4. Sponsor Use of Entitlement Funds

The FAA encourages airport sponsors to use entitlement funds on the ''highest priority'' work at the airport as calculated under the FAA's National Priority System (NPS) equation. A detailed discussion of the NPS was published in the **Federal Register** Notice dated August 25, 1997, entitled *Revisions to the Airport Capital Improvement Plan (ACIP) National Priority System*. For purposes of determining whether sponsor entitlements are being used on high priority projects, the FAA will calculate the priorities of sponsor work items from the NPS equation. This policy helps ensure that AIP funds in the aggregate are used for projects that contribute most to the safety, security, capacity, and efficiency of the Nation's system of airports. Conversely, if sponsors use entitlement funds for lower priority projects and FAA agrees to use discretionary funds for the highest priority projects, the aggregate result of AIP investments is likely to provide less benefits to the national system than under FAA's policy.

Therefore, if the FAA determines that an airport sponsor is using its entitlement funds on low priority rated projects while requesting discretionary funds for higher priority rated work, the FAA may withhold discretionary funds requested by the sponsor.

As with a sponsor's rate of progress on existing grants, the FAA understands that there may be legitimate circumstances for a sponsor to use its entitlement funds for lower priority work. In addition, the FAA is fully cognizant that the NPS equation cannot always demonstrate the total benefit of a project to the airport or the national system. Consequently, the FAA will thoroughly evaluate a sponsor's justification prior to denying a request for discretionary funding on the basis of the sponsor's use of entitlements for lower priority projects. In accordance with FAA policy, such exceptions must be documented by the airport sponsor and submitted to FAA. Issued in Washington, DC on May 25, 1999.

Paul L. Galis,

Director, Office of Airport Planning and Programming.

[FR Doc. 99–14481 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Deadline for Submission of Application Under the Airport Improvement Program (AIP) for Fiscal Year 1999 for Sponsor Entitlement and Cargo Funds

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces July 12, 1999, as the deadline for each airport sponsor to have on file with the FAA an acceptable fiscal year 1999 grant application for funds apportioned to it under the AIP.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Lou, Manager, Programming Branch, Airports Financial Assistance Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: Section 47105(f) of title 49, United States Code, provides that the sponsor of each airport to which funds are apportioned shall notify the Secretary by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for the funds apportioned to it (entitlements). Notification of the sponsor's intent to apply during fiscal year 1999 for any of its available entitlement funds including those unused from prior years, shall be in the form of a project application submitted to the cognizant FAA Airports office no later than July 12, 1999.

This notice is promulgated to expedite and prioritize grants prior to the August 6, 1999, AIP expiration date as established by Public Law 106–31 (1999 Emergency Supplemental Appropriations Act). Absent an acceptable application by July 12, FAA will defer an airport's entitlement funds until the next fiscal year. Pursuant to the authority and limitations in section 47117(g), FAA will issue discretionary grants in an aggregate amount not to exceed the aggregate amount of deferred entitlement funds.

In prior fiscal years, FAA has had sufficient program flexibility to permit sponsors to provide notice later than the deadline date, or to use entitlement funds later in a fiscal year in spite of filing no notice to that effect. In FY 1999, however, FAA must make all discretionary grant awards prior to August 7, 1999, including discretionary grants of entitlement funds that are available to, but will not be used by, the airport sponsors to which they have been apportioned. Airport sponsors that

fail to notify FAA by the deadline date that they intend to use all or a portion of their entitlement funds in FY 1999 may have access to those funds in FY 1999 after August 6, only if legislation is enacted prior to October 1, 1999, to authorize the AIP beyond September 30. This includes prior year entitlement funds that remain available to an airport sponsor only through fiscal year 1999. In all other cases, airport sponsors may request unused entitlements after September 30, 1999.

The FAA views the receipt of this notice from the sponsors of primary commercial service airports as particularly important this fiscal year. The ability to use the contract authority associated with unused entitlement funds on a discretionary basis during the current truncated program will allow FAA to obligate additional critically needed AIP funds by August 6. This abbreviated ''year-end conversion'' will result in more discretionary dollars for airport development. For these reasons, the FAA will rely heavily upon the extent to which responses to the required notice indicate the availability of unused entitlement funds for discretionary use. Inasmuch as the FAA will be able to obligate these funds after August 6 as entitlements only with the enactment of follow-on authorizing legislation, sponsors are advised to give careful consideration to decisions related to the use of entitlement funds during fiscal year 1999.

Issued in Washington, DC on May 26, 1999.

Stan Lou,

Manager, Programming Branch.

[FR Doc. 99–14620 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose the Revenue From and Use the Revenue From a Passenger Facility Charge (PFC) at Jackson International Airport, Jackson, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose the revenue from and use the revenue from a PFC at Jackson International Airport under the provisions of the Aviation Safety and Capacity Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 9, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: 120 North Hangar Drive, Jackson, MS 39208–2306.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Dirk Vanderleest, Executive Director of the Jackson Municipal Airport Authority at the following address: Post Office Box 98109, Jackson, MS 39298–8109.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Jackson Municipal Airport Authority under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: David Shumate, Program Manager, Jackson Airports District Office, 120 North Hangar Drive, Jackson, MS 39208–2306, (601) 965–4628. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites pubic comment on the application to impose the revenue from and use the revenue from a PFC at Jackson International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On June 2, 1999, the FAA determined that the application to impose the revenue from and use the revenue from a PFC submitted by Jackson Municipal Airport Authority was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 25, 1999.

The following is a brief overview of the application.

PFC Application No.: 99–03–C–00–JAN.

Level of the proposed PFC: $3.00.

Proposed charge effective date: March 1, 2000.

Proposed charge expiration date: January 1, 2003.

Total estimated PFC revenue: $5,577,870.

Brief description of proposed project(s): Terminal Renovations; Rehabilitate East Parallel Taxiway.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: All air taxi/commercial operators (ATCO) required to file FAA form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Jackson Municipal Airport Authority.

Issued in Jackson, MS on June 2, 1999.

Wayne Atkinson,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 99–14617 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impoše and Use the Revenue From a Passenger Facility Charge (PFC) at Killeen Municipal Airport, Killeen, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Killeen Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 9, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Don O. Christian, Director of Aviation, at the following address: Mr. Don O. Christian, Director of Aviation, City of Killeen, 1525 Airport Drive, Box A, Killeen, Texas 76543–5536.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, Texas 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Killeen Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On May 27, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than September 24, 1999.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: November 1, 1999.

Proposed charge expiration date: July 1, 2005.

Total estimated PFC revenue: $2,103,736.00.

PFC application number: 99–04–C–00–ILE.

Brief description of proposed projects:

Projects To Impose and Use PFC's

(1) Perform Airport Master Planning, Advanced Design, and Program Management for a Passenger Terminal Facility, (5) Joint Use Feasibility and Environmental Study, (6) Refurbish ARFF Vehicle, and (7) Apron Electrical and Lighting Upgrades.

Projects To Impose PFC's

(2) Terminal Facility Site Work and Utilities, (3) Construct Passenger Terminal Building and Apron, and (4) Construct East Side Parallel and Connecting Taxiways to Runway 15/33 at Robert Gray AAF.

Proposed class or classes of air carriers to be exempted from collecting PFC's: FAR part 135 air charter operators.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT** and at the FAA regional Airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Blvd., Fort Worth, Texas 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Killeen Municipal Airport.

Issued in Fort Worth, Texas on May 27, 1999.

Joseph G. Washington,

Acting Manager, Airports Division.

[FR Doc. 99–14619 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lebanon Municipal Airport, Lebanon, NH

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge at Lebanon Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before July 9, 1999.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Timothy J. Edwards, at the following address: Airport Manger, 5 Airpark Road, West Lebanon, New Hampshire 03784.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the City of Lebanon under § 158.23 of part 158 of the Federal Aviation Regulations.

FOR FURTHER INFORMATION CONTACT: Priscilla A. Scott, PFC Program Manager, Federal Aviation Administration, Airports Division, 12 New England Executive Park, Burlington, Massachusetts 01803, (781) 238–7614. The application may be reviewed in person at 16 New England Executive Park, Burlington, Massachusetts.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a Passenger Facility Charge (PFC) at Lebanon Municipal Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158)..

On May 20, 1999, the FAA determined that the application to impose and use the revenue from a PFC submitted by the City of Lebanon was substantially complete within the requirements of § 158.25 if part 158 of the Federal Aviation Regulations. The FAA will approve or disapprove the application, in whole or in par, no later than August 17, 1999.

The following is a brief overview of the impose and use application.

PFC Project#: 99–03–C–00–LEB.

Level of the proposed PFC: $3.00.

Proposed charge effective date: February 1, 2000.

Proposed estimated charge expiration date: August 1, 2002.

Estimated total net PFC revenue: $181,075.

Brief description of project: Reconstruct Runway 18–36, Replace Seven Hilltop Obstruction Beacons, Airport Master Plan Update—Air Service Study, and PFC Administration.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTRACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Lebanon Municipal Airport, 5 Airpark Road, West Lebanon, New Hampshire.

Issued in Burlington, Massachusetts on May 24, 1999.

Bradley A. Davis,

Assistant Manager, Airports Division, New England Region.

[FR Doc. 99–14618 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Centre County, Pennsylvania

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Centre County, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: David W. Cough, P.E. Director of Operations, Federal Highway Administration, Pennsylvania Division Office, 228 Walnut Street, Room 536, Harrisburg, PA 17101–1720, Telephone: (717) 221–3411 or Steven Fantechi, P.E., Project Manager, Pennsylvania Department of Transportation, District 2–0, 1924–30 Daisy Street, PO Box 342, Clearfield, Pennsylvania, 16830, Telephone: (814) 765–0677.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Department of Transportation (PennDOT), will prepare an Environmental Impact Statement (EIS) to identify and evaluate alternatives for transportation improvement which address identified transportation problems within South Central Centre County, Pennsylvania. The study includes U.S. Route 322, PA 144, PA 45, PA 192 and various local roadways. The initial stage of the project is for scoping, documentation of project need and development of conceptual alignment corridors. A range of conceptual alignment corridors will be developed within the context of the identified project needs, environmental constraints and public input. Possible alternatives include upgrade of existing facilities, no-build, construction on new alignment, Transportation System Management strategies, or a combination of alternatives. A complete public involvement program is part of the project.

Letters describing the proposed actions and soliciting comments will be sent to appropriate federal, state and local agencies and to private organizations and citizens who have previously expressed or are known to have interest in this proposal. Public meetings will be held in the area throughout the study process. Public involvement and agency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or PennDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: June 2, 1999.

Ronald W. Carmichael,

FHWA Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 99–14626 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–1999–5429]

Burlington Northern Santa Fe Railway

Public Hearing

The Burlington Northern Santa Fe Railway (BNSF) has petitioned the Federal Railroad Administration (FRA) seeking a permanent waiver of compliance with the Locomotive Safety Standards, Title 49, Code of Federal Regulations (CFR), § 229.21, which requires each locomotive in use shall be inspected once during each calendar day. BNSF seeks this waiver for locomotives utilized to haul loaded coal trains through Alliance, Nebraska. BNSF states that these locomotives are inspected prior to hauling empty coal trains to the mines for loading.

This proceeding is identified as FRA–1999–5429. FRA has issued a public notice seeking comments of interested parties and has conducted a field investigation in this matter. After examining the carrier's proposal and letters of protest, FRA determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 9:00 a.m. on Wednesday, July 7, 1999, at the Porter House Restaurant located at 117 Box Butte Avenue, Alliance, Nebraska. Interested parties are invited to present oral statements at the hearing.

The hearing will be an informal one and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR § 211.25) by a representative designated by FRA.

The hearing will be a non-adversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC on June 1, 1999.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

[FR Doc. 99–14627 Filed 6–8–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket Nos. AB–425 (Sub–No. 1X) and AB–426 (Sub-No. 1X)]

Lone Star Railroad, Inc.—Abandonment Exemption—in Taylor and Jones Counties, TX

Southern Switching Company—Discontinuance of Service Exemption—in Taylor and Jones Counties, TX

On May 20, 1999, Lone Star Railroad, Inc. (LSRI), and Southern Switching Company (SSC) jointly filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemptions from the provisions of 49 U.S.C. 10903 for LSRI to abandon, and SSC to discontinue service over, a 4.5-mile line of railroad, known as the North Abilene Line, extending from milepost 147.3 at or near Abilene to milepost 142.8 at or near North Abilene, in Taylor and Jones Counties, TX.[1] The line traverses U.S. Postal Service Zip Code 79601 and includes the station of North Abilene.

The line does not contain federally granted rights-of-way. Any documentation in LSRI's and SSC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting exemption proceedings pursuant to 49 U.S.C. 10502(b). A final decision will be issued by September 7, 1999.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the exemptions. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public

[1] LSRI owns the line and SSC operates it pursuant to a contract with LSRI.

use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than June 29, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket Nos. AB–425 (Sub-No. 1X) and AB–426 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001; and (2) Thomas F. McFarland, Jr., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902. Replies are due June 29, 1999.

Persons seeking further information concerning abandonment and discontinuance procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment and discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: May 26, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–14599 Filed 6–8–99; 8:45 am]

BILLING CODE 4915–00–P

Corrections

Federal Register

Vol. 64, No. 110

Wednesday, June 9, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 230

[I.D. 012099C]

Whaling Provisions: Aboriginal Subsistence Whaling Quotas

Correction

In rule document 99–13206, beginning on page 28413, in the issue of Wednesday, May 26, 1999, make the following correction:

On page 28413, in the first column, the CFR title and part should read as set forth above.

[FR Doc. C9–13206 Filed 6-8-99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

Correction

In rule document 99–12021 beginning on page 25437, in the issue of Wednesday, May 12, 1999, make the following correction:

§ 706.2 [Corrected]

On page 25437, in the third column, in amendatory instruction 2, in the first line, ''15'' should read ''16''.

[FR Doc. C9–12021 Filed 6–8–99; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 169

[USCG-1999-5525]

RIN 2115-AF82

Mandatory Ship Reporting Systems

Correction

In rule document 99–13781, beginning on page 29229, in the issue of Tuesday, June 1, 1999, make the following corrections:

1. On page 29230, in the first column, in the first line, ''July 1, 1999'' should read ''August 2, 1999''.

2. On the same page, in the same column, in the fifth line ''July 1, 1999'' should read ''August 2, 1999''.

[FR Doc. C9–13781 Filed 6–8–99; 8:45 am]

BILLING CODE 1505–01–D

federal register

Wednesday
June 9, 1999

Part II

Environmental Protection Agency

40 CFR Part 180

Pesticides; Tolerance Processing Fees

Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–30115; FRL–6028–2]

RIN 2070–AD23

Pesticides; Tolerance Processing Fees

AGENCY: Environmental Protection Agency (EPA).
ACTION: Proposed rule.

SUMMARY: The Food Quality Protection Act of 1996, by providing increased protection from the risks of pesticides especially to infants and children, has changed the number of regulatory actions that now fall under the heading of ''tolerance processing'' along with the responsibilities associated with reviewing tolerance petitions and other tolerance actions. In addition, over the last 15 years, factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, and the increasing complexity of scientific review of petitions have resulted in costs substantially exceeding the fees currently charged. Today, the difference between costs for processing tolerance actions and fees collected is substantial. This proposal, when promulgated, will make the tolerance processing system self-supporting. It would revise the fees charged for processing tolerance actions for pesticides under the Federal Food, Drug, and Cosmetic Act. The statute requires EPA to collect fees that will, in the aggregate, be sufficient to cover the costs of evaluating tolerances for pesticide products. Once in place, the financial burden to process tolerance actions would be borne primarily by those constituencies who directly benefit, rather than by the taxpayer.

DATES: Written comments, identified by the docket control number [OPP–30115], must be received on or before September 7, 1999.

ADDRESSES: Comments must be submitted by regular mail, electronically or in person. Please follow the detailed instructions for each method as provided in Unit I of the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Carol Peterson, Office of Pesticide Programs (7506C), U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone: (703) 305–6598; e-mail: peterson.carol@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Notice Apply to Me?

This proposed rule may directly affect any person who might petition the Agency for new tolerances, hold a pesticide registration with existing tolerances, or anyone who is interested in obtaining or retaining a tolerance in the absence of a registration. This group can include pesticide manufacturers or formulators, companies that manufacture inert ingredients, importers of food, grower groups, or any person who seeks a tolerance. Federal, State, local, territorial, or tribal government agencies that petition for, or hold, emergency exemption tolerances are exempt from this rule. The vast majority of potentially affected categories and entities may include, but are not limited to:

Category	NAICS	SIC	Examples of Potentially Affected Entities
Chemical Industry.	325320	0286	Pesticide chemical manufacturers, formulators
.....	115112	0287	Chemical manufacturers of inert ingredients

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. Other types of entities not listed above could also be regulated. If available, the four-digit Standard Industrial Classification (SIC) codes or the six-digit North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether or not this notice applies to certain entities. To determine whether you or your business is regulated by this action, you should carefully examine the applicability provisions in the rule (see Unit V of this preamble). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How Can I Get Additional Information or Copies of this Document or Other Documents?

1. *Electronically.* You may obtain electronic copies of this document and various support documents from the EPA internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''**Federal Register** - Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at http://www.epa.gov/homepage/fedrgstr/.

2. *Fax on demand.* You may request to receive a faxed copy of this document, as well as some supporting information, if available, by using a faxphone to call (202) 401–0527 and selecting item 6037, the economic analysis and item 6038 ICR form 1915.01. You may also follow the automated menu.

3. *In person.* If you have any questions or need additional information about this action, you may contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number OPP–30115 (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as CBI, is available for inspection in Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is 703–305–5805.

C. How and to Whom Do I Submit Comments

You may submit comments through the mail, in person, or electronically. Be sure to identify the appropriate docket number (i.e., ''OPP–30115'') in your correspondence.

1. *By mail.* Submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

2. *In person or by courier.* Deliver written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: opp-docket@epamail.epa.gov. Do not submit any information electronically that you consider to be Confidential Business Information (CBI). Submit electronic comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comment and data will also be accepted

on standard computer disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number [OPP–30115]. Electronic comments on this notice may also be filed online at many Federal Depository Libraries.

D. *How Should I Handle CBI Information That I Want to Submit to the Agency?*

You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential will be included in the public docket by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult with the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section.

E. What Should I Consider as I Prepare My Comments for EPA?

We invite you to provide your views on the various options we propose, new approaches we haven't considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final action. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide solid technical information and/or data to support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Tell us what you support, as well as what you disagree with.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.
- Make sure to submit your comments by the deadline in this notice.
- At the beginning of your comments (e.g., as part of the ''Subject'' heading), be sure to properly identify the document you are commenting on. You can do this by providing the docket number assigned to the notice, along with the name, date, and **Federal Register** citation.

II. Authority

Prior to being amended by the Food Quality Protection Act (FQPA), the Federal Food, Drug, and Cosmetic Act (FFDCA) (21 U.S.C. 321 *et seq.*) required EPA to collect fees to support the processing of petitions for tolerances (maximum allowable pesticide residue level) on raw agricultural commodities. FFDCA required EPA to collect such fees that will, in the aggregate, be sufficient to cover the costs of processing petitions, so that the tolerance program is as self-supporting as possible. FFDCA section 408(m)(1), as amended by FQPA, states that the Agency shall collect tolerance fees that, in the aggregate, will cover all costs associated with processing tolerance actions, including filing a tolerance petition and establishing, modifying, leaving in effect, or revoking a tolerance or tolerance exemption. These FQPA provisions also added to the types of regulatory actions that now fall under the heading of tolerance activities along with the responsibilities associated with reviewing tolerance petitions and other tolerance actions. EPA maintains the authority under section 408(m)(1)(D) to waive or refund part or all of the required fee when, in its judgement, the waiver or refund is equitable and not contrary to the purposes of the fee requirement.

III. Background

A. Regulatory History

Regulations governing the Agency's fee schedule were revised in 1972 and again in 1986 (40 CFR 180.33). In 1986, EPA used data from a 1983 Tolerance Cost Analysis to set tolerance petition fees ''based on the actual cost of providing services.'' The 1986 **Federal Register** Notice also stated fees were set at ''a level to recover through fees all costs of tolerance setting activity, less specifically waived or excluded activities.''

Cost data for each type of tolerance action were developed using employee time accounting information, along with data on the number of completed actions for tolerance petitions, the frequency of actions, and processing costs by fee categories. Fiscal year (FY) 1982 was the base year used to gather data for direct costs and completions by fee category. Using the figure of $38,900 as the average salary and expenses for a full-time EPA employee, per tolerance category, the total annual cost of the tolerance program (in FY82) per tolerance type was calculated.

Over the years, tolerance fees have been increased only to reflect annual increases in Federal salaries. For instance, in 1986, the fee for a petition to establish a new tolerance, or to increase the level of an established tolerance was set at $44,100, and the fee for a petition for an exemption from the requirement of a tolerance was set at $8,100. As a result of these annual incremental payroll increases, the 1998 fees for these actions are $65,600 and $12,100, respectively.

B. Revenues

In fiscal years 1986 through 1996, tolerance fee collections ranged from $1.1 to $2.5 million and averaged $1.8 million annually. During fiscal years 1994–1996, EPA waived and/or refunded fees that amounted to $329,000 annually: an average of $91,000 annually based on those found to be in the public interest or on economic hardship plus an average of $238,000 annually from petitions submitted by the U.S. Department of Agriculture's Interregional Research Project No. 4 (IR–4)[1].

In addition to tolerance fee revenues, other sources of revenue contribute in part to tolerance activities. Product maintenance fees are currently assessed on all registered products. These fees are used to support the reregistration program. Of the total $16 million collected annually, the Agency estimates that approximately $6.72 million in revenues goes to reassessing tolerances.

Registration fees were imposed in 1988 to cover most types of registration actions. Later that same year, FIFRA was amended and these fees were temporarily suspended. FQPA extended the suspension until September 2001. However, as part of the FY 2000 budget, the administration proposes to reinstate pesticide registration fees in FY 2000. An estimated 0.38 million to be collected from the registration fee will support analyses that are needed for both general registration program activities and for tolerance setting activities. Whether it occurs in FY 2000 or in FY 2002, the costs for these analyses are not included in this tolerance fee proposal.

IV. 1997 Cost Estimates

A. Factors

Since the 1983 cost analysis, factors such as expanded data requirements, changes in risk assessment methods, improvements in data base management and tracking systems, the increasing

[1]U.S. Department of Agriculture's Interregional Research Project No. 4 (IR–4) is a program that supports the registration of minor crop use pesticides by performing crop field trial studies and generating pesticide residue data.

complexity of scientific review, and the provisions of FQPA have resulted in costs substantially exceeding the revenues from current fees.

The new FFDCA section 408(m) states that EPA must collect fees sufficient in the aggregate over a reasonable term to cover the costs incurred in processing tolerance actions. However, under the new legislation, more tolerance actions and more types of tolerance actions are required. For example, because all tolerances now are set under section 408, EPA has the authority to collect monies to cover the costs incurred for processed food tolerances or tolerances for processed foods for residues that occur following the treatment of a raw agricultural commodity. In addition, because FQPA includes other ingredients in its definition of a pesticide chemical, other tolerances are subject to fees. Similarly, section 18 emergency exemptions now require tolerances and also are subject to fees.

In addition, FQPA increases the Agency's responsibilities associated with evaluating each tolerance petition. More analyses must be performed prior to the establishment of a tolerance. EPA must now consider aggregate risk, which includes drinking water and non-occupational exposure, common mechanism of toxicity, and other factors in its tolerance reviews. The Agency must also make a specific finding that the tolerances are protective with respect to infants and children. FQPA also requires that all existing tolerances (over 9,700) be reassessed within 10 years.

All of these factors--more tolerances required, more extensive and resource intensive evaluations, and comprehensive reassessments on a short time frame--mean that the difference between costs for processing tolerance actions and fees collected is substantial.

B. Cost Analysis

Using methods similar to those used in 1983, the Agency estimated the average cost of processing tolerance actions today. It found that from fiscal year prior to the enactment of FQPA, the unit cost (that is, the cost to process one new chemical tolerance petition) was $282,600. This cost rose to $376,900 per new chemical petition after FQPA. These figures show that FQPA mandates increased tolerance processing costs for a new chemical by 33 percent. In the first 21 months since FQPA, the Agency's total costs for processing petitioned tolerances was estimated to be $7.7 million annually.

FQPA's mandate that EPA reassess all existing tolerances within a 10–year period also adds a substantial cost to the program--approximately $20.1 million annually. Many tolerances are currently being reassessed as part of the Agency's reregistration efforts on all pesticide chemicals registered prior to 1984. For these chemicals, the Agency estimates that additional analyses required by FQPA will cost about $1.7 million annually for those chemicals for which a reregistration eligibility decision has been made, and about $10.2 million annually for those pre-1984 chemicals for which a risk assessment has not yet been completed. Some examples of new program costs for which fees may be charged include the reassessment of tolerances established after 1984 and all tolerances on other chemicals. Annual costs for these two categories will amount to about $2.0 million and $4.7 million, respectively.

The overall total for processing tolerance actions for registration and reassessment activities is estimated to be $27.8 million annually. Since $7.10 million will be collected through other fees, the total annual additional amount that the Agency needs to recoup for all tolerance activities is $20.7 million. Copies of the Agency's ''Tolerance Fee Economic Analysis'' and supplementary materials are available in the public docket at the address given above in ADDRESSES.

C. Future Costs

EPA anticipates additional costs for processing tolerance actions in the near future. The costs will be incurred upon the implementation of FFDCA section 408(b)(2)(E) ''Data and Information Regarding Anticipated and Actual Residue Levels,'' section 408(b)(2)(F) ''Percent of Food Actually Treated,'' and section 408(f) ''Special Data Requirements.'' Under these sections, whenever the Agency uses or has used anticipated or actual residue levels from field monitoring, in the evaluation of a new or existing tolerance, it must call-in additional data within 5 years to ensure that the residue levels (and associated risks) of those of the crops have not increased unacceptably. EPA is in the process of developing workplans and estimating resource needs for implementing these sections of the law in the hope of finalizing a policy by the end of 1999. Rather than delay today's proposal, the Agency hopes to issue an amendment to the Final Rule on Tolerance Fees sometime in the later part of the year 2000 to include these costs in the fee schedules.

Additional costs relating to tolerances also will stem from analyses such as, special subpopulations susceptibilities, common mechanisms of toxicity from similar substances, and endocrine effects (FFDCA sections 408(b)(2)(C) ''Exposure of Infants and Children'' and 408(p) ''Estrogenic Substances Screening Program''). The current state of scientific knowledge does not lend itself to the development and implementation of standardized guidelines in these areas. Determining and quantifying appropriate endpoints and incorporating these endpoints into risk assessments is still very much under debate. EPA is currently working with the scientific community to determine the proper course of action and establish appropriate protocols. Once policies are made in these areas and guidelines are established, the resources required to review the data and perform the analyses will be estimated and the tolerance fee schedule will be amended to include the additional costs.

V. New Tolerance Fee System

The goal of designing and updating a new tolerance fee system is to develop a truly self-supporting tolerance program, as required by Congress. The criteria that were used in considering various approaches was a system that would be reasonable, uncomplicated, fair and equitable. Moreover, the new fee system must be fully accountable. EPA is committed to subject whatever approach is finally adopted to an annual independent audit. This will ensure the resulting tolerance fee system is adequately covering our needs and, at the same time, not overcharging those required to pay.

A. Possible Approaches

Once the total costs of the tolerance programs were determined, the question that remained was how to devise a system to recoup the money--not only who should pay, but what basis should be used to determine the fee amounts. Various approaches were considered. Each was based on a specific parameter, or factor, that would promote the Agency's goal of reducing the risks associated with pesticides.

For example, tolerance fees could be based on a sliding scale. Differential fees could be risk-based or set according to the toxicity of a chemical. The more toxic a chemical, the higher the tolerance fee would be. Biopesticides in general, reduced-risk chemicals, or candidates for FIFRA 25(b) exempted chemicals would pay the lowest fees. Another approach discussed was setting tolerance fees based on chemical use and/or usage. Similar to this approach is a fee based on sales. The underlying concept in these examples is that the more widely used chemicals usually generate the most sales for a company,

thus putting it in a better position to absorb an increased fee. Products with niche markets, or those used on minor uses would incur a much lower fee.

B. Proposed Approach

While the above approaches, and many others considered, have merit, they were dismissed for not meeting one or more of the accepted criteria. In many cases, some sort of evaluation had to be performed in order to determine the appropriate fee. Chemicals could not be easily classified until the end of our review and additional fees would have to be collected or fees rebated. Some fee structures considered were too costly to administer, required intricate screening procedures or complicated tracking systems, or were beyond our legislative authority.

The Agency opted to propose tolerance fees based on the resource needs required to review a specific type of tolerance action. Even within this approach, there were several different ways to identify the tolerance categories and assess the appropriate fee amounts. The Agency considered: (1) Continuing the practice of charging by petition, (2) charge by crop, use, or chemical, or (3) charge by tolerance. Each of the first two had significant problems. Moreover, since the Agency is shifting toward a more systematic and consistent way of tracking its actions by tolerance, it sought to design the new tolerance fee system on a per tolerance basis. The following is a detailed description of its preferred approach for a new tolerance fee system.

1. *Petitioned tolerance actions*. The Agency proposes to set new tolerance fees based on resource needs for each type of tolerance action. This means that the Agency would charge a significantly larger amount for the first tolerance of a chemical, whether it be a new or registered chemical, since this would require the most work to process. Subsequent tolerances for the same crop or tolerances for additional crops within the same petition would be charged considerably less. In contrast, a separate new food use tolerance petition submitted at a later date, would be charged a slightly higher fee per tolerance than if the use was included in the original petition because processing it would require some amount of rework. This means that, resources are used to review the existing file and apply the new information to the previous assessments. A single tolerance fee was set for this category because historically, petitioners have submitted one crop per new use petition. If this practice is likely to change, (for example a petitioner would choose to add several crops to its label), the Agency could consider an incremental fee structure similar to a first food use petition. Tolerances for antimicrobial pesticides would be charged a different fee because these types of pesticides require a different set of data that must be submitted. Fees for temporary tolerances for experimental use permits, and tolerance exemptions also reflect the reduced data sets, and thus reduced review resources, that are required.

Fees will be imposed for any crop and/or use that ultimately results in the establishment of a tolerance or exemption from the requirement of a tolerance. This includes direct application to an agricultural plant or crop, preplant uses in the soil, or indirect uses that may result in inadvertent residues in a raw agricultural commodity. Some examples of when a tolerance fee would be imposed, in addition to direct agricultural crop uses, are for pesticide residues that indirectly occur in food or feed as a result of aquatic weed control in irrigation ditches, mosquito control use, bulk storage fumigation use, as a bird repellent, or for residues that could occur in rotated crops. Dermal applications to livestock, use in ponds or reservoirs for weed control or disease control of fish, shellfish, oysters etc., forestry uses (for residues in maple sap), and use in or around apiaries (residues in honey or beeswax) are all subject to tolerance fees. Similarly, uses of pesticides in food or feed handling establishments, such as restaurants, breweries, supermarkets, processing plants, dairies, or canneries, are subject to tolerance fees should residues occur.

For the purposes of assessing a fee, an import tolerance (a pesticide tolerance with no current U.S. uses or registrations) would be treated as if there was a U.S. registration for the chemical. The party wishing to obtain or retain a tolerance for import purposes would be responsible for the payment of the fee. Further, under this revised fee system, the tolerance modification category includes renewals, extensions, and conversions of a temporary tolerance or time-limited (non-section 18) tolerance as well as all amendments to existing tolerances.

i. *Counting tolerances*. The new fee would be based on the number of individual tolerances required rather than on a petition basis. (Currently, one petition may include up to nine crops for one base fee.) This means that every food or feed item for which a tolerance is either established or exempted, that is, every line item listed in Title 40 of the Code of Federal Regulations (CFR) is counted as one tolerance. A crop group tolerance (a single tolerance which is applicable to a group of similar crops) would be considered one tolerance action. An exemption from the requirement of a tolerance for ''all food commodities'' would be considered one tolerance action, whereas a tolerance exemption request for a chemical on barley and corn would be considered two tolerance actions.

A separate fee would be imposed for each raw and processed commodity that would require a tolerance or exemption. If residues are found to concentrate in processed commodities or are found in livestock tissue, separate tolerances would be required. A chemical used on almonds therefore would be charged for a minimum of two tolerances--on the raw commodities nutmeats and hulls, whereas a chemical used on oranges would require one tolerance for the fruit (the raw commodity), and if residues were found to concentrate in the dry pulp, peel, oil, molasses, or juice, additional tolerances would be needed and fees charged. In addition, if the almond hulls or the orange pulp or molasses were to be used as feed and livestock feeding studies are required, then a fee for each tolerance required on meat, fat, meat by products, milk, poultry and eggs would be charged.

An example of how this scheme would work is if a company wished to register a new active ingredient on cotton. The company would petition the Agency for tolerances on the raw commodities cottonseed and forage (two tolerances). Processing studies reveal that the chemical concentrates in the meal, crude oil, and refined oil (three tolerances) and livestock feeding studies show that hulls fed to cattle result in residues in the meat, fat and milk (three tolerances). Using the table in Unit V.B.1.iii. of this preamble, the registrant would be charged a total of $537,300 in tolerance fees ($504,400 for the first tolerance of a new active ingredient, plus $4,700 for each of the seven additional tolerances). If however, in a subsequent petition, this company wished to add cotton to an existing food-use product label, it would be charged $135,200 ($16,900 for each of the eight new use tolerances) because the review costs are substantially less than for a new active ingredient.

ii. *Deficient petitions*. The Agency would not process a petition that is deficient. Administrative deficiencies that may be easily corrected, such as improper formatting, illegible pages, *etc.*, would not incur any penalty if the error can be corrected within 14 calendar days. If the petitioner believes that the correction cannot be made

within this time frame, it must notify the Agency. If, after 14 days the petitioner has not responded, the petition would be treated as if it has been withdrawn and the original fee, less $7,500 for handling and initial review, would be returned.

Once the Agency has initiated its scientific review, a resubmission fee would be imposed for substantially flawed petitions that require one or more resubmissions of data or other required information. Defective studies cost the Agency a tremendous amount of resources and delay the review of the petition considerably. Resources are wasted reviewing an unacceptable study and, in many cases, more times and effort is spent working with the affected petitioner to generate useful data. For this reason, EPA is instituting an admittedly large penalty for ineffective and/or poorly conducted studies. We hope that this will serve as an incentive to submit only quality data and information for review.

Petitioners would have up to 75 calendar days from the date of EPA notification to correct the deficiency without penalty, after which an additional 35 percent of the original fee would be charged. The resubmission fee would be required at the time the requested studies and/or other material are submitted. If the correction cannot be made within this time frame, the petitioner must notify the Agency, as soon as possible within the 75 days, of the circumstances surrounding the delay. If, after 75 days the petitioner has not responded, or subsequently fails to submit the required material within the negotiated time frame, the petition would be treated as if it had been withdrawn in the manner consistent with 40 CFR 152.105, and the original fee would not be returned. A deficiency that would warrant the resubmission fee would include a study that is not fully acceptable and must be repeated in its entirety or in parts (*e.g.*, a toxicology study that is categorized as ''non-upgradable''), or any other significant issue that prevents the continuation of the science review or the Agency from reaching a regulatory decision.

iii. *Fee schedule.* Using this scheme, EPA proposes the following fee schedule for petitioned tolerance actions.

Petitioned action	Fee
First Food-use Petition for a New Active Ingredient[1]	(1st tol.) = $504,400 (add'l tol.) = 4,700
First Food-use Petition for a Registered Non-Food Active Ingredient[1]	(1st tol.) = 468,800 (add'l tol.) = 4,700
New Use Tolerance or Exemption for an Active or Other Ingredient	16,900
Temporary Tolerance or Exemption for an Experimental Use Permit	51,200
Time-limited Tolerance for an Emergency Exemption	0
Exemption from the Requirement of a Tolerance for an Active Ingredient[1]	145,400
Tolerance Modification for an Active or Other Ingredient	4,400
Tolerance for an Other Ingredient	62,300
Exemption from the Requirement of a Tolerance for an Other Ingredient	59,300
Tolerance or Exemption for an Antimicrobial Active Ingredient	68,200
Request for Fee Waiver or Refund[2]	7,500

[1] Excluding antimicrobial active ingredients.
[2] Fee will be returned if waiver or refund is warranted.

2. *Reassessed tolerances.* As with petitioned tolerances, EPA proposes to set fees for reassessing tolerances based on estimated resource needs for each type of reassessment. Different fee amounts would be charged for a pre-1984 chemical for which a Reregistration Eligibility Decision document (RED) has been completed, a pre-1984 chemical that is currently in the reregistration queue, or a chemical for which tolerances were set after 1984. Differences would take into account the amount of review that has already taken place (*i.e.*, whether the chemical has or will go through, or is even subject to, the reregistration process), and the additional analyses that must be performed due to FQPA provisions.

For tolerances that were reassessed as part of a reregistration eligibility decision that has already been made, the basic science evaluation has already occurred. For these chemicals, the Agency must go back and perform the FQPA analyses, such as a drinking water exposure assessment, the aggregate risk assessment, and the special finding for infants and children. The Agency, however, must perform a complete risk assessment, including the FQPA requirements, for chemicals that had not gone through reregistration at the time FQPA was passed, or are not subject to reregistration, i.e., those chemicals registered between November 1984 and August 1996. The fee proposed for the chemicals subject to reregistration but for which a RED is issued after the enactment of FQPA does not reflect the actual amount of resources needed to review these tolerances because credit is given for product maintenance fees that have already been paid. Moreover, for the tolerances of chemicals that were registered after November 1984 and as such are not subject to reregistration, the Agency must reevaluate all existing data and perform a complete risk assessment.

i. *Counting tolerances.* For the group of chemicals that are already registered, tolerances have been added over the lifetime of the registration (some older chemicals have over 100 tolerances). The amount a registrant would pay for tolerance reassessment would depend on the total number of tolerances to be reassessed. The Agency would charge one amount for the first tolerance and a lesser amount for additional tolerances. As with petitioned tolerance actions, a crop group tolerance would be considered one tolerance action. Similarly, an exemption from the requirement of a tolerance for ''all food commodities'' would be considered one tolerance action. A chemical with tolerances on corn (fresh, grain, and forage) would be considered three tolerance actions. A tolerance exemption for a chemical on barley and corn would be considered two tolerance actions.

ii. *Fee schedule.* Using this scheme, the Agency proposes the following fee schedule for tolerance reassessments.

Tolerance reassessment	Fee
Tolerance for an Active Ingredient for which a Reregistration Eligibility Document was issued before August 1996	$12,500

Tolerance reassessment	Fee
Tolerance for an Active Ingredient for which a Reregistration Eligibility Document is issued after August 1996[1]	(1st tol) = 227,700 (add'l tol) = 500
Tolerance for an Active Ingredient First Registered between November 1984 and August 1996	(1st tol) = 289,800 (add'l tol) = 1,700
Active Ingredient Tolerance Exemption	20,600
Other Ingredient Tolerance	201,400
Other Ingredient Tolerance Exemption	79,300
Request for Fee Waiver or Refund[2]	7,500

[1] The calculated tolerance fees for the chemicals in reregistration are offset by monies received via product maintenance fees.
[2] Fee will be returned if waiver or refund is warranted.

iii. *Payment schedule.* Fees generally would be collected prior to the commencement of the reassessment and would be independent of the resulting tolerance decision. Itemized payment statements would be sent to the registrant(s) of a technical active ingredient (or chemical case) at the beginning of the fiscal year that the tolerance reassessment is scheduled. The registrant(s) would have 90 days to remit the appropriate amount. Registrants who share the responsibility for a single active ingredient or chemical case will be encouraged to work together to determine how the fee will be paid. The Agency will include in its reassessment only those tolerances for which it receives payment. For those chemicals whose tolerance reassessments have commenced prior to the promulgation of this rule, a bill will be sent to affected parties for work performed. A tolerance reassessment will not become final until the required fee is submitted. EPA will revoke any existing tolerance for non-payment of the fee.

3. *Tolerance fee waivers.* As part of the new fee structure, the Agency proposes to grant routine fee waivers for certain tolerance actions. Fee waivers are proposed for:

i. *Petitions submitted by IR–4.* U.S. Department of Agriculture's Interregional Research Project No. 4 (IR–4) is a program that supports the registration of minor crop use pesticides by performing crop field trial studies and generating pesticide residue data. Since this program is supported by taxpayer dollars, charging a fee would be contrary to the purposes of this proposal.

ii. *Minor use tolerances actions, except when the minor use constitutes the first food use or the sole use(s) of an existing chemical.* Traditionally, minor use pesticides are produced for niche markets with often low profit margins. Because of this, many minor use crop farmers do not have a wide selection of pest control products and an increase in fees may jeopardize the continued registrations. FQPA has essentially put into law the Agency's long standing policies to aid the registration and retention of pesticides used on minor crops. Granting an automatic fee waiver for tolerance actions for minor use crops is consistent with Agency policy and Congressional intent. For the purposes of this proposal, EPA is defining a minor use as any crop use other than that on alfalfa, almonds, apples, barley, beans (dry and snap), canola, corn (field, sweet, and pop), cottonseed, grapes, hay, pecans, potatoes, rice, rye, sorghum, soybeans, sugarbeets, sugarcane, sunflower, oats, oranges, peanuts, tomatoes, or wheat.

Fees for pesticide chemicals used solely on minor uses, however, cannot be automatically exempt from the proposed fees because of the large amount of resources required to process or reassess the tolerances. While the submission of a new chemical registration for strictly minor uses is extremely rare, there are a handful of existing pesticide chemicals that are registered for use only on minor crops. To establish or reassess the tolerances the Agency must still review a full set of data and conduct a complete risk evaluation. For all minor use only chemicals, the Agency proposes to impose a fee equivalent to a single, first tolerance, temporary tolerance or tolerance exemption. For example, if a registrant is applying for a new chemical registration and has submitted a tolerance petition for use on garden beets, onions, and turnips, the fee would be $504,400, regardless of how many individual tolerances were established. Similarly, if an existing chemical was registered in 1985 for use on garden beets, onions, and turnips and tolerances were established for beet roots, beet greens, onion bulbs, turnip roots, turnip tops, and several livestock commodities, the registrant would be charged a tolerance reassessment fee of $289,800.

iii. *Time-limited tolerances for emergency exemptions.* If, in a single year, there occurs a severe pest infestation for which there is no registered pesticide available, EPA may grant an emergency exemption from FIFRA requirements for that pesticide. And because an emergency situation is occurring, the Agency must respond quickly. The passage of FQPA now requires the Agency to set time limited tolerances for these emergency uses. The States submit the exemption requests and accompanying tolerance petitions on behalf of their growers. Due to the urgent nature of these types of tolerance actions, and given that the state governments would be paying the fees with taxpayer dollars, charging a fee would be contrary to the purposes of this proposal.

iv. *Petitions to revoke a tolerance and tolerance revocations.* Imposing a fee for these types of tolerance actions would be impractical.

v. *Biopesticide tolerance actions, except plant-pesticides.* Biopesticides usually affect a single pest and, similar to minor use pesticides, often have low profit margins. Because these pesticides are by and large less risky than conventional, synthetic pesticide chemicals, EPA has adopted a number of policies to encourage their development and registration. The assessment of biopesticides requires a different and abbreviated set of data for registration and any associated tolerance actions, therefore less resources are generally required to reach a regulatory decision. Waiving the tolerance fee is consistent with existing policies. The tolerance review for plant-pesticides, however, cannot be waived at this time. Although the Agency also believes that plant-pesticides are inherently lower risk, the fees cannot be routinely waived because of the large amount of resources are necessary to process or reassess the tolerances. Moreover, these products often become profitable soon after introduction.

vi. *Other ingredients generally regarded as safe (List 4A inerts).* Tolerance reassessment fees would not be required for other ingredients the Agency has declared as minimal risk and generally regarded as safe, that is, those currently on List 4A. Fees for petitioned tolerance exemptions for

other ingredients to be added to List 4A would be refunded once it was determined that the List 4A designation was warranted. The most current listing of the List 4A inerts can be found posted on the Internet on EPA's home page at http://www.epa.gov/opprd001/inerts/lists.html, or by writing Registration Support Branch (Inerts), Registration Division (Mail Code 7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

vii. *Tolerance exemptions for chemicals exempted from FIFRA regulations under section 25(b).* Similarly, tolerance reassessment fees would not be required for active ingredients that have been exempted from FIFRA regulation under section 25(b). These chemicals have been declared by the Agency to be of a character which is unnecessary to be subject to the Act in order to carry out its purposes. Fees for petitioned tolerance exemptions for active ingredients to be added to this list would be refunded once it was determined that the 25(b) designation was warranted. The list of FIFRA exempted substances can be found in 40 CFR part 152.25.

EPA believes that the above waivers are equitable and not contrary to the purposes of the fee requirement, yet invites the public to comment on this issue. Other views have been raised. For example, although it is the Agency's policy to promote the development and use of biopesticides, some companies engaged in the registration of these types of pesticides are large and can afford to pay a fee. The Agency recognizes that there are other ways to champion these products without granting a full fee waiver. One way is to grant fee waivers via the submission of a small business waiver request (see below). Similarly the minor use fee waiver would also apply to many biological pesticide petitions. Another option is to set fees for biologicals based on the percentage of the fee imposed for a conventional chemical. In deliberations for this fee proposal, the Agency found administrative costs and complexity argued against a case-by-case analysis for these categories. However, EPA would like to hear differing views.

The Agency estimates that revenues waived from these waived actions will be $2.5 million annually for petitioned tolerance actions and $2.4 million annually for tolerance reassessments. Because EPA must collect fees ''in the aggregate'' to cover its costs, all of the calculated fees for each category must be adjusted upwards in order to recover the $4.9 million annual revenue shortfall. Accordingly, the Agency raised the fees by 48 percent for the petitioned tolerance categories and 23 percent for reassessed tolerance categories.

EPA also will continue the practice of granting fee waivers on a case-by-case basis when warranted, and when requested in writing by the petitioner or registrant. For these requests, OPP has revised and expanded the current criteria for granting fee waivers for safer products, products that are in the public interest, and to those registrants who demonstrate an economic hardship. An updated Pesticide Registration Notice will be made available in draft form for public comment. A fee of $7,500 shall accompany every waiver or refund request. The fee will be returned if the request is granted. Conversely, the fee will be forfeited if the request is denied.

4. *Implementation.* Petitioners would continue following the established procedures outlined in the current regulations. When applying for a tolerance or tolerance exemption, petitioners would send EPA their remittance, data, and supporting materials. The cover letter, application or petition, data, and all supporting materials would continue to be sent to EPA's Office of Pesticide Programs in Washington, DC. The payments themselves would continue to be sent to EPA's Financial Management Division (FMD) in Pittsburgh, Pennsylvania. The Agency would not begin processing the petition until it had been notified by FMD that the check had cleared.

For tolerances that are to be reassessed, the Agency would send affected registrants a bill at the beginning of each fiscal year for those chemicals that are scheduled to be reevaluated during that year. Registrants would be sent a pre-printed form listing their chemical and all the associated tolerances. On the form, they would be asked to verify the list, identify those tolerances they wish to support, and calculate the appropriate fee amount. The Agency will use the information on the response forms and include only those tolerances for which the fee has been paid in its risk assessment. Multiple registrants of the same active ingredient would be given 90 days to coordinate their response and jointly pay the required fee for that chemical. If no registrant comes forth to pay for a particular tolerance, the Agency will publish a notice in the **Federal Register** which will alert other potential impacted parties and provide them with the opportunity to support the reassessment of that tolerance. Tolerances will be revoked for non-payment of fees.

i. *Annual adjustments.* EPA proposes to continue the practice of raising fees annually to reflect inflation. Currently these annual fee adjustments are based on the total percentage change in basic pay in Federal employee salaries, that is, the Cost of Living Adjustment, or COLA. The Agency has looked at the issue of adjusting fees over time and proposes to continue to link the increases to the COLA. Other approaches that were suggested were tying the annual adjustment to the total percentage change that occurred during the previous year in the Consumer Price Index (CPI), or perhaps base the adjustment on the greater of either the COLA or the CPI. EPA invites comment on this issue. In addition to annual adjustments to the fee scale, the Agency intends to evaluate the tolerance fee system periodically to determine if revenues are adequately covering costs and whether fees should be adjusted accordingly.

ii. *Transition.* For the purposes of FFDCA section 408(m), a tolerance or exemption will not be considered officially granted or reassessed until the appropriate fee is paid. Registrants of chemicals for which a tolerance action has begun and not yet granted or declared reassessed prior to the finalization of this rule would be required to pay the revised fee. Petitioners or registrants that are in the tolerance review queue upon publication of this proposal would be subject to retroactive billing.

Because this document is a proposal, it is important to note that the individual fee amounts proposed may change upon promulgation due to the comments received. Affected parties must keep in mind that, since the Agency must collect fees to cover its costs ''in the aggregate,'' a decrease in one fee will result in the increase of another.

VI. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), the Office of Management and Budget (OMB) determined that this proposed rule is not a ''significant regulatory action.'' The Agency determined that this rule, when promulgated, is estimated to impose an aggregate regulatory burden of $20.7 million annually and therefore is unlikely to have a major economic impact on pesticide registrants. Promulgation of

this proposed rule will have no impact on any other sector of the economy, or on any other government entities, programs or policies. In addition, the proposed rule is consistent with the purposes of FFDCA, and does not conflict with any other statutory mandate or with the principles of the Executive Order.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Agency hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This determination is based on the Agency's 1997 Cost Analysis which is available in the OPP public docket for this rulemaking. In addition, for those small businesses that are affected by this action, EPA has provided the opportunity to request fee waivers and has set forth criteria based on economic hardship. Tolerance fee waivers will be granted on a case-by-case basis for petitioners or registrants who cannot pay.

For this analysis, we have adopted the definition of small businesses from FIFRA section 4(i)(5)(E)(ii)(I): Entities with 150 or fewer employees and an average annual gross revenue of $40 million over a 3–year period. This definition differs from the standard definition applied under the Regulatory Flexibility Act (RFA). According to section 601(3) of the RFA, agencies must use the definition of ''small business'' that is provided under the Small Business Act, 15 U.S.C. section 631 *et seq.*, unless it establishes an alternative definition. The agency may use the alternative definition for RFA purposes only after it has consulted with the Office of Advocacy of the Small Business Administration (SBA) and provided an opportunity for public comment.

According to SBA, small entities vary by Standard Identification Code (SIC), and, for chemical manufacturers, are based solely on the number of employees. Most establishments producing organic chemicals are defined as small if they have fewer than 500 employees. For chemical manufacturing, however, the number of employees may not be closely related to the total annual sales of a company. Since chemical testing primarily requires a financial outlay, EPA believes that the number of employees is a less reliable measure of a company's ability to pay applicable fees than is a company's total annual sales. Therefore, in this proposed rulemaking, the Agency is proposing to use the FIFRA definition of ''small business'' for RFA purposes. This definition is discussed in the document that gives additional information on small entity impacts.

EPA is hereby seeking comment on the use of the Agency's definition of ''small business,'' as well as on the ''Small Entity Impacts of the Economic Analysis of Proposed Tolerance Fee Schedule'' document. EPA is also consulting with the Office of Advocacy of the SBA concerning the Agency's use of the EPA definition. Any comments regarding the impacts that this action may impose on small entities should be submitted to the Agency in the manner specified in Unit I of this preamble.

C. Unfunded Mandates Reform Act

Under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub.L. 104–4), EPA has determined that this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any one year. The cost associated with this action are described in the Executive Order 12866 section above. Therefore, this action is not subject to the requirements of sections 202 and 205 of the UMRA.

D. Consultation and Coordination with Indian Tribal Governments

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19,1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. Today's proposal would implement requirements specifically set forth by the Congress in FFDCA without the exercise of any discretion by EPA. The proposal does not significantly or uniquely affect the communities of Indian tribal governments. Tribal governments would not be subject to the requirements of today's proposal. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposal.

E. Enhancing Intergovernmental Partnerships

Under Executive Order 12875, entitled *Enhancing Intergovernmental Partnerships* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. Today's proposal would implement requirements specifically set forth by the Congress in FFDCA without the exercise of any discretion by EPA. It would not create a mandate on State, local or tribal governments. The proposal would not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this proposal.

F. Children's Health Protection

This proposed rule is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this is not an economically significant regulatory action as defined by Executive Order 12866 (see Unit VI.A. above). In addition, this proposed rule is procedural in nature and does not involve decisions on environmental health risks or safety risks that may disproportionately affect children.

G. National Technology Transfer and Advancement Act

This proposed regulation does not involve technical standards. As such, the requirement in section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), (15 U.S.C. 272 note) which directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or impractical, does not apply to this action. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. EPA invites public comment on this conclusion.

H. Environmental Justice

This proposed rule does not directly affect minority populations or low-income groups. Therefore, under Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), the Agency does not need to consider environmental justice-related issues regarding the environmental and health conditions in low-income and minority communities.

I. Paperwork Reduction Act

The new information collection requirements contained in this proposed

rule have been submitted to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq, and in accordance with the procedures at 5 CFR 1320.11. An Information Collection Request (ICR) document has been prepared by EPA (EPA ICR No. 1915.01) and a copy may be obtained from Sandy Farmer, OP Regulatory Information Division; U.S. Environmental Protection Agency (2137); 401 M St., S.W.; Washington, DC 20460, by calling (202) 260–2740, or electronically by sending an e-mail message to ''farmer.sandy@epa.gov.'' An electronic copy has also been posted with the **Federal Register** notice on EPA's homepage with other information related to this action.

The information collection requirements related to the tolerance petition process are already approved under OMB control number 2070–0024 (EPA ICR #597), and this proposed rule does not affect that activity. However, this proposed rule does contain two minor information collection activities that are not currently approved, including the requirements related to the identification of the tolerances that the Agency should include in the reassessment of the chemical, and the process for requesting a fee waiver or refund. These new activities are discussed in the ICR document, and are not effective until EPA issues a final rule and until OMB has approved the information collection under the Paperwork Reduction Act (PRA) and assigned an OMB control number to that approval. An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information subject to OMB approval under the PRA unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial publication in the **Federal Register**, are maintained in a list at 40 CFR part 9.

The annual burden for the proposed information collection activities contained in this proposed rule are estimated to be 2.3 hours for each submission of the tolerance reassessment form, 2 hours for each fee waiver or refund request submitted, and 0.3 hours to maintain records. These estimates include the time needed to become familiar with the requirements (first year implementation is an additional 1 hour per registrant), review the instruction, complete the form, and transmit or otherwise disclose the information. Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information

Any comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, increasing electronic submissions, etc. may be sent to EPA at the address provided in Unit I of this preamble. Please include the docket number and ICR number in any correspondence related to the information collection components of this proposed rule. The final rule will respond to any comments received on the information collection requirements contained in this proposal.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements

Dated: May 28, 1999.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 180 is proposed to be amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 would continue to read as follows:

Authority: 21 U.S.C. 321(q), 346a, 371.

2. Section 180.33 would be revised to read as follows:

§ 180.33 Fees.

(a) *Fees for petitioned tolerance actions.* (1) Each petition to establish, modify, or leave in effect a tolerance or exemption from the requirement of a tolerance must be accompanied by the appropriate fee as listed in the following table unless such fee is waived according to paragraph (e) of this section.

Petitioned action	Fee
First Food-use Petition for a New Active Ingredient[1]	(1st tol.) = $504,400 (add'l tol.) = 4,700
First Food-use Petition for a Registered Non-Food Active Ingredient[1]	(1st tol.) = 468,800 (add'l tol.) = 4,700
New Use Tolerance or Exemption for an Active or Other Ingredient	16,900
Temporary Tolerance or Exemption for an Experimental Use Permit	51,200
Time-limited Tolerance for an Emergency Exemption	0
Exemption from the Requirement of a Tolerance for an Active Ingredient[1]	145,400
Tolerance Modification for an Active or Other Ingredient	4,400
Tolerance for an Other Ingredient	62,300
Exemption from the Requirement of a Tolerance for an Other Ingredient	59,300
Tolerance or Exemption for an Antimicrobial Active Ingredient	68,200
Request for Fee Waiver or Refund [2]	7,500

[1] Excluding antimicrobial active ingredients.
[2] Fee will be returned if waiver or refund is warranted.

(2) A petitioner must remit a fee for each tolerance requested for a pesticide chemical residue. A tolerance fee is required for each food or feed item that requires a tolerance or exemption from the requirement of a tolerance. Similarly, a tolerance fee is required for each processed food or feed item and each livestock food or feed item that requires a tolerance be established. A tolerance fee is required for residues that occur in or on individual food or feed items as a result of indirect pesticide use.

(3)(i) A crop group tolerance petition, for the purposes of assessing a tolerance fee under this paragraph, will be

considered a request for a single tolerance action.

(ii) A request for an exemption from the requirement of a tolerance on all food commodities, for the purposes of assessing a tolerance fee under this paragraph, will be considered a request for a single tolerance action.

(iii) A modification to a tolerance includes renewals, conversions of a temporary tolerance or time-limited tolerance as well as all amendments to existing permanent or temporary tolerances or tolerance exemptions.

(iv) For new chemical or first food-use tolerance petitions submitted for minor uses only, a fee equivalent to a single, first tolerance, temporary tolerance or tolerance exemption is required.

(4) A petition will not be accepted for processing and the Agency will take no regulatory action until the required fee is submitted.

(5) For the purposes of section 408(m) of the Federal Food, Drug, and Cosmetic Act, a tolerance or tolerance exemption will not be granted until the appropriate fee has been received.

(b) *Fees for reassessed tolerances.* (1)(i) Applicable fees are required for each Agency action to modify or leave in effect an existing tolerance or exemption from the requirement of a tolerance that results from an Agency-initiated tolerance reassessment activity. The fee listed in the following table must be paid prior to the reassessment of the established tolerances of a particular chemical upon notice from the Agency. Such notice shall be sent to each producer of the particular pesticide chemical.

Tolerance reassessment type	Fee
Tolerance for an Active Ingredient for which a Reregistration Eligibility Document was issued before August 1996	$12,500
Tolerance for an Active Ingredient for which a Reregistration Eligibility Document is issued after August 1996[1]	(1st tol) = 227,700 (add'l tol) = 500
Tolerance for an Active Ingredient First Registered between November 1984 and August 1996	(1st tol) = 289,800 (add'l tol) = 1,700
Active Ingredient Tolerance Exemption	20,600
Other Ingredient Tolerance	201,400
Other Ingredient Tolerance Exemption	79,300
Request for Fee Waiver or Refund [2]	7,500

[1] The calculated fee is offset by monies received via product maintenance fees.
[2] Fee will be returned if waiver or refund is warranted.

(ii) Where a chemical has no registered uses in the United States, or where no registrant pays the applicable fee to support a particular tolerance to be reassessed for a chemical, a notice shall be published in the **Federal Register** to provide other potentially impacted parties the opportunity to support the retention of that tolerance by petitioning the Agency.

(2) A single tolerance fee is required for every tolerance established or exemption from the requirement of a tolerance per raw agricultural commodity. Similarly a single tolerance fee is required for each processed commodity and each livestock commodity with an established tolerance. A tolerance fee is required for residues that occur in or on individual food or feed items as a result of indirect pesticide use.

(3)(i) An established crop group tolerance, or an existing exemption from the requirement of a tolerance on all food commodities, for the purposes of assessing a tolerance reassessment fee under this paragraph, will be considered a single tolerance action.

(ii) An existing exemption from the requirement of a tolerance on all food commodities, for the purposes of assessing a tolerance reassessment fee under this paragraph, will be considered a single tolerance action.

(4) For the purposes of section 408(m) of the Federal Food, Drug, and Cosmetic Act, a tolerance reassessment will not become final until the required fee is submitted.

(5) The Administrator shall revoke a tolerance or exemption from the requirement of a tolerance for non-payment of the applicable fee.

(c) *Withdrawal of a petition.* If a petition is withdrawn by the petitioner before significant Agency scientific review has begun, the fee, less $7,500 for handling and initial review, shall be returned. No fee will be returned after the commencement of scientific review. If a withdrawn petition is resubmitted, it must be accompanied by the fee required in paragraph (a) of this section for a new submission.

(d) *Deficient petitions.* (1) If a petition is not accepted for processing because it is administratively incomplete, and the petitioner rectifies the problem within 14 calendar days, no resubmission fee will be imposed. If the petitioner believes that the correction cannot be made within this time frame, it must notify the Agency. If, after 14 days the petitioner has not responded, the petition will be treated as if it has been withdrawn and the original fee, less $7,500 for handling and initial review, would be returned.

(2)(i) If, after the Agency's scientific review has begun and a submission has been determined to be scientifically deficient, such that additional data are required or any other significant issue arises that prevents the continuation of the scientific review or the Agency from making a regulatory decision, a resubmission fee shall be imposed. Petitioners have up to 75 calendar days from the date of EPA notification to correct the deficiency without penalty, after which an additional 35 percent of the original fee will be charged. The resubmission fee would be required at the time the requested studies and/or other material is submitted. If the petitioner believes that the correction cannot be made within this time frame, it must notify the Agency. If, after 75 days the petitioner has not responded, or subsequently fails to submit the required material within the negotiated time frame, the petition will be treated as if it has been withdrawn. The original fee will not be returned.

(ii) A deficiency that would warrant the resubmission fee would include a study that is not fully acceptable and must be repeated in whole or in part (*e.g.*, a toxicology study that is categorized as ''non-upgradable''), or any other significant issue that prevents the continuation of the scientific review or the Agency from reaching a regulatory decision.

(e) *Fee waivers.* (1) No fee under this section will be imposed for any of the following actions:

(i) A petition submitted by the Inter-Regional Research Project Number 4 (IR–4 Program).

(ii) A minor use tolerance action, except when the minor use constitutes the first food use or the sole use of an existing chemical.

(iii) A biopesticide tolerance action, except for a plant-pesticide.

(iv) A petition for an emergency exemption tolerance under FFDCA section 408(l)(6).

(v) A petition to revoke a tolerance or a tolerance revocation.

(vi) Other ingredients generally regarded as safe (List 4A inerts).

(vii) Tolerance exemptions for chemicals exempted from regulation under section 25(b) of FIFRA.

(2) The Administrator may waive or refund part or all of any fee required by this section if the Administrator determines in his or her sole discretion that such a waiver or refund will promote the public interest, or that payment of the fee would result in an unreasonable economic hardship on the person required to remit the fee.

(i) A request for a fee waiver or refund must be submitted to the Agency in writing and must adhere to Agency criteria for tolerance fee waiver or refund requests. A fee of $7,500 shall accompany every waiver or refund request. The fee will be returned if the request is granted. Conversely, the fee will be forfeited if the request is denied.

(ii) A petition or tolerance reassessment action for which a waiver of the fee has been requested will not be acted upon until the fee has been waived, or if the waiver has been denied, the proper fee is submitted. A request for a refund will not be accepted after scientific review has begun.

(3) For the purposes of this section, EPA defines a minor use as any crop use other than that on alfalfa, almonds, apples, barley, beans (dry and snap), canola, corn (field, sweet, or pop), cottonseed, grapes, hay, pecans, potatoes, rice, rye, sorghum, soybeans, sugarbeets, sugarcane, sunflower, oats, oranges, peanuts, tomatoes, or wheat.

(4)(i) Fees for petitioned tolerance exemptions for other ingredients to be added to List 4A are to be refunded when it is determined by the Agency that the List 4A designation is warranted.

(ii) The most current listing of List 4A inerts can be found posted on the Internet on EPA's home page at http://www.epa.gov/opprd001/inerts/lists.html, or by writing Registration Support Branch (Inerts), Registration Division (Mail Code 7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

(5) Fees for petitioned tolerance exemptions for active ingredients to be added to the list of chemicals exempted from regulation under FIFRA section 25(b) will be refunded when it is determined by the Agency that the 25(b) designation is warranted. The list of FIFRA exempted substances can be found in 40 CFR 152.25.

(f) *Objections, hearings, or requests for administrative review.* (1) Objections, hearings, or requests for administrative review filed under section 408(g) of the Federal Food, Drug and Cosmetic Act must be accompanied by a fee of $15,500.

(2) A person who files a requests for judicial review of an order under section 408(h) of the Federal Food, Drug and Cosmetic Act must pay the costs of preparing the record on which the order is based.

(3) A person may file a written request for a waiver of the objection fee in lieu of the objection fee. A waiver fee of $7,500 shall accompany the request only if the person has a financial interest in the matter. This waiver fee is not required to be remitted if the person does not have a financial interest in the matter.

(g) *Method of payment.* All deposit and fee payments required under this section must be paid by money order, bank draft, or certified check drawn to the order of the Environmental Protection Agency. All remittances must be sent to the U.S. Environmental Protection Agency, Office of Pesticide Programs, P.O. Box 360277M, Pittsburgh, PA 15251. Both the envelope and the payment must be specifically labeled ''Tolerance Fees'' and should include only a copy of the letter or petition requesting the tolerance or the tolerance reassessment filing form. The actual letter, petition, or form, along with supporting data must be forwarded within 30 days of payment to the Agency at its headquarters address in Washington, DC.

(h) *Changes to fee schedule.* (1) This fee schedule will be increased annually to reflect the annual increase in Federal salaries. When such changes are made based on the Federal General Schedule (GS) pay scale, the new fee schedule will be published in the **Federal Register** as a Final Rule to become effective 30 days or more after publication, as specified in the rule.

(2) Agency tolerance processing costs and existing fee amounts will be reviewed periodically to ensure that revenues collected are adequately covering the costs incurred. If, as a result of this review, adjustments in the fee schedule are warranted, the changes will be subject to public notice and comment procedures.

[FR Doc. 99–14477 Filed 6–8–99; 8:45 am]

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federal register

Wednesday
June 9, 1999

Part III

Federal Retirement Thrift Investment Board

5 CFR Parts 1620, 1650, 1651, and 1690

Expansion and Continuation of Thrift Savings Plan Eligibility; Methods of Withdrawing Funds From the Thrift Savings Plan; Death Benefits; and Miscellaneous Regulations; Final Rule

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1620, 1650, 1651, and 1690

Expansion and Continuation of Thrift Savings Plan Eligibility; Methods of Withdrawing Funds From the Thrift Savings Plan; Death Benefits; and Miscellaneous Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Executive Director of the Federal Retirement Thrift Investment Board (Board) is publishing a final rule to reorganize and amend the regulations on continuation of Thrift Savings Plan (TSP) eligibility; to amend the regulations concerning TSP death benefits and withdrawal options; and to create a new rule pertaining to power-of-attorney documents.

The reorganization of the continuation of eligibility regulations eliminates obsolete and redundant provisions. The amendments to those regulations codify a new TSP loan policy for employees returning to civilian service pursuant to the Uniformed Services Employment and Reemployment Rights Act, codify current TSP procedures governing participation by judges of the Courts of Federal Claims and Veterans Appeals, and otherwise update the terms used in those regulations to correspond with the terms used throughout the Board's other regulations.

The amendment to the withdrawal regulations provides that a participant's TSP account will be forfeited if the participant does not withdraw his or her account in a timely manner. The account will be restored if the participant complies with the withdrawal requirements.

The amendment to the death benefit regulations explains that a deceased participant's TSP account will be transferred into the Government Securities Investment (G) Fund after the TSP receives notice of the participant's death.

The new power-of-attorney regulation explains how a participant or beneficiary can authorize an individual to act on his or her behalf with respect to transactions with the TSP.

DATES: This final rule is effective July 9, 1999.

FOR FURTHER INFORMATION CONTACT: Patrick J. Forrest, (202) 942–1662, Federal Retirement Thrift Investment Board, 1250 H Street, N.W., Washington, D.C. 20005.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board administers the TSP, which was established by the Federal Employees' Retirement System Act of 1986 (FERSA), Public Law 99–335, 100 Stat. 514, which has been codified, as amended, largely at 5 U.S.C. 8351 and 8401–8479. The TSP is a tax-deferred retirement savings plan for Federal employees that is similar to cash or deferred arrangements established under section 401(k) of the Internal Revenue Code. Sums in a TSP participant's account are held in trust for that participant.

Analysis of Part 1620

FERSA created the Federal Employees' Retirement System (FERS), and required the establishment of TSP accounts for ''employees and Members'' covered by FERS. *See* FERSA section 101(a), 100 Stat. at 541–44, codified as amended at 5 U.S.C. 8432. For purposes of FERS participation, ''employee'' and ''Member'' were defined at FERSA section 101(a), 100 Stat. at 517–20, codified as amended at 5 U.S.C. 8401(11) and (20). Voluntary TSP participation was also authorized for ''employees and Members'' covered under the Civil Service Retirement System (CSRS). *See* FERSA section 206(a)(1), 100 Stat. at 593–4, codified as amended at 5 U.S.C. 8351. FERSA also permitted TSP participation by various other specifically named groups, such as employees covered under the Foreign Service retirement plan. However, only individuals so authorized by FERSA could participate in the TSP.

From time to time since the passage of FERSA, Congress has expanded FERS participation and TSP eligibility to other groups of employees. Congress has also permitted certain groups of employees to maintain CSRS and FERS coverage after leaving Federal employment, and permitted them to retain their TSP eligibility. In addition, Congress has extended TSP participation to Supreme Court justices, Federal District Court judges, bankruptcy judges, and United States magistrates even though they are not covered by CSRS or FERS.

The Board created 5 CFR part 1620 to describe the rules for TSP participation by these individuals. Because part 1620 was written incrementally, it contained duplication, such as numerous definition sections, restated general TSP principles found elsewhere in the Board's regulations, and described deadlines for actions which have passed. This final rule eliminates those obsolete and redundant provisions.

Removed Interim Subparts A, D, and I

The Continuing Appropriations for Fiscal Year 1987, Public Law 99–591, 100 Stat. 3341, permitted food service employees of the House of Representatives who transferred from Federal employment to employment with a private contractor to retain Federal retirement system coverage and their TSP eligibility. On July 14, 1987, the Board published an interim rule with request for comment in the **Federal Register** (52 FR 28293) to implement that provision. The Board received no comment on the interim rule, which was codified at 5 CFR part 1620, subpart A.

The Federal Employees' Retirement System, Technical Corrections [Act of 1988], Public Law 100–238, title I, 101 Stat. 1744, 1744–67, permitted TSP participation by individuals covered by CSRS as a result of the provision of law described in 5 U.S.C. 8347(o). Under section 8347(o), individuals who were employed by an international organization before October 1, 1988, while not employed by the Federal Government, are nevertheless covered by CSRS. On March 28, 1988, the Board published an interim rule with request for comment in the **Federal Register** (53 FR 10038) to implement the above-mentioned provision. The Board received no comment on this interim rule, which was codified at 5 CFR part 1620, subpart D.

Section 101 of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (Control Board Act), Public Law 104–8, 109 Stat. 97, 100, established the District of Columbia Financial Responsibility and Management Assistance Authority (Control Board) as an entity within the Government of the District of Columbia. Under the Control Board Act, certain persons who separated from Federal employment and who became employed by the Control Board could maintain their Federal retirement system coverage and TSP eligibility. On January 29, 1996, the Board published an interim rule with request for comment in the **Federal Register** (61 FR 2872), governing TSP participation by CSRS and FERS employees of the Control Board. That interim rule was codified at subpart I. On April 26, 1996, the Control Board Act was amended by section 153 of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, Public Law 104–134, 110 Stat. 1321, to permit a broader group of Control Board employees to elect CSRS or FERS coverage and thereby TSP eligibility. On October 25, 1996, the Board published

in the **Federal Register** (61 FR 55201) an interim rule with request for comment, amending interim subpart I to reflect the 1996 amendments. The Board received no comment on either rule.

Interim subparts A, D, and I are removed by this rule because they are now unnecessary. The deadline for food service employees to elect Federal retirement coverage passed in 1987 and Board regulations no longer need to address the requirements of that election. The remaining provisions of interim subpart A, which describe the rules for making TSP contributions, are unnecessary because food service employees participate in the TSP under the same rules that apply to all Federal employees.

With respect to interim subpart D, §§ 1620.52 and 1620.53 describe the initial election period for employees covered by the subpart and are no longer needed because the election period has passed. The remainder of interim subpart D is unnecessary because it restates general TSP rules found elsewhere in the TSP regulations.

Finally, with respect to interim subpart I, CSRS and FERS employees of the D.C. Control Board also participate in the TSP under conventional rules. Although certain employees of the D.C. Control Board are eligible for CSRS or FERS coverage while others are not, this is a matter within the jurisdiction of the United States Office of Personnel Management, and Board regulations need not address the particulars of that eligibility.

New Subpart A

This final rule creates a new subpart A to explain the rules that generally apply to all TSP participants covered by part 1620. New § 1620.1 describes who is covered by part 1620 and explains that part 1620 must be read in conjunction with the Board's other regulations at 5 CFR chapter VI. Currently, each subpart of part 1620 contains its own definition section, which results in unnecessary duplication. New § 1620.2 consolidates the definitions, to the extent possible, and conforms the terms used in this part to those used throughout the remainder of 5 CFR chapter VI. New § 1620.3 states the general rule, currently repeated throughout part 1620, that an employing agency must timely notify an employee of his or her TSP eligibility and the applicability of part 1620.

New Subpart B

The Federal Employees' Retirement System, Technical Corrections [Act of 1988], Public Law 100–238, tit. I, 101 Stat. 1744, 1744–67, permitted the continuation of CSRS and FERS retirement coverage, and resulting TSP eligibility, for three separate groups of Federal employees: (1) those transferred or otherwise assigned to a cooperative extension service (CES), as defined at 7 U.S.C. 3103(5); (2) those who enter on approved leave-without-pay status to serve as full-time officers or employees of an organization composed primarily of ''employees'' as defined at 5 U.S.C. 8331(1) or 8401(11); and (3) those in an approved leave-without-pay status assigned to a State or local government under the Intergovernmental Personnel Act (IPA), 5 U.S.C. chapter 33, subchapter VI.

On March 28, 1988, the Board published an interim rule with request for comment in the **Federal Register** (53 FR 10038) to implement these provisions of the 1988 Act, which was codified at 5 CFR part 1620, subparts B and C. Interim subpart B addresses CES employees, while interim subpart C addresses union and IPA employees. On May 18, 1988, the Board published in the **Federal Register** (53 FR 17685) an amendment to the March 28, 1988, interim rule which extended the period during which union employees could elect TSP participation. The Board received no comment on either rule.

This rule condenses interim subparts B and C into a new subpart B because, with few exceptions, the same rules apply to TSP participation by union, IPA, and CES employees. Some provisions of the interim regulations have been moved to the new subpart A, *i.e.*, the definitions (§§ 1620.11 and 1620.31), the employee notice provisions (§§ 1620.18(b) and 1620.39), and the reference to other TSP regulations (§§ 1620.19 and 1620.40). Others have been eliminated because they only restated general TSP principles found elsewhere in TSP regulations, *i.e.*, the deadline for making employee contributions (§§ 1620.14 and 1620.33) and the computation of basic pay (§§ 1620.16 and 1620.35). Interim rule §§ 1620.17, 1620.36, and 1620.37, which describe retroactive TSP contributions, are combined and rewritten in new section 1620.13 to omit material discussed in the error correction regulations at 5 CFR part 1605.

New Subpart C

Section 401(a) of the Federal Employees Health Benefits Amendments Act of 1988, 5 U.S.C. 8440a, permits justices and judges of the United States, as defined at 28 U.S.C. 451, to participate in the TSP. Similarly, section 7(a) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, 5 U.S.C. 8440b, permits bankruptcy judges and United States magistrates to participate in the TSP. On August 10, 1989, the Board published an interim rule with request for comment in the **Federal Register** (54 FR 32785) to implement sections 8440a and 8440b. The August 10 interim rule was codified at subparts E and F of part 1620. On January 13, 1994, the Board published an interim rule with request for comment in the **Federal Register** (59 FR 1889) to implement an amendment made to 5 U.S.C. 8440a and 8440b by the Thrift Savings Plan Technical Amendments Act of 1990, Public Law 101–335, section 3(b), 104 Stat. 319, 320–21. The 1990 amendment lifted investment restrictions that had required participants to invest their TSP accounts solely in the Government Securities Investment (G) Fund. On November 18, 1996, the Board published an interim rule with request for comment in the **Federal Register** which, *inter alia*, conformed the definitions of basic pay found at §§ 1620.72 and 1620.83 to the definition of that term contained in the Thrift Savings Plan Act of 1996, 5 U.S.C. 8401(4). The Board received no comment on the foregoing publications.

To the extent it is not repeated elsewhere in Board regulations, the information in interim subparts E and F is retained because justices and judges of the United States, United States magistrates, and bankruptcy judges participate with special rules for contributions, withdrawals, and spousal rights. Therefore, this rule condenses interim subparts E and F into a new subpart C.

The new subpart C also contains a discussion of two groups of TSP participants not mentioned in interim subparts E and F. Section 306(d)(1) of the Judicial Improvements Act of 1990, 5 U.S.C. 8440c, permits judges of the United States Court of Federal Claims to participate in the TSP. Section 5(a)(1) of the United States Court of Veterans Appeals, Amendments [Act of 1991], 5 U.S.C. 8440d, permits judges of the Court of Veterans Appeals to participate in the TSP. The Board did not publish regulations in part 1620 to implement sections 8440c and 8440d. However, because these judges participate in the TSP under rules similar to those affecting other judges, the Board decided to discuss them also in the new subpart C.

New subpart C also contains a new statement of law. Interim rule

§§ 1620.73 and 1620.84, which deal with TSP withdrawals, are condensed into a new § 1620.22. However, after the interim regulations were written, legislation was passed that authorized in-service withdrawals. Therefore, new § 1620.22 explains in-service as well as post-employment withdrawal eligibility. New § 1620.22 does not discuss the withdrawals themselves, or the procedures for obtaining them, because those matters are discussed at length in the Board's withdrawal regulations at 5 CFR part 1650.

The new subpart C also condenses several provisions of the Board's interim regulations to eliminate redundant and obsolete statements. New § 1620.21 explains the TSP contribution rules currently found in interim rule §§ 1620.72 and 1620.83, while new § 1620.23 explains the spousal rights currently discussed in interim rule §§ 1620.74 and 1620.85.

The remaining provisions of interim subparts E and F are eliminated. The new subpart C also omits the definitions currently found at interim §§ 1620.71 and 1620.81. If the meaning of any word is not apparent from the text of the regulation, it is defined in the new subpart A. The new subpart C also does not describe the circumstances under which a judge's annuity will be offset, presently set forth in interim rule §§ 1620.72(c) and 1620.75, because judges' annuities are administered by the Administrative Office of the United States Courts, not the TSP. Finally, interim rule § 1620.82 is eliminated. The initial election period established under 5 U.S.C. 8440a has passed; therefore interim rule § 1620.82(a) is obsolete. Elections occurring outside the initial election period must follow the rules found at 5 CFR part 1600; therefore, interim rule § 1620.82(b) is also unnecessary.

New Subpart D

The Portability of Benefits for Nonappropriated Fund Employees Act of 1990 (1990 Portability Act), Public Law 101–508, 104 Stat. 1388, 1388–335 to 1388–341 (codified largely at 5 U.S.C. 8347(q)(1) and 8461(n)(1)), permitted CSRS and FERS employees of the Department of Defense and the United States Coast Guard who moved on or after January 1, 1987, to a Nonappropriated Fund (NAF) Instrumentality of the Department of Defense (DOD) to participate in the TSP if they elected to maintain their CSRS or FERS retirement coverage after the move. On June 10, 1991, the Board published an interim rule with request for comment in the **Federal Register** (56 FR 26,722) implementing the 1990 Portability Act as it pertained to the TSP. The Board received no comment on the 1991 interim rule, which was codified at 5 CFR part 1620, subpart G.

Section 1043 of the 1996 Defense Authorization Act for Fiscal Year 1996 (Defense Authorization Act), Public Law 104–106, 110 Stat. 186, 434–439, amended the 1990 Portability Act to allow a broader group of employees to participate in the TSP, both prospectively and retroactively. On August 9, 1996, the Board published an interim rule with request for comment in the **Federal Register** (61 FR 41485) amending interim subpart G to implement the Defense Authorization Act amendments.

The Board received a comment from one Federal agency objecting to three provisions of interim subpart G: §§ 1620.93(b), 1620.93(c) and 1620.94(a). After consideration thereof, the Board determined to promulgate those interim provisions as final. Those provisions are renumbered as §§ 1620.33(b), 1620.33(c) and 1620.34(a), respectively, on the new subpart D.

The new subpart D does not change the substance of interim subpart G; rather, it renumbers and reorganizes its provisions. The new subpart D also does not contain certain provisions that have been moved to the new subpart A, *i.e.*, definitions of *basic pay* and *retirement coverage* (§ 1620.91), the employee notice provision (§ 1620.98), and the reference to other TSP regulations (§ 1620.99). The new subpart D omits as unnecessary several provisions of interim subpart G. First, interim rule §§ 1620.92(a)(2) and (b) repeat the TSP contribution election rules found at 5 CFR 1600; that repetition is removed from the new rule and replaced with a reference to part 1600. Second, interim rule § 1620.93(b) provides a detailed restatement of the TSP error correction procedures found at 5 CFR 1605.2(c); new § 1620.33 replaces that recitation with a reference to § 1605.2(c). Finally, interim rule § 1620.95, which explains that the NAF instrumentality must submit agency contributions to the TSP record keeper, is also omitted as an unnecessary restatement of the process described at 5 CFR part 1600.

New Subpart E

Section 4 of the Uniformed Services Employment and Reemployment Rights Act (USERRA), 5 U.S.C. 8432b, describes the rights to TSP benefits afforded to an employee who is restored to a pay status from a leave-without-pay status or reemployed in the civilian service under 38 U.S.C. chapter 43 following a release from military service, discharge from hospitalization related to that service, or other similar event. On April 21, 1995, the Board published an interim rule with request for comment in the **Federal Register** (60 FR 19990), which was codified at 5 CFR part 1620 subpart H.

On August 20, 1996, the Small Business Job Protection Act of 1996, Public Law 104–188, 110 Stat. 1755, added section 414(u) to the Internal Revenue Code. Section 414(u) provides that retroactive contributions made by a reemployed veteran pursuant to USERRA are not subject to the elective deferral limit at 26 U.S.C. 402(g) for the year in which the contributions are made. On April 14, 1997, the Board published a final rule in the **Federal Register** (62 FR 18234) which removed a reference in interim subpart H to the elective deferral limit. The April 14 rule also adopted the amended subpart H as final.

This final rule makes one substantive amendment to the 1997 final rule: under new TSP policy, a TSP participant whose loan was closed by taxable distribution due to a USERRA-related absence will be provided an opportunity to reinstate the TSP loan upon reemployment or upon return to Federal employment if the participant was on approved leave-without-pay. An employee will be given one year from the date of his or her reemployment to request reinstatement of the loan. The TSP record keeper will inform the employee if reinstatement is feasible, *i.e.*, whether loan repayment can be accomplished within the time limits described in 5 CFR 1655.13(a)(5), and will not violate the restriction set forth in 5 CFR 1655.4 on the number of outstanding TSP loans. If reinstatement is not feasible, the participant will be given a one-time opportunity to repay the loan in full in the amount which, in effect, reverses the taxable distribution. The TSP record keeper will inform the employee of the amount he or she must repay, and the employee must provide the funds in a single payment to the TSP record keeper within 90 days of that notice.

This final rule also renumbers and reorganizes the substance of subpart H of the 1997 final rule and places it in a new subpart E. The new subpart E does not contain the definition of *record keeper*, currently at § 1620.101 of the 1997 final rule, because that term is defined in new subpart A. In addition, *basic pay* and *retroactive period* have been redefined to be consistent with the Board's other regulations. Section

1620.103 of the 1997 final rule is also omitted because lost earnings are discussed at 5 CFR part 1606.

The provisions of this final rule amending part 1620 were published in proposed form in the **Federal Register** on March 23, 1999 (64 FR 13924). The Board received no comment on that proposed rule, and therefore adopts the rule as final without change.

Analysis of the Amendment to Part 1650

The deadline for a participant to withdraw or begin withdrawing his or her account is governed by 5 U.S.C. 8433. Under section 8433(f), this deadline is April 1 of the year following the later of the year in which the participant turns age 70½ or the year in which the participant separates from Government employment. Final regulations governing the deadline for withdrawing a TSP account were published in the **Federal Register** on September 18, 1997 (62 FR 49113). These regulations did not address the action the Board will take if a participant fails to comply with the withdrawal deadline.

Under this amendment to the 1997 final rule, whenever a participant does not comply with the withdrawal deadline, the Board will transfer all of the funds in his or her account to the Government Securities Investment Fund (G Fund) that are not already invested in that Fund. The participant will be sent a notice of this action and informed that the account will be declared abandoned and forfeited unless the participant takes the appropriate withdrawal action within 90 days of the date of notice. Forfeiture is necessary because participants who have not taken timely action to withdraw their accounts are no longer eligible to have a TSP account.

If, at a later time, a participant reclaims the TSP account and a proper withdrawal election has been received, the Board will restore the funds to the account and authorize the withdrawal. The amount the participant may withdraw is the amount of funds in the account at the time the Board declared it to be abandoned and forfeited. No earnings will be paid on these funds during the forfeiture period. If the participant reclaims the account balance, but decides not to take a lump sum or monthly payments withdrawal, the Board will purchase an annuity for the participant after it has received the necessary information from him or her. The option of electing an annuity is not available for TSP accounts of $3,500 or less. Those accounts will be paid in accordance with § 1650.22.

This amendment to part 1650 was published in proposed form in the **Federal Register** on March 22, 1999 (64 FR 13725). The Board received no comment on the proposed amendment, and therefore adopts the rule as final without change.

Analysis of the Amendment to Part 1651

The disbursement of death benefits from the TSP is governed by the provisions of 5 U.S.C. 8433(e) and 8424(d). Under section 8433(e), if a TSP participant dies before he or she has completed a withdrawal election, the account is disbursed in accordance with the order of precedence set forth at section 8424(d). Final regulations governing the payment of the TSP account to a beneficiary were published in the **Federal Register** on June 13, 1997 (62 FR 32426).

These regulations do not address how the account will be invested between the participant's death and disbursement of the account to the beneficiary(ies). In the past, the Board has maintained the account as it was invested upon the participant's death; the Board cannot maintain a separate account for a beneficiary and will not permit a beneficiary to direct how the account should be invested. However, it may take several months before the Board can identify and locate the rightful beneficiary(ies) of an account and pay the account balance. During this time, a participant's balances in some investment funds can experience significant changes in value as a result of fluctuations in the market.

FERSA permits a participant to elect to invest all or any portion of his or her contributions in several investment options. At present, all investment options except the Government Securities Investment (G) Fund are invested in securities that fluctuate in value as market conditions change. In contrast, money in the G Fund is invested in short-term Government securities that are backed by the full faith and credit of the United States and that do not fluctuate in value.

Before a participant can invest in an investment fund other than the G Fund, he or she must provide a one-time acknowledgment that the investment is made at the participant's risk, that the participant is not protected by the United States Government or by the Board against any loss on the investment, and that neither the United States Government nor the Board guarantees any return on the investment. FERSA does not grant to beneficiaries the right to own or control the TSP account of a deceased participant; instead, the account is paid out to them as quickly as administratively feasible. Thus, beneficiaries are not solicited to acknowledge the risk of investment in market securities pending payout to them.

Because money in investment funds other than the G Fund remains subject to market risk even after a participant's death, however, and because beneficiaries have neither acknowledged nor have any control over that risk, the Board intends to transfer the entire TSP account into the G Fund after receiving written notice of a participant's death if the participant dies with any portion of his or her account in an investment fund other than the G Fund. The account will continue to accrue earnings at the G Fund rate in accordance with part 1645 until the account is paid in accordance with the order of precedence set forth in paragraph (a) of this section. This action will eliminate the market risk to the beneficiary and will preserve the value of a deceased participant's account until it can be paid out.

This amendment to part 1651 was published in proposed form in the **Federal Register** on February 11, 1999 (64 FR 6818). The Board received nine comments from individuals, three of whom identified themselves as TSP participants, and one comment from a Federal employee group. Comments on the proposed regulations generally opposed the proposed amendment on the ground that the transfer from the C and F Funds to the G Fund might come immediately after the C and F Funds have lost value. While the Board recognizes that this is a possibility, it is equally possible that a transfer could come immediately before a fluctuation in the market that causes the C and F Funds to lose value. Since there is no way to predict if, when, or how the market will fluctuate, the Board believes that it is more prudent to handle the account in a way that preserves the *status quo* at the time of notification of death.

Six of the commenters suggested that the Board permit the beneficiary to decide how to invest the funds. This suggestion is legally and practically impossible. The Board may not legally permit a beneficiary to manage investments in an account since FERSA does not permit the Board to maintain an account for a beneficiary. Although one commenter objected to this restriction, it is not a restriction that the

Board has the authority to alter. Instead, Congress, in drafting FERSA, decided that the Board should immediately pay out the balance in a deceased participant's account to the rightful beneficiary. Thus, the suggestion is also practically impossible since, as soon as the beneficiary is identified, the account is paid.

The risk of market fluctuation which this amendment is designed to mitigate is that fluctuation that may take place after the participant dies but before the beneficiary has been paid. One commenter suggested that the Board can mitigate this risk by lessening the time it takes to identify the proper beneficiary. However, the time needed to identify a beneficiary is dependent upon persons and events that are beyond the Board's control. First, the Board has no knowledge that a separated participant has died until someone (who need not be a beneficiary) notifies the Board of the participant's death. The Board's regulations require that this notice be accompanied by a copy of a death certificate in order to establish the fact of death; however, persons do not always comply with this request. Thus, payment is often delayed until the Board can secure a copy of the participant's death certificate.

After the fact of the death has been established, the Board must determine the identity of the rightful beneficiary. This means not only ensuring that the person designated is the person whom the participant wishes to receive the balance in his or her TSP account, but also that the address for the beneficiary is current. Participants are encouraged to file a Form TSP–3, Designation of Beneficiary; they are also encouraged to ensure that this designation remains current. Participants often do neither and, even if there is a designation of beneficiary form on file, the Board must expend time locating the designated beneficiary.

Even more difficult and time-consuming are the situations in which the participant has not filed a designation of beneficiary form. In these cases, the beneficiary will be identified in accordance with FERSA's order of precedence. However, this process of identification often involves several rounds of correspondence among the Board, the person who provides notice of the participant's death, and persons who might be the appropriate beneficiary. While this process does not occur in each case, it occurs with sufficient regularity to suggest to the Board that participants and their beneficiaries need the protection against market fluctuation that transferring the account into the G Fund would provide.

Four of the commenters suggested that the Board should leave the account invested as the participant left it. Generally, these commenters recognized that the participant had assumed a risk that the value of his or her account could decrease as well as increase; it was a risk, they suggested, that the participant should be regarded as having imposed on his or her heirs. This conclusion is unwarranted; a living participant's investment choices are subject to his or her control, whereas those of a deceased participant clearly are not.

Moreover, a further suggestion of one of the commenters is inherently infeasible. That commenter suggested that participants be given the option of authorizing the Board to transfer their accounts into the G Fund after their death only if the market had not declined and that, if it had declined, the Board should wait until the account had regained its value before transferring the balance. While the Board recognizes that some market fluctuations in the recent past have been brief and dramatic, historically this has often not been the case. Because the Board cannot legally maintain an account for a beneficiary, it does not have the authority to hold an account for a period of time, however short, until the market has regained a loss (if it does).

Given the restrictions on the Board and its duty to act in the best interests of all participants and their beneficiaries, the Board believes that the best way to do this is, upon notification of a participant's death, to preserve the then-value of the account from the possibility of decline until the balance can be paid out. For this reason, the Board has decided to adopt the proposed rule as final without change.

Analysis of the Amendment to Part 1690

Many sections of the Board's regulations require a TSP participant to sign a TSP form to affect certain transactions in his or her TSP account, including (but not limited to) withdrawals, loans, interfund transfers, and the designation of a beneficiary in the event of death. However, a participant may become unable to manage his or her own account for various reasons, such as incapacity or absence due to extended travel. In such circumstances, an attorney-in-fact may affect transactions in the TSP on behalf of the participant by signing the TSP form(s) as an agent of the participant.

This final rule requires that, before an attorney-in-fact may sign a TSP form on behalf of a participant, the Board must receive and approve either a general power of attorney that authorizes the attorney-in-fact to act on behalf of the principal in the areas of personal property, finance, retirement, or business transactions; or a special power of attorney that specifically grants the attorney-in-fact the authority to affect transactions in the TSP on behalf of the participant. A valid power of attorney must be authenticated, attested, acknowledged, or certified before a notary public or other authorized official. When the Board receives a power of attorney, it will review it and advise the participant or attorney-in-fact whether it is valid for affecting transactions in the TSP.

This amendment to part 1690 was published in proposed form in the **Federal Register** on December 14, 1998 (63 FR 68699). The Board received no comment on the proposed rule and therefore is adopting it as a final rule without change.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only employees of the Federal Government.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, Public Law 104–4, section 201, 109 Stat. 48, 64, the effects of this regulation on State, local, and tribal governments, and the private sector have been assessed. This regulation will not compel the expenditure in any one year of $100 million or more by State, local, and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under section 202, 109 Stat. 48, 64–65, is not required.

Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A), the Board submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this rule in today's **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 804(2).

List of Subjects

5 CFR Parts 1620, 1651, and 1690

Government employees, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons set out in the preamble, chapter VI, Code of Federal Regulations, is amended as set forth below:

1. Part 1620 is revised to read as follows:

PART 1620—EXPANDED AND CONTINUING ELIGIBILITY

Subpart A—General

Sec.
1620.1 Application.
1620.2 Definitions.
1620.3 Contributions.
1620.4 Notices.

Subpart B—Cooperative Extension Service, Union, and Intergovernmental Personnel Act Employees

1620.10 Definition.
1620.11 Scope.
1620.12 Employing authority contributions.
1620.13 Retroactive contributions.
1620.14 Payment to the record keeper.

Subpart C—Article III Justices and Judges; Bankruptcy Judges and U.S. Magistrates; and Judges of the Courts of Federal Claims and Veterans Appeals

1620.20 Scope.
1620.21 Contributions.
1620.22 Withdrawals.
1620.23 Spousal rights.

Subpart D—Nonappropriated Fund Employees

1620.30 Scope.
1620.31 Definition.
1620.32 Employees who move to a NAF instrumentality on or after August 10, 1996.
1620.33 Employees who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965.
1620.34 Employees who move from a NAF instrumentality to a Federal Government agency.
1620.35 Loan payments.
1620.36 Transmission of information.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)—Covered Military Service

1620.40 Scope.
1620.41 Definitions.
1620.42 Processing TSP contribution elections.
1620.43 Agency payments to record keeper; agency ultimately responsible.
1620.44 Restoring forfeited agency automatic (1%) contributions.
1620.45 Restoring post-employment withdrawals and reversing taxable distributions.
1620.46 Agency responsibilities.

Authority: 5 U.S.C. 8474(b)(5) and (c)(1).

Subpart C also issued under 5 U.S.C. 8440a(b)(7), 8440b(b)(8), and 8440c(b)(8).

Subpart D also issued under sec. 1043(b), Pub. L. 104–106, 110 Stat. 186, 434–435; and sec. 7202(m)(2), Pub. L. 101–508, 104 Stat. 1388.

Subpart E also issued under 5 U.S.C. 8432b(i).

Subpart A—General

§ 1620.1 Application.

The Federal Employees' Retirement System Act of 1986 (codified as amended largely at 5 U.S.C. 8351 and 8401 through 8479) originally limited TSP eligibility to specifically named groups of employees. On various occasions, Congress has since expanded TSP eligibility to other groups. Depending on the circumstances, that subsequent legislation requires retroactive contributions, waives open season rules, or provides other special features. Where necessary, this part describes those special features. The employees and employing agencies covered by this part are also governed by the other regulations in 5 CFR chapter VI to the extent that they do not conflict with the regulations of this part.

§ 1620.2 Definitions.

As used in this part:

Account balance means the nonforfeitable valued account balance of a TSP participant as of the most recent month-end.

Basic pay means basic pay as defined in 5 U.S.C. 8331(3). For CSRS and FERS employees, it is the rate of pay used in computing any amount the individual is otherwise required to contribute to the Civil Service Retirement and Disability Fund as a condition for participating in the Civil Service Retirement System or the Federal Employees' Retirement System, as the case may be.

Board means the Federal Retirement Thrift Investment Board established under 5 U.S.C. 8472.

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C).

CSRS means the Civil Service Retirement System established by 5 U.S.C. chapter 83, subchapter III, or any equivalent retirement system.

CSRS employee or *CSRS participant* means any employee or participant covered by CSRS or an equivalent retirement system, including employees authorized to contribute to the TSP under 5 U.S.C. 8351.

Election period means the last calendar month of a TSP open season and is the earliest period in which an election to make or change a TSP contribution election can become effective.

Employee contributions means any contributions to the Thrift Savings Plan made under 5 U.S.C. 8351(a), 8432(a), or 8440a through 8440d.

Employer contributions means agency automatic (1%) contributions under 5 U.S.C. 8432(c)(1) or 8432(c)(3), and agency matching contributions under 5 U.S.C. 8432(c)(2).

Employing agency means the organization that employs an individual described at § 1620.1 as being eligible to contribute to the TSP and that has authority to make personnel compensation decisions for such employee.

Executive Director means the Executive Director of the Federal Retirement Thrift Investment Board under 5 U.S.C. 8474.

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B).

FERS means the Federal Employees' Retirement System established by 5 U.S.C. chapter 84, and any equivalent Federal Government retirement system.

FERS employee or *FERS participant* means any employee or participant covered by FERS.

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A).

Individual account means the account established for a participant in the Thrift Savings Plan under 5 U.S.C. 8439(a).

In-service withdrawal means an age-based or financial hardship withdrawal from the TSP obtained by a participant before separation from Government employment.

Investment fund means either the G Fund, the F Fund, or the C Fund, and any other TSP investment funds created after December 27, 1986.

Monthly processing cycle means the process, beginning on the evening of the fourth business day of the month, by which the TSP record keeper allocates the amount of earnings to be credited to participant accounts in the TSP, implements interfund transfer requests, and authorizes disbursements from the TSP.

Open season means the period during which employees may choose to begin making contributions to the TSP, to change or discontinue (without losing

the right to recommence contributions the next open season) the amount currently being contributed to the TSP, or to allocate prospective contributions to the TSP among the investment funds.

Plan participant or participant means any person with an account in the TSP, or who would have an account in the TSP but for an employing agency error.

Post-employment withdrawal means a withdrawal from the TSP obtained by a participant who has separated from Government employment.

Separation from Government employment means the cessation of employment with the Federal Government or the U.S. Postal Service (or with any other employer from a position that is deemed to be Government employment for purposes of participating in the TSP) for 31 or more full calendar days.

Spouse means the person to whom a TSP participant is married on the date he or she signs forms on which the TSP requests spouse information including a spouse from whom the participant is legally separated, and includes a person with whom a participant is living in a relationship that constitutes a common law marriage in the jurisdiction in which they live.

Thrift Savings Fund means the Fund described in 5 U.S.C. 8437.

Thrift Savings Plan, TSP, or *Plan* means the Thrift Savings Plan established under subchapters III and VII of the Federal Employees' Retirement System Act of 1986, 5 U.S.C. 8351 and 8401–8479.

Thrift Savings Plan (TSP) contribution election means a request by an employee to start contributing to the TSP, to terminate contributions to the TSP, to change the amount of contributions made to the TSP each pay period, or to change the allocation of future TSP contributions among the investment funds, and made effective pursuant to 5 CFR part 1600.

Thrift Savings Plan Service Computation Date means the date, actual or constructed, that includes all ''service'' as defined at 5 CFR 1603.1.

Thrift Savings Plan Service Office means the office established by the Board to service participants. This office's current address is: Thrift Savings Plan Service Office, National Finance Center, P.O. Box 61500, New Orleans, Louisiana 70161–1500.

§ 1620.3 Contributions.

The employing agency is responsible for transmitting to the Board's record keeper, in accordance with Board procedures, any employee and employer contributions that are required by this part.

§ 1620.4 Notices.

An employing agency must notify affected employees of the application of this part as soon as practicable.

Subpart B—Cooperative Extension Service, Union, and Intergovernmental Personnel Act Employees

§ 1620.10 Definition.

As used in this subpart, *employing authority* means the entity that employs an individual described in § 1620.11 and which has the authority to make personnel compensation decisions for such employee.

§ 1620.11 Scope.

This subpart applies to any individual participating in CSRS or FERS who:

(a) Has been appointed or otherwise assigned to one of the cooperative extension services, as defined in 7 U.S.C. 3103(5);

(b) Has entered on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by 5 U.S.C. 8331(1) and 8401(11); or

(c) Has been assigned, on an approved leave-without-pay basis, from a Federal agency to a state or local government under 5 U.S.C. chapter 33, subchapter VI.

§ 1620.12 Employing authority contributions.

The employing authority, at its sole discretion, may choose to make employer contributions under 5 U.S.C. 8432(c) for employees who are covered under FERS. Such contributions may be made for any period of eligible service after January 1, 1984, provided that the employing agency must treat all its employees who are eligible to receive employer contributions in the same manner. The employing authority can only commence or terminate employer contributions during an open season and must provide all affected employees with notice of a decision to commence or terminate such contributions at least 45 days before the beginning of the applicable election period. The employing authority may not contribute to the TSP on behalf of CSRS employees.

§ 1620.13 Retroactive contributions.

(a) An employing authority can make retroactive employer contributions on behalf of FERS employees described in this subpart, but cannot duplicate employer contributions already made to the TSP.

(b) An employing authority making retroactive employing agency contributions on behalf of a FERS employee described in § 1620.12 must continue those contributions (but only to the extent they relate to service with the employing authority) if the employee returns to his or her agency of record or is transferred to another Federal agency without a break in service.

(c) CSRS and FERS employees covered by this subpart can make retroactive employee contributions relating to periods of service described in § 1620.12, unless they already have been given the opportunity to make contributions for these periods of service.

§ 1620.14 Payment to the record keeper.

(a) The employing authority of a cooperative extension service employee (described at § 1620.11(a)) is responsible for transmitting employer and employee contributions to the TSP record keeper.

(b) The employing authority of a union employee or an Intergovernmental Personnel Act employee (described at § 1620.11(b) and (c), respectively) is responsible for transmitting employer and employee contributions to the employee's Federal agency of record. Employee contributions will be deducted from the employee's actual pay. The employee's agency of record is responsible for transmitting the employer and employee's contributions to the TSP record keeper in accordance with Board procedures. The employee's election form (TSP–1) will be filed in the employee's official personnel folder or other similar file maintained by the employing authority.

Subpart C—Article III Justices and Judges; Bankruptcy Judges and U.S. Magistrates; and Judges of the Courts of Federal Claims and Veterans Appeals

§ 1620.20 Scope.

(a) This subpart applies to:

(1) A justice or judge of the United States as defined in 28 U.S.C. 451;

(2) A bankruptcy judge appointed under 28 U.S.C. 152 or a United States magistrate appointed under 28 U.S.C. 631 who has chosen to receive a judges' annuity described at 28 U.S.C. 377 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, Public Law 100–659, 102 Stat. 3910–3921;

(3) A judge of the United States Court of Federal Claims appointed under 28 U.S.C. 171 whose retirement is covered by 28 U.S.C. 178; and

(4) A judge of the Court of Veterans Appeals appointed under 38 U.S.C. 7253.

(b) This subpart does not apply to a bankruptcy judge or a United States magistrate who has not chosen a judges' annuity, or to a judge of the United States Court of Federal Claims who is not covered by 28 U.S.C. 178. Those individuals may participate in the TSP only if they are otherwise covered by CSRS or FERS.

§ 1620.21 Contributions.

(a) An individual covered under this subpart can contribute up to 5 percent of basic pay per pay period to the TSP, and, unless stated otherwise in this subpart, he or she is covered by the same rules and regulations that apply to a CSRS participant in the TSP.

(b) The following amounts are not basic pay and no TSP contributions can be made from them:

(1) An annuity or salary received by a justice or judge of the United States (as defined in 28 U.S.C. 451) who is retired under 28 U.S.C. 371(a) or (b), or 372(a);

(2) Amounts received by a bankruptcy judge or a United States magistrate under a judges' annuity described at 28 U.S.C. 377;

(3) An annuity or salary received by a judge of the United States Court of Federal Claims under 28 U.S.C. 178; and

(4) Retired pay received by a judge of the United States Court of Veterans Appeals under 38 U.S.C. 7296.

§ 1620.22 Withdrawals.

(a) *Post-employment withdrawal.* An individual covered under this subpart can make a post-employment withdrawal election described at 5 U.S.C. 8433(b):

(1) Upon separation from Government employment.

(2) In addition to the circumstance described in paragraph (a)(1) of this section, a post-employment withdrawal election can be made by:

(i) A justice or judge of the United States (as defined in 28 U.S.C. 451) who retires under 28 U.S.C. 317(a) or (b) or 372(a);

(ii) A bankruptcy judge or a United States magistrate receiving a judges' annuity under 28 U.S.C. 377;

(iii) A judge of the United States Court of Federal Claims receiving an annuity or salary under 28 U.S.C. 178; and

(iv) A judge of the United States Court of Veterans Appeals receiving retired pay under 38 U.S.C. 7296.

(b) *In-service withdrawals.* An individual covered under this subpart can request an in-service withdrawal described at 5 U.S.C. 8433(h) if he or she:

(1) Has not separated from Government employment; and

(2) Is not receiving retired pay as described in paragraph (a)(2) of this section.

§ 1620.23 Spousal rights.

(a) The current spouse of a justice or judge of the United States (as defined in 28 U.S.C. 451), or of a Court of Veterans Appeals judge, possesses the rights described at 5 U.S.C. 8351(b)(5).

(b) A current or former spouse of a bankruptcy judge, a United States magistrate, or a judge of the United States Court of Federal Claims, possesses the rights described at 5 U.S.C. 8435 and 8467 if the judge or magistrate is covered under this subpart.

Subpart D—Nonappropriated Fund Employees

§ 1620.30 Scope.

This subpart applies to any employee of a Nonappropriated Fund (NAF) instrumentality of the Department of Defense (DOD) or the U.S. Coast Guard who elects to be covered by CSRS or FERS and to any employee in a CSRS- or FERS-covered position who elects to be covered by a retirement plan established for employees of a NAF instrumentality pursuant to the Portability of Benefits for Nonappropriated Fund Employees Act of 1990, Public Law 101–508, 104 Stat. 1388, 1388–335 to 1388–341, as amended (codified largely at 5 U.S.C. 8347(q) and 8461(n)).

§ 1620.31 Definition.

As used in this subpart, *move* means moving from a position covered by CSRS or FERS to a NAF instrumentality of the DOD or Coast Guard, or *vice versa,* without a break in service of more than one year.

§ 1620.32 Employees who move to a NAF instrumentality on or after August 10, 1996.

Any employee who moves from a CSRS- or FERS-covered position to a NAF instrumentality on or after August 10, 1996, and who elects to continue to be covered by CSRS or FERS, will be eligible to contribute to the TSP as determined in accordance with 5 CFR part 1600.

§ 1620.33 Employees who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965.

(a) *Future TSP contributions.*—(1) *Employee contributions.* An employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by CSRS or FERS as of the date of that move may elect to make any future contributions to the TSP in accordance with 5 U.S.C. 8351(b)(2) or 8432(a), as applicable, within 30 days of the date of his or her election to be covered by CSRS or FERS. Such contributions will begin being deducted from the employee's pay no later than the pay period following the election to contribute to the TSP. Any TSP contribution election which may have been in effect at the time of the employee's move will not be effective for any future contributions.

(2) *Employer contributions.* If an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, elects to be covered by FERS:

(i) The NAF instrumentality must contribute each pay period to the Thrift Savings Fund on behalf of that employee any amounts that the employee is eligible to receive under 5 U.S.C. 8432(c)(1), beginning no later than the pay period following the employee's election to be covered by FERS; and

(ii) If the employee elects to make contributions to the TSP pursuant to paragraph (a)(1) of this section, the NAF instrumentality must also contribute each pay period to the Thrift Savings Fund on behalf of that employee any amounts that the employee is eligible to receive under 5 U.S.C. 8432(c)(2), beginning at the same time as the employee's contributions are made pursuant to paragraph (a)(l) of this section.

(b) *Retroactive TSP contributions.* (1) Without regard to any election to contribute to the TSP under paragraph (a)(l) of this section, the NAF instrumentality will take the following actions with respect to an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by CSRS or FERS as of the date of the move:

(i) *Agency automatic (1%) makeup contributions.* The NAF instrumentality must, within 30 days of the date of the employee's election to be covered by FERS, contribute to the Thrift Savings Fund an amount representing the agency automatic (1%) contribution for all pay periods during which the employee would have been eligible to receive the agency automatic (1%) contribution under 5 U.S.C. 8432, beginning with the date of the move and ending with the date that agency

automatic (1%) contributions begin under paragraph (a)(2) of this section. Lost earnings will not be paid on these contributions unless they are not made by the NAF instrumentality within the time frames required by these regulations.

(ii) *Employee makeup contributions.* (A) Within 60 days of the election to be covered by FERS, an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by FERS, may make an election regarding employee makeup contributions. The employee may elect to contribute all or a percentage of the amount of employee contributions which the employee would have been eligible to make under 5 U.S.C. 8432 between the date of the move and the date employee contributions begin under paragraph (a)(1) of this section or, if no such election is made under paragraph (a)(1) of this section, the date that agency automatic (1%) contributions begin under paragraph (a)(2) of this section.

(B) Within 60 days of the election to be covered under CSRS, an employee who moved to a NAF instrumentality before August 10, 1996, but after December 31, 1965, and who elects to be covered by CSRS, may make an election regarding make-up contributions. The employee may elect to contribute all or a percentage of the amount of employee contributions that the employee would have been eligible to make under 5 U.S.C. 8351 between the date of the move and the date employee contributions begin under paragraph (a)(1) of this section or, if no such election is made under paragraph (a)(1) of this section, the pay period following the date the election to be covered by CSRS is made.

(C) Deductions made from the employee's pay pursuant to an employee's election under paragraph (b)(1)(ii)(A) or (B) of this section, as appropriate, must be made according to a schedule that meets the requirements of 5 CFR 1505.2(c). The payment schedule must begin no later than the pay period following the date the employee elects the schedule.

(iii) *Agency matching makeup contributions.* The NAF instrumentality must pay to the Thrift Savings Fund any matching contributions attributable to employee contributions made under paragraph (b)(1)(ii)(A) of this section which the NAF instrumentality would have been required to make under 5 U.S.C. 8432(c), at the same time that those employee contributions are contributed to the Fund.

(2) Makeup contributions must be reported for investment by the NAF instrumentality when contributed, according to the employee's election for current TSP contributions. If the employee is not making current contributions, the retroactive contributions must be invested according to an election form (TSP–1–NAF) filed specifically for that purpose.

(c) *Noneligible employees.* An employee who is covered by a NAF retirement system is not eligible to participate in the TSP. Any TSP contributions relating to a period for which an employee elects retroactive NAF retirement system coverage must be removed from the TSP as required by the regulations at 5 CFR part 1605.

(d) *Elections.* If a TSP election was made by an employee of a NAF instrumentality who elected to be covered by CSRS or FERS before August 10, 1996, and the election was properly implemented by the NAF instrumentality because it was valid under then-effective regulations, the election is effective under the regulations in this subpart.

§ 1620.34 Employees who move from a NAF instrumentality to a Federal Government agency.

(a) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by a NAF retirement system is not eligible to participate in the TSP. Any TSP contributions relating to a period for which an employee elects retroactive NAF retirement coverage must be removed from the TSP as required by the regulations at 5 CFR part 1605.

(b) An employee of a NAF instrumentality who moves from a NAF instrumentality to a Federal Government agency and who elects to be covered by CSRS or FERS will become eligible to participate in the TSP as determined in accordance with 5 CFR part 1600.

§ 1620.35 Loan payments.

NAF instrumentalities must deduct and transmit TSP loan payments for employees who elect to be covered by CSRS or FERS to the record keeper in accordance with 5 CFR part 1655 and Board procedures. Loan payments may not be deducted and transmitted for employees who elect to be covered by the NAF retirement system. Such employees will be considered to have separated from Government service and must prepay their loans or the TSP will declare the loan to be a taxable distribution.

§ 1620.36 Transmission of information.

Any employee who moves to a NAF instrumentality must be reported by the losing Federal Government agency to the TSP record keeper as having transferred to a NAF instrumentality of the DOD or Coast Guard rather than as having separated from Government service. If the employee subsequently elects not to be covered by CSRS or FERS, the NAF instrumentality must submit an Employee Data Record to report the employee as having separated from Federal Government service as of the date of the move.

Subpart E—Uniformed Services Employment and Reemployment Rights Act (USERRA)-Covered Military Service

§ 1620.40 Scope.

To be covered by this subpart, an employee must have:

(a) Separated from Federal civilian service or entered leave-without-pay status in order to perform military service; and

(b) Become eligible to seek reemployment or restoration to duty by virtue of a release from military service, discharge from hospitalization, or other similar event that occurred on or after August 2, 1990; and

(c) Been reemployed in, or restored to, a position covered by CSRS or FERS pursuant to the provisions of 38 U.S.C. chapter 43.

§ 1620.41 Definitions.

As used in this subpart:

Basic pay means basic pay as defined in § 1620.2, except for the portion of the retroactive period when an employee did not receive a Federal salary. In that case, basic pay is the rate of pay that would have been payable to the employee had he or she remained continuously employed in the position last held before separating (or entering leave-without-pay status) to perform military service.

Current contributions means those contributions that are made prospectively for any pay period after the employee has been reemployed.

Leave without pay or *LWOP* means a temporary nonpay status and absence from duty (including military furlough) to perform military service.

Reemployed or *reemployment* means reemployed in (or restored from a nonpay status to) a position pursuant to 38 U.S.C. chapter 43, which is subject to 5 U.S.C. chapter 84 or which entitles the employee to contribute to the TSP pursuant to 5 U.S.C. 8351.

Retroactive period means the period for which an employee is entitled to

make up missed employee contributions and to receive retroactive agency contributions.

Retroactive period beginning date means, for an employee who was eligible to contribute to the TSP when military service began, the date following the effective date of separation or, in the case of LWOP, the date the employee enters LWOP status. For an employee who was not eligible to make TSP contributions when military service began, the retroactive period begins on the first day of the first pay period in the election period during which the employee would have been eligible to make contributions had the employee remained in Federal civilian service.

Retroactive period ending date means the earlier of the following two dates: the date before the first day of the first election period during which a contribution election could have been made effective after reemployment, or the last day of the pay period before the pay period during which routine current contributions are begun after the employee is reemployed (or restored). If an employee who was making contributions when he or she separated elects not to make routine current contributions, the ending date of the retroactive period is the last day of the pay period during which the employee elects to terminate contributions.

Separation or *separated* means the period an employee was separated from Federal civilian service (or entered a leave-without-pay status) in order to perform military service.

§ 1620.42 Processing TSP contribution elections.

(a) *Current TSP contribution elections.* Immediately upon reemployment, an employee's agency will give an eligible employee the opportunity to submit a TSP election form (Form TSP–1) to make current contributions. The effective date of the current Form TSP–1 will be the first day of the first full pay period in the most recent TSP election period. If the employee is reemployed during a TSP Open Season but before the election period, he or she can also submit an election form that will become effective the first day of the first full pay period in the following election period.

(b) *Retroactive contribution elections.* (1) An employee has the following options for making retroactive contributions:

(i) If the employee had a valid contribution election form (Form TSP–1) on file when he or she separated, that election form will be reinstated for purposes of retroactive contributions.

(ii) Instead of making the contributions for the retroactive period under the reinstated contribution election form, the employee may submit a new election form for any Open Season that occurred during the retroactive period. However, the allocation election on each Form TSP–1 for the retroactive period must be the same as the allocation election on the current Form TSP–1.

(2) An employee who terminated contributions within two months before entering military service will be eligible to make a retroactive contribution election effective for the first Open Season that occurs after the effective date that the contributions were terminated. This election may be made even if the termination was made outside of an Open Season.

§ 1620.43 Agency payments to record keeper; agency ultimately responsible.

(a) *Agency making payments to record keeper.* The current employing agency always will be the agency responsible for making payments to the record keeper for all contributions (both employee and agency) and lost earnings, regardless of whether some of that expense is ultimately chargeable to a prior employing agency.

(b) *Agency ultimately chargeable with expense.* The agency ultimately chargeable with the expense of agency contributions and lost earnings attributable to the retroactive period is ordinarily the agency that reemployed the employee. However, if an employee changed agencies during the period between the date of reemployment and October 13, 1994, the employing agency as of October 13, 1994, is the agency ultimately chargeable with the expense.

(c) *Reimbursement by agency ultimately chargeable with expense.* If the agency that made the payments to the record keeper for agency contributions and lost earnings is not the agency ultimately chargeable for that expense, the agency that made the payments to the record keeper may, but is not required to, obtain reimbursement from the agency ultimately chargeable with the expense.

§ 1620.44 Restoring forfeited agency automatic (1%) contributions.

If an employee's agency automatic (1%) contributions were forfeited because the employee was not vested when he or she separated to perform military service, the employee must notify the employing agency that a forfeiture occurred. The employing agency will follow the procedure described in § 1620.47(d) to have those funds restored.

§ 1620.45 Restoring post-employment withdrawals and reversing taxable distributions.

(a) *Post-employment withdrawals.* Employees who received automatic cashouts because their account balances were $3,500 or less, or who were required to withdraw their TSP accounts before March 1995 because they were not eligible for retirement benefits when they separated, may elect to have the separation for military service treated as if it never occurred. These employees will be permitted to return amounts to the TSP that represent the full amount of the post-employment withdrawal.

(b) *Reversing taxable distributions.* An employee who separated or who entered into nonpay status to perform military service, and whose TSP loan was therefore declared a taxable distribution, may be eligible to have that distribution reversed.

(1) If the employee received a post-employment withdrawal when he or she separated to perform military service, he or she can have a taxable distribution reversed only if that withdrawal is returned under the procedures described in paragraph (a) of this section. If the employee is not eligible to or does not return the withdrawal, he or she cannot have the taxable distribution reversed.

(2) The taxable distribution can be reversed either by reinstating the TSP loan or by repaying the loan in full. TSP loan repayments can be reinstated only if the loan can be repaid within five years of its disbursement for non-residential loans and 15 years for residential loans; and if the employee will have no more than two loans outstanding, one of which can be a residential loan.

(c) *Process.* Eligible employees must notify the TSP record keeper of their intent to return the withdrawn funds and/or reverse a taxable distribution. This notification must be given within one year of reemployment and the employee must provide the TSP record keeper with a copy of the SF–50, Notification of Personnel Action, indicating reemployment or reinstatement was made pursuant to 38 U.S.C. chapter 43, or a letter from his or her agency indicating reemployment or restoration pursuant to 38 U.S.C. chapter 43. If the participant is eligible to return a withdrawal and/or reverse a distribution, the TSP record keeper will:

(1) In the case of a request to return withdrawn funds, notify the employee of the amount of funds to be returned.

(2) In the case of a request to reverse a taxable distribution, reinstate the loan

if permitted, or if not, inform the employee of the repayment amount for the loan.

(3) In the case of returned withdrawal and a repaid loan, inform the employee that both actions must be accomplished in the same transaction (i.e., one payment for both amounts).

(4) In all cases inform the employee that he or she must provide the funds in a single payment to the TSP record keeper within 90 days after the record keeper sends the employee the notice advising of the amount and procedures for repaying the loan or withdrawal. Repayment must be submitted in the form of a certified or cashier's check, a certified or treasurer's draft from a credit union, or a money order.

(d) *Earnings.* Employees will not receive retroactive earnings on any amounts returned to their accounts under this section.

§ 1620.46 Agency responsibilities.

(a) *General.* Each employing agency must establish procedures for implementing these regulations. These procedures must at a minimum require agency personnel to identify eligible employees and notify them of their options under these regulations and the time period within which these options must be exercised.

(b) *Agency records; procedure for reimbursement.* The agency that is making the payments to the record keeper for all contributions (both employee and agency) and lost earnings will obtain from prior employing agencies whatever information is necessary to make accurate payments. If a prior employing agency is ultimately chargeable under § 1620.43(b) for all or part of the expense of agency contributions and lost earnings, the agency making the payments to the record keeper will determine the procedure to follow in order to collect amounts owed to it by the agency ultimately chargeable with the expense.

(c) *Payment schedule; matching contributions report.* Agencies will, with the employee's consent, prepare a payment schedule for making retroactive employee contributions which will be consistent with the procedures established at 5 CFR part 1605 for the correction of employing agency errors.

(d) *Agency automatic (1%) contributions.* Employing agencies must calculate the agency automatic (1%) contributions for all reemployed (or restored) FERS employees, report those contributions to the record keeper, and submit lost earnings records to cover the retroactive period within 60 days of reemployment.

(e) *Forfeiture restoration.* When notified by an employee that a forfeiture of the agency automatic (1%) contributions occurred after the employee separated to perform military service, the employing agency must submit to the record keeper Form TSP–5–R, Request to Restore Forfeited Funds, to have those funds restored.

(f) *Thrift Savings Plan Service Computation Date.* The agencies must include the period of military service in the Thrift Savings Plan Service Computation Date (TSP–SCD) of all reemployed FERS employees. If the period of military service has not been credited, the agencies must submit an employee data record to the TSP record keeper containing the correct TSP Service Computation Date.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

2. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8433, 8434, 8435, 8474(b)(5), and 8474(c)(1).

3. Section 1650.15 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 1650.15 Required withdrawal date.

* * * * *

(c) In the event that a participant does not withdraw his or her account or begin receiving payments in accordance with paragraph (a) of this section, the Board will transfer all of the funds in the participant's account not already invested in the Government Securities Investment Fund (G Fund) to that Fund. A notice of this action will be sent to the participant with a warning that his or her account will be declared abandoned and forfeited unless the participant comes into compliance with paragraph (a) of this section within 90 days of the date of the notice.

(d) If the participant does not take the appropriate withdrawal action within the 90 day period provided in paragraph (c) of this section, the Board will purchase an annuity for the participant after the following steps have been taken:

(1) The account has been declared abandoned and the funds in the account have been forfeited;

(2) A notice of this action has been sent to the participant;

(3) The participant reclaims the account balance that was abandoned, but decides against a withdrawal pursuant to §§ 1650.10 or 1650.11; and

(4) The participant provides the information that the Board needs to purchase an annuity pursuant to § 1650.12.

PART 1651—DEATH BENEFITS

4. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

5. Section 1651.1 is amended by adding in alphabetical order the definitions of ''C Fund'', ''F Fund'', ''G Fund'', and ''Investment fund'', to read as follows:

§ 1651.1 Definitions.

* * * * *

C Fund means the Common Stock Index Investment Fund established under 5 U.S.C. 8438(b)(1)(C);

* * * * *

F Fund means the Fixed Income Investment Fund established under 5 U.S.C. 8438(b)(1)(B);

G Fund means the Government Securities Investment Fund established under 5 U.S.C. 8438(b)(1)(A);

Investment fund means the C Fund, the F Fund, the G Fund, or any other TSP investment fund created subsequent to December 27, 1986;

* * * * *

6. Section 1651.2 is amended by adding a new paragraph (c) to read as follows:

§ 1651.2 Entitlement to benefits.

* * * * *

(c) If a participant dies with any portion of his or her TSP account in an investment fund other than the G Fund, the Board will transfer the entire account into the G Fund after receiving written notice of the participant's death. The account will continue to accrue earnings at the G Fund rate in accordance with 5 CFR part 1645 until it is paid in accordance with the order of precedence set forth in paragraph (a) of this section.

PART 1690—MISCELLANEOUS REGULATIONS

7. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

8. Section 1690.2 is added to read as follows:

§ 1690.2 Power of attorney.

This section applies to all regulations in this chapter that require a signature by the participant on a Thrift Savings Plan (TSP) form, where the participant desires to effect transactions through an

agent (*i.e.*, an attorney-in-fact). Before an attorney-in-fact may sign a TSP form on behalf of a participant, the Board must have approved either a general power of attorney which authorizes the attorney-in-fact to act on behalf of the participant with respect to the principal's personal property or in Federal Government retirement, financial, or business transactions; or a special power of attorney which authorizes the attorney-in-fact to effect transactions in the TSP on behalf of the participant. For a power of attorney to be acceptable to effect transactions in the TSP, it must be authenticated, attested, acknowledged, or certified before a notary public or other official authorized by law to administer oaths or affirmations. The Board will advise the person submitting a power of attorney whether it is valid to effect transactions in the TSP.

[FR Doc. 99–14398 Filed 6–8–99; 8:45 am]

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Wednesday
June 9, 1999

Part IV

Department of Education

34 CFR Part 5b

Privacy Act of 1974; Implementation; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 5b

RIN 1880–AA78

Privacy Act Regulations; Implementation

AGENCY: Office of Inspector General, Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Department's regulations implementing the Privacy Act of 1974 (the Act). These amendments are needed to modify existing departmental regulations to exempt from certain provisions of the Act a new system of records known as the Office of Inspector General (OIG) Hotline Complaints Files (System No. 18–10–0004) (ED/OIG Hotline Complaint Files). These exemptions are needed to protect information regarding Hotline complaints from disclosure to target individuals and others who could interfere with the processing and disposition of the information and with law enforcement activities relating to the Hotline complaints.

DATES: These regulations are effective July 9, 1999.

FOR FURTHER INFORMATION CONTACT: Gary Mathison, Acting Assistant Inspector General for Investigations, U.S. Department of Education, 400 Maryland Avenue, SW., room 4106, Switzer Building, Washington, DC 20202–1530. Telephone: (202) 205–8762. If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: On November 24, 1997, the Secretary published a notice of proposed rulemaking (NPRM) for this amendment in the **Federal Register** (62 FR 62670). The NPRM included a detailed summary of major issues on pages 62670–62672. In the same issue of the **Federal Register**, the Secretary published a Notice of a New System of Records entitled ''Hotline Complaint Files of the Inspector General'' (62 FR 62673). The Secretary stated that the new system would not be implemented until the proposed exemptions became final. The exemptions become final on the effective date of these final regulations.

Except for minor editorial and technical revisions, there are no differences between the NPRM and these final regulations.

The exemptions are authorized under the Privacy Act, 5 U.S.C. 552a(j)(2) and (k)(2). Under subsection (j)(2) of the Act, the Secretary through rulemaking may exempt from certain provisions of the Act those systems of records maintained by a component of the Department that performs as its principal function any activity pertaining to the enforcement of criminal laws, if the information in the system is compiled for the purpose of criminal investigation. Under 5 U.S.C. 552a(k)(2), the Secretary through rulemaking may exempt from a more limited number of Privacy Act requirements a system of records that contains investigatory materials compiled for civil and administrative law enforcement purposes.

Public Comment

In the NPRM the Secretary invited comments on the proposed regulations. We did not receive any comments.

Paperwork Reduction Act of 1995

These regulations do not contain any information collection requirements.

Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79.

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(Catalogue of Federal Domestic Assistance Number does not apply)

List of Subjects in 34 CFR Part 5b

Privacy.

Dated: June 4, 1999.

Richard W. Riley,

Secretary of Education.

The Secretary amends part 5b of title 34 of the Code of Federal Regulations as follows:

PART 5b—PRIVACY ACT REGULATIONS

1. The authority citation for part 5b is revised to read as follows:

Authority: 5 U.S.C. 301 and 552a.

2. Section 5b.11 is amended by revising paragraphs (b), introductory text, and (c)(1), introductory text, to read as follows:

§ 5b.11 Exempt systems.

* * * * *

(b) *Specific systems of records exempted under (j)(2).* The Department exempts the Investigative Files of the Inspector General ED/OIG (18–10–0001) and the Hotline Complaint Files of the Inspector General ED/OIG (18–10–0004) systems of records from the following provisions of 5 U.S.C. 552a and this part:

* * * * *

(c) * * *

(1) The Department exempts the Investigative Files of the Inspector General ED/OIG (18–10–0001) and the Hotline Complaint Files of the Inspector General ED/OIG (18–10–0004) from the following provisions of 5 U.S.C. 552a and this part to the extent that these systems of records consist of investigatory material and complaints that may be included in investigatory material compiled for law enforcement purposes:

* * * * *

[FR Doc. 99–14585 Filed 6–8–99; 8:45 am]

BILLING CODE 40001–01–U

federal register

Wednesday
June 9, 1999

Part V

Department of Education

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children With Disabilities; Notices

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Special Education—Training and Information for Parents of Children With Disabilities

AGENCY: Department of Education.

ACTION: Notice of final priority.

SUMMARY: The Secretary announces a final priority for one program administered by the Office of Special Education and Rehabilitative Services (OSERS) under the Individuals with Disabilities Education Act (IDEA), as amended. The Secretary may use this priority to support grants in fiscal year 1999 and subsequent years. The Secretary takes this action to focus Federal assistance on identified needs to improve results for children with disabilities. This final priority is intended to ensure wide and effective use of program funds.

EFFECTIVE DATE: This priority takes effect on July 9, 1999.

FOR FURTHER INFORMATION CONTACT: For further information on the priority under the Training and Information for Parents of Children with Disabilities Program contact the U.S. Department of Education, 400 Maryland Avenue, SW., room 3527, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8038. FAX: (202) 205–8105. Internet: Debra__Sturdivant@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

Individuals with disabilities may obtain a copy of this notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) by contacting the Department at the address listed. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

SUPPLEMENTARY INFORMATION: This notice contains one final priority under the Training and Information for Parents of Children with Disabilities program authorized by IDEA.

On March 25, 1999, the Secretary published a notice of proposed priority for this program in the **Federal Register** (64 FR 14556).

This proposed priority supports the National Education Goals by helping to improve results for children with disabilities.

The publication of this priority does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only this priority, subject to meeting applicable rulemaking requirements. Funding of particular projects depends on the availability of funds, and the quality of the applications received.

Note: This notice of final priority does not solicit applications. A notice inviting applications under this competition is published in a separate notice in this issue of the **Federal Register**.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, seventeen parties submitted comments. An analysis of the comments and of the changes in the proposed priority follows. We discuss substantive issues under the sections of the priority to which they pertain. Generally, we do not address technical and other minor changes—and suggested changes the law does not authorize the Secretary to make.

Comment: One commenter questioned whether only the States listed in the March 25, 1999 **Federal Register** announcement would be considered for the fiscal year 1999 funding cycle. The commenter further recommended that the final priority include the four (4)-year schedule for submitting applications for all of the State awards.

Discussion: Only the States listed in the March 25, 1999 **Federal Register** announcement as eligible for the fiscal year 1999 funding cycle, Guam, Palau, the Commonwealth of the Northern Mariana Islands and the freely associated States will be eligible for funding in fiscal year 1999. The Parent Training and Information (PTI) centers program is moving the competition cycles for the centers to a four (4)-year cycle with a pre-determined schedule of the States eligible for the competition. Including the anticipated schedule in the priority itself would limit the Secretary's ability to revise the schedule based on unforseen circumstances. The regular four (4)-year cycle is expected to be:

1999: AZ, DE, DC, IA, IN, MA, MN, MS, MO, SD, VA, WA, WY.
2000: HI, ID, LA, NH, NC, OK, PA, RI, TN, WV, VI, AS.
2001: AK, AL, CO, FL, KY, ME, MD, NE, NY, ND, NV, PR, VT, WI.
2002: AR, CA, CT, GA, IL, KS, MI, MT, NJ, NM, OH, OR, SC, TX, UT.

States and the freely associated States that are not listed here will be included in a cycle if and when they receive initial funding.

Changes: None.

Comment: Several commenters suggested that a five (5)-year funding schedule would be a better strategy than the proposed four (4)-year funding schedule.

Discussion: The Secretary believes that four years provides a more appropriate funding cycle in order to provide adequate Federal oversight for the PTI centers.

Changes: None.

Comment: One commenter suggested that the annual reporting cycle should go to a process of reporting data from the beginning of a grant year to the end of a grant year.

Discussion: The statute requires an annual report by fiscal year. Therefore, the Secretary is not legally authorized to change this requirement by requesting that the PTI centers report data by grant year as opposed to reporting data by fiscal year.

Changes: None.

Comment: One commenter suggested that the language on page 14557, paragraph (a) of the priority should be amended to include parents of children that are not identified at all.

Discussion: The priority, as written, includes parents of children who are not identified at all. The language referring to children who may be inappropriately identified was intended to include those children who may not be identified at all. However, the Secretary acknowledges the concerns of the commenter and agrees to clarify the language of the priority.

Changes: The priority language will be amended by adding ''including those who are not identified at all'' to the end of the sentence.

Comment: One commenter suggested that parents would choose not to use the mediation process in States where the SEA uses its own staff as mediators. The commenter stated that parents have questions about the impartiality of mediators who work for the State and are vested in the State's interest.

Discussion: Section 615(e) (1) and (2) of IDEA includes language that requires that the mediation process must be conducted by a qualified and impartial mediator who is trained in effective mediation techniques. The statute further states that a local educational agency or State agency may establish procedures to require parents who choose not to use the mediation process, to meet with a disinterested party who is under contract with a PTI center or community parent resource center (CPRC), or an appropriate alternative dispute resolution entity, at a time and location convenient to the parents. The Secretary believes that the language contained in IDEA takes into account the concerns of the commenter.

Changes: None.

Comment: One commenter recommended that the Department should require entities such as colleges, universities, local schools, and State education agencies that receive Federal education funds, to seek partnerships with PTI centers as well as parents in the general population. The commenter further stated that networking, collaboration, and information sharing should not be the full responsibility of PTI centers but should be shared by all related entities.

Discussion: The Department supports partnerships among the PTI centers and entities such as colleges, universities, local schools, and State education agencies that receive Federal education funds. In addition, the Department has made significant investments to create the type of partnerships described by the commenter in order to promote and insure the implementation of the IDEA Amendments of 1997.

Changes: None.

Comment: One commenter recommended that PTI centers should be funded to specifically serve low income parents and children affected by learning disabilities.

Discussion: Section 682(b)(3) of IDEA states that each parent training and information center is required to serve the parents of infants, toddlers, and children with the full range of disabilities. Each of the centers should have information and knowledge about learning disabilities as well as an awareness of additional resources in the local area or State that are available for this group of children and their families.

Changes: None.

Comment: Several commenters suggested that the language requiring PTI centers to work cooperatively with the Community Parent Resource Centers (CPRCs) in the State should be expanded to require PTI centers to share some of their funding with CPRCs so that the work of the CPRCs is acknowledged and supported financially.

Discussion: The intent of paragraph (h) in the proposed priority to establish cooperative relations with the CPRCs was to reinforce the requirement in section 683(b)(3) of IDEA that the CPRCs establish cooperative partnerships with the PTI centers. PTI centers can choose to enter into projects with CPRCs where subcontracting could occur. However, the Secretary does not believe it is necessary for the PTI centers to share funding for the projects to maximize existing resources, work together when possible, and be supportive of each other.

Changes: There are no substantive changes. However, the order of paragraphs (g) and (h) in the proposed priority has been reversed in the final priority to make clear the intent of the priority.

Comment: One commenter suggested that the priority clarify that no new PTI centers will be funded in States where they currently exist.

Discussion: Other than interim awards for California, New York, and Illinois in fiscal year 1999, no awards will be made in any State that are not consistent with the regular four (4)-year funding cycle schedule.

Changes: None.

Comment: Several commenters suggested a change to the language of the proposed priority so that Parent to Parent programs are specifically mentioned as partners to PTI centers, share PTI centers' funding, and demonstrate cooperative relationships in their State.

Discussion: The Secretary believes that the concerns of the commenters are addressed within the work scope of the priority, which requires PTI centers to network and work with local organizations and agencies, including community-based organizations, such as Parent to Parent programs, that serve parents and families of children with disabilities. The Secretary further emphasizes that it is in the best interest of families who have children with disabilities that all providers of services and supports work together to maximize resources and reach as many families as possible.

Changes: None.

Comment: One commenter recommended that certain organizations, such as the protection and advocacy agencies, should not be eligible to receive PTI center funding.

Discussion: Under the current statute there is only one exclusion that is specifically mentioned—Institutions of Higher Education. Otherwise, any organization or entity that meets the eligibility criteria for this priority may apply for an award.

Changes: None.

Comment: One commenter suggested that the language in the priority requiring a project to budget for a two-day Project Director's meeting should be changed to read as follows: A project's budget must include funds to attend a regional Project Director's meeting to be held each year of the project.

Discussion: The Alliance Project, which is the national technical assistance project funded by the Office of Special Education Programs, funds and supports the attendance of project directors to attend a two-day national conference in Washington, DC.

Changes: The priority language has been amended as suggested by the commenter.

Comment: Several commenters expressed concern about the need to fund a project that has as its focus the very diverse and specialized needs of traditionally underserved multicultural and multilingual families living in poverty in urban and in rural communities.

Discussion: Working with underserved, diverse families is part of the mandate for both the PTI centers and the CPRCs. It is not the intent of the PTI centers program to create two systems, but to encourage the integration of these groups where and when possible. The current technical assistance provider, Alliance, is aware of the need to provide a variety of approaches to support the diverse and specialized needs of traditionally underserved multicultural and multilingual families, and will continue to develop expertise and expand its services to meet the needs of all families.

Changes: None.

Special Education—Training and Information for Parents of Children With Disabilities

Purpose of Program

The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Under section 682(e) of IDEA, the Secretary is required to: (a) make at least one award to a parent organization in each State, unless the Secretary does not receive an application from such an organization in each State of sufficient quality to warrant approval; and (b) select among applications submitted by parent organizations in a State in a manner that ensures the most effective assistance to parents, including parents in urban and rural areas, in the State.

Eligible applicants for awards under this priority are parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that (a) has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities working in the fields of special education, related services, and early intervention; or (b) if the private

nonprofit organization does not have such a board, has a membership that represents the interest of individuals with disabilities and must establish a special governing board with the same requirements as paragraph (a) and develops a memorandum of understanding between this special governing board and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decision making responsibilities and authority of each.

Priority

Under section 682 of the Act, and 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priority. The Secretary proposes to fund under this competition only those applications that meet this proposed priority:

Proposed Absolute Priority—Parent Training and Information Centers (84.328M)

Background: The IDEA Amendments of 1997 strengthen the role of parents and increase their involvement in decisions about their children's education. Other changes in the law, increased dependence on and the use of technology, and a greater emphasis on networking and promoting partnerships between parents and school personnel, require the PTI centers to be strengthened and refocused. In order to allocate resources more equitably, create a unified system of service delivery, and provide the broadest coverage for the parents and families in every State, the Department will begin to make awards in four (4)-year cycles for each State. In FY 1999, applications for 4-year awards will be accepted for the following States: Arizona; Delaware; District of Columbia; Iowa; Indiana; Massachusetts; Minnesota; Mississippi; Missouri; South Dakota; Virginia; Washington; and Wyoming.

In addition to the above State awards, the Secretary intends to fund one award that focuses on the needs of Native-American families who have children with disabilities and one award that focuses on the needs of military families who have children with disabilities.

Until the first four (4)-year cycle is completed, there is a need to have an interim schedule for awards in States where there is more than one PTI and their current awards do not have the same end date. Therefore, we will hold a competition for one or more awards in these States for the time periods needed to match the end date of the last Center funded. Applications will be accepted for FY 1999 interim competitions for the following States: (1) California—3-year award, (2) Illinois—3-year award, and (3) New York—2-year award.

Priority: The Secretary will establish an absolute priority to support parent training and information centers that—

(a) Provide training and information that meets the training and information needs of parents of children with disabilities in the area served by the center, particularly underserved parents and parents of children who may be inappropriately identified, including those who are not identified at all;

(b) Assist parents to understand the availability of, and how to effectively use, procedural safeguards under IDEA, including encouraging the use, and explaining the benefits, of alternative methods of dispute resolution, such as the mediation process described in IDEA;

(c) Serve the parents of infants, toddlers, and children with the full range of disabilities;

(d) Assist parents to—

(1) Better understand the nature of their children's disabilities and their educational and developmental needs;

(2) Communicate effectively with personnel responsible for providing special education, early intervention, and related services;

(3) Participate in decision making processes and the development of individualized education programs and individualized family service plans;

(4) Obtain appropriate information about the range of options, programs, services, and resources available to assist children with disabilities and their families;

(5) Understand the provisions of the Act for the education of, and the provision of early intervention services to, children with disabilities; and

(6) Participate in school reform activities;

(f) Contract with the State education agency, if the State elects to contract with the parent training and information center, for the purpose of meeting with parents who choose not to use the mediation process to encourage the use, and explain the benefits, of mediation consistent with sections 615(e)(2)(B) and (D) of IDEA;

(g) Establish cooperative relations with the Community Parent Resource Center or Centers in their State in accordance with section 683(b)(3) of IDEA;

(h) Network with appropriate clearinghouses, including organizations conducting national dissemination activities under section 685(d) of IDEA, and with other national, State, and local organizations and agencies, such as protection and advocacy agencies, that serve parents and families of children with the full range of disabilities;

(i) Annually report to the Secretary on—

(1) The number of parents to whom parent training and information centers provided information and training in the most recently concluded fiscal year; and

(2) The effectiveness of strategies used to reach and serve parents, including underserved parents of children with disabilities; and

(j) If there is more than one parent center in a particular State, coordinate their activities to ensure the most effective assistance to parents in that State.

An applicant must identify the strategies it will undertake—

(a) To ensure that the needs for training and information of underserved parents of children with disabilities in the areas to be served are effectively met, particularly in underserved areas of the State; and

(b) To work with the community-based organizations, particularly in the underserved areas of the State.

A parent training and information center that receives assistance under this absolute priority may also conduct the following activities—

(a) Provide information to teachers and other professionals who provide special education and related services to children with disabilities;

(b) Assist students with disabilities to understand their rights and responsibilities on reaching the age of majority, as included under section 615(m) of IDEA; and

(c) Assist parents of children with disabilities to be informed participants in the development and implementation of the State improvement plan under IDEA.

A project's budget must include funds to attend a regional Project Directors' meeting to be held each year of the project.

In order to demonstrate eligibility to receive a grant, an applicant must describe how its board or special governing committee meets the criteria for a parent organization in section 682(g) of IDEA. In addition, any parent organization that establishes a special governing committee under section 682(g)(2) of IDEA must demonstrate that the by-laws of its organization allows the governing committee to be responsible for operating the project (consistent with existing fiscal policies of its organization).

Current funding levels, population of school age children, and the relative proportion of children living in poverty

will be considered in determining funding levels for grants.

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 preceding sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free, at 1–888–293–6498; or in the Washington, DC, area at (202) 512–1530.

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Intergovernmental Review

The Training and Information for Parents of Children with Disabilities program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal assistance.

In accordance with the order, we intend this document to provide early notification of the Department's specific plans and actions for this program.

Program Authority: 20 U.S.C. 1482.

(Catalog of Federal Domestic Assistance Numbers: Special Education—Training and Information for Parents of Children with Disabilities, 84.328)

Dated: June 3, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–14532 Filed 6–8–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services; Inviting Applications for New Awards for Fiscal Year 1999

AGENCY: Department of Education.

SUMMARY: This notice provides closing dates and other information regarding the transmittal of applications for one fiscal year 1999 competition under one program authorized by the Individuals with Disabilities Education Act (IDEA), as amended. This notice supports the National Education Goals by helping to improve results for children with disabilities.

Note: The Department of Education is not bound by any estimates in this notice.

Special Education—Training and Information for Parents of Children With Disabilities [CFDA No. 84.328]

Purpose of Program: The purpose of this program is to ensure that parents of children with disabilities receive training and information to help improve results for their children.

Eligible Applicants: Eligible applicants for awards under this priority are parent organizations, as defined in section 682(g) of IDEA. A parent organization is a private nonprofit organization (other than an institution of higher education) that (a) has a board of directors, the parent and professional members of which are broadly representative of the population to be served and the majority of whom are parents of children with disabilities, that includes individuals with disabilities working in the fields of special education, related services, and early intervention; or (b) if the private nonprofit organization does not have such a board, has a membership that represents the interests of individuals with disabilities and must establish a special governing board with the same requirements as paragraph (a) and develops a memorandum of understanding between this special governing board and the board of directors of the organization that clearly outlines the relationship between the board and the committee and the decision making responsibilities and authority of each.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 76, 77, 79, 80, 81, 82, 85, and 97; and (b) The selection criteria for this priority are drawn from the EDGAR general selection criteria menu. The specific selection criteria for this priority are included in the funding application packet for this competition.

Absolute Priority—Parent Training and Information Centers (84.328M)

The priority for the Parent Training and Information Centers in the notice of final priority for this program, published elsewhere in this issue of the **Federal Register**, applies to this competition.

Applications Available: June 15, 1999.

Deadline for Transmittal of Applications: July 23, 1999.

Deadline for Intergovernmental Review: September 21, 1999.

Estimated Number of Awards: 18.

Estimated Project Awards: Project award amounts are for a single budget period of 12 months. The FY 1999 State awards, interim State awards, and awards focusing on Native American families and military families are listed below:

Arizona	Up to $200,000
Delaware	Up to $164,300
District of Columbia	Up to $136,700
Indiana	Up to $267,800
Iowa	Up to $176,200
Massachusetts	Up to $278,500
Minnesota	Up to $267,000
Mississippi	Up to $192,500
Missouri	Up to $208,400
South Dakota	Up to $159,773
Virginia	Up to $290,900
Washington	Up to $244,100
Wyoming	Up to $128,500
California	Up to $377,150
Illinois	Up to $158,000
New York	Up to $270,100
Native American Families.	Up to $100,000
Military Families	Up to $100,000

Awards may also be made to authorized entities in Guam, the Commonwealth of the Northern Mariana Islands, and the freely associated States. However, maximum funding levels have not been specified.

Page Limits: Part III of the application, the application narrative, is where an applicant addresses the selection criteria that are used by reviewers in evaluating an application. An applicant must limit Part III to the equivalent of no more than 60 double-spaced pages using the following standards: (1) a ''page'' is 8½″ x 11″ (on one side only) with one-inch margins (top, bottom, and sides); and (2) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions, as well as all text in charts, tables, figures, and graphs, must be double-spaced (no more than 3 lines per vertical inch). If using a proportional computer font, use no smaller than a 12-point font, and an average character density no greater than 18 characters per inch. If using a nonproportional font or a typewriter, do not use more than 12 characters to the inch.

The page limit does not apply to Part I—the cover sheet; Part II—the budget section (including the narrative budget justification); Part IV—the assurances and certifications; or the one-page abstract, resumes, bibliography, and letters of support. However, all of the application narrative must be included in Part III. If an application narrative uses a smaller print size, spacing, or

margin that would make the narrative exceed the equivalent of the page limit, the application will not be considered for funding.

Project Period: Up to 48 months.

For Application Information Contact: For this priority under the Special Education—Training and Information for Parents of Children with Disabilities program, contact the U.S. Department of Education, 400 Maryland Avenue, SW, room 3527, Switzer Building, Washington, D.C. 20202–2734. Telephone: (202) 205–8038. FAX: (202) 205–8105. Internet: Debra__Sturdivant@ed.gov.

Individuals who use a telecommunications device for the deaf (TDD) may call the TDD number: (202) 205–8953.

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(Catalog of Federal Domestic Assistance Numbers: Special Education—Training and Information for Parents of Children with Disabilities, 84.328)

Program Authority: 20 U.S.C. 1482.

Dated: June 3, 1999.

Judith E. Heumann,

Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 99–14533 Filed 6–8–99; 8:45 am]

BILLING CODE 4000–01–P

federal register

Wednesday
June 9, 1999

Part VI

Environmental Protection Agency

40 CFR Part 799

Proposed Test Rule for In Vitro Dermal Absorption Rate Testing of Certain Chemicals of Interest to Occupational Safety and Health Administration; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPPTS–42196; FRL–5760–3]

RIN 2070–AB07

Proposed Test Rule for In Vitro Dermal Absorption Rate Testing of Certain Chemicals of Interest to Occupational Safety and Health Administration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a test rule under section 4(a) of the Toxic Substances Control Act (TSCA) to require manufacturers, importers, and processors of 47 chemical substances of interest to the Occupational Safety and Health Administration (OSHA) to conduct *in vitro* dermal absorption rate testing. These chemicals, and others, were designated for *in vitro* dermal absorption rate testing in the 31st, 32nd, and 35th Reports of the TSCA Section 4(e) Interagency Testing Committee (ITC) to the EPA Administrator. The dermal absorption rate data obtained under this testing program would be used to support OSHA's development of ''skin designations'' for the chemical substances included in this proposed rule. Skin designations are used by OSHA to provide specific guidance to employers concerning whether changes should be made to processes involving chemical substances in order to reduce the hazard of systemic toxicity from dermal absorption of these chemicals. Changes to a process might include changes in engineering controls or changes in the use of or type of personal protective equipment. Skin designations alert industrial hygienists, employers, and workers to potential adverse health effects resulting from dermal exposure to chemicals in the workplace. Persons who export or intend to export any chemical substance included in the final rule based on this proposed rule will be subject to the export notification requirements in TSCA section 12(b)(1).

DATES: Comments, identified by docket control number OPPTS–42196, must be received by EPA on or before August 9, 1999. Your request to present oral comments must be in writing and must be received by EPA on or before July 9, 1999.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Follow the detailed instructions for each method as provided in Unit I.C. of the ''SUPPLEMENTARY INFORMATION'' section of this preamble. To ensure proper receipt by EPA, your comments must identify docket control number OPPTS–42196 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information*: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 554–1404; TDD: (202) 554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information: Keith Cronin, Project Manager, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: (202) 260–8157; fax number: (202) 260–1096; e-mail address: cronin.keith@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply To Me?

You may be affected by this action, if you manufacture (defined by statute to include import) or process any of the chemical substances that are listed in Table 2 of this unit. Use of the term ''manufacture'' in this preamble will encompass ''import,'' unless otherwise stated. In addition, as described in Unit VI. of this preamble, once the Agency issues the final rule, any person who exports, or intends to export, one of these chemical substances will be subject to the export notification requirements in 40 CFR part 707, subpart D. The export notification requirements do not apply until the Agency issues a final test rule, and then, only apply to exports of the chemical substances that are contained in the final test rule. Therefore, entities potentially affected by this proposed rule may include, but are not limited to:

TABLE 1.— ENTITIES POTENTIALLY AFFECTED BY THE PROPOSED TESTING REQUIREMENTS

Type of entity	SIC	NAICS	Examples of potentially affected entities
Chemical manufacturers and importers	28, 2911	325, 32411	Persons who manufacture (defined by statute to include import) one or more of the subject chemical substances
Chemical processors	28, 2911	325, 32411	Persons who process one or more of the subject chemical substances.

This listing is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in Table 1 of this unit could also be affected. The Standard Industrial Classification (SIC) codes and the North American Industrial Classification System (NAICS) codes have been provided to assist you and others in determining whether this action might apply to certain entities. To determine whether you or your business is affected by this action, you should carefully examine the applicability provisions in Unit V.C. of this preamble entitled ''Would I Be Required To Test Under This Rule?'' and consult the proposed regulatory text in § 799.5115. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in ''FOR FURTHER INFORMATION CONTACT'' at the beginning of the preamble.

If you are an entity identified in Table 1 of this unit, you would only be subject to the testing requirements contained in this proposed rule if you manufacture or process any of the 47 chemical substances that are listed in Table 2 of this unit.

TABLE 2.—LIST OF CHEMICAL SUBSTANCES PROPOSED FOR TESTING

CAS No.	Chemical substance
60–29–7	Ethyl ether
74–96–4	Ethyl bromide
75–05–8	Acetonitrile
75–15–0	Carbon disulfide
75–35–4	Vinylidene chloride
77–73–6	Dicyclopentadiene
77–78–1	Dimethyl sulfate
78–59–1	Isophorone
78–83–1	Isobutyl alcohol
78–87–5	Propylene dichloride
78–92–2	*sec*-Butyl alcohol
79–20–9	Methyl acetate
79–46–9	2-Nitropropane
91–20–3	Naphthalene

TABLE 2.—LIST OF CHEMICAL SUBSTANCES PROPOSED FOR TESTING—Continued

CAS No.	Chemical substance
92–52–4	Biphenyl
95–49–8	*o*-Chlorotoluene
95–50–1	*o*-Dichlorobenzene
97–77–8	Disulfiram
98–29–3	*tert*-Butylcatechol
99–99–0	*p*-Nitrotoluene
100–00–5	*p*-Nitrochlorobenzene
100–01–6	*p*-Nitroaniline
100–44–7	Benzyl chloride
106–42–3	*p*-Xylene
106–46–7	*p*-Dichlorobenzene
107–06–2	Ethylene dichloride
107–31–3	Methyl formate
108–03–2	1-Nitropropane
108–90–7	Chlorobenzene
108–93–0	Cyclohexanol
109–66–0	Pentane
109–99–9	Tetrahydrofuran
110–12–3	Methyl isoamyl ketone
111–84–2	Nonane
120–80–9	Catechol
121–69–7	Dimethylaniline
122–39–4	Diphenylamine
123–42–2	Diacetone alcohol
126–99–8	*beta*-Chloroprene
127–19–5	Dimethyl acetamide
142–82–5	*n*–Heptane
150–76–5	*p*-Methoxyphenol
528–29–0	*o*-Dinitrobenzene
628–63–7	*n*-Amyl acetate
768–52–5	*N*-Isopropylaniline
25013–15–4	Vinyl toluene
34590–94–8	Dipropylene glycol methyl ether

B. How Can I Get Additional Information or Copies of This Document or Other Documents?

1. *Electronically*. You may obtain electronic copies of this document and other documents from the EPA Internet EPA Home Page at http://www.epa.gov/ . On the Home Page select ''Law and Regulations'' and then look up the entry for this document under ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person* . The official record for this proposed rule, which includes the public version, has been established under docket control number OPPTS–42196. The official record consists of the documents referenced in this preamble (see Unit VIII. of this preamble), as well as the public comments that will be received during the comment period, and other information related to this rulemaking, including information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as all documents that are referenced in those documents. The public version of the offical record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments that may be submitted as described in Unit I.C. and D. of this preamble, is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC. The Center is open from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is (202) 260–7099.

C. How and To Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, your comments must identify docket control number OPPTS–42196 in the subject line on the first page of your response.

1. *By mail*. Submit comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., East Tower, Rm. G–099, Washington, DC 20460.

2. *In person or by courier*. Deliver comments to: Document Control Office, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., East Tower, Rm. G–099, Washington, DC. The telephone number for the OPPT Document Control Office is (202) 260–7093.

3. *Electronically*. Submit your comments electronically by e-mail to: oppt.ncic@epa.gov, or you may mail or deliver your computer disk to the addresses identified in Units I.C.1. or 2. of this preamble. Do not submit any information electronically that you consider to be CBI. Submit comments as an ASCII file, avoiding the use of special characters and any form of encryption. Comments will also be accepted on standard disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic comments must be identified by docket control number OPPTS–42196. Electronic comments may be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI Information That I Want To Submit To The Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comments that include any information claimed as CBI, a copy of the comments that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record by EPA without prior notice. If you have any questions about CBI or the procedures for claiming CBI, consult the technical person identified in ''FOR FURTHER INFORMATION CONTACT''at the beginning of this preamble.

E. Can I Request An Opportunity To Present Oral Comments To The Agency?

You may submit a request for an opportunity to present oral comments. This request must be in writing. If such a request is received on or before July 9, 1999, EPA will hold a public meeting on this proposed rule in Washington, DC. This written request must be submitted to the address provided in Unit I.C. of this preamble. If such a request is received, EPA will announce the scheduling of the public meeting in a subsequent **Federal Register** document. If a public meeting is announced, and if you are interested in attending or presenting oral and/or written comments at the public meeting, you should follow the instructions provided in the subsequent **Federal Register** document announcing the public meeting.

F. What Should I Consider as I Prepare My Comments For EPA?

We invite you to provide your views on the various options we propose, new approaches we have not considered, the potential impacts of the various options (including possible unintended consequences), and any data or information that you would like the Agency to consider during the development of the final rule. You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions that you used.
- Provide copies of any technical information and/or data you used that support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the rule or collection activity.

•Make sure to submit your comments by the deadline in this document.

•At the beginning of your comments, be sure to properly identify the document you are commenting on. To ensure proper receipt by EPA, your comments must identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

G. Are There Issues On Which EPA Is Particularly Interested In Receiving Comment?

EPA invites comment on any aspect of this proposed rule. EPA is particularly interested in specific comments on the approach discussed in Unit V.C. of this preamble, entitled ''Would I Be Required To Test Under This Rule?''

II. Authority

This document proposes a test rule under TSCA section 4(a) (15 U.S.C 2603(a)) that would require an *in vitro* dermal absorption rate test for 47 of the chemical substances designated by the ITC for this testing.

Section 2(b)(1) of TSCA (15 U.S.C. 2601(b)(1)) states that it is the policy of the United States that ''adequate data should be developed with respect to the effect of chemical substances and mixtures on health and the environment and that the development of such data should be the responsibility of those who manufacture and those who process such chemical substances and mixtures [.]'' To implement this policy, TSCA section 4(a) mandates that EPA require by rule that manufacturers and processors of chemical substances and mixtures conduct testing if the Administrator finds that:

(1)(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data [.]

If EPA makes these findings for a chemical substance or mixture, the Administrator must require by rule that testing be conducted on that chemical substance or mixture. The purpose of the testing would be to develop data about the substance or mixture's health and environmental effects for which there is an insufficiency of data and experience, and which are relevant to a determination that the manufacture, distribution in commerce, processing, use, or disposal of the substance or mixture, or any combination of such activities, does or does not present an unreasonable risk of injury to health or the environment.

Once the Administrator has made a finding under TSCA section 4(a)(1)(A)(i) (i.e., a finding that a chemical substance may present an unreasonable risk of injury to health or the environment) or a finding under TSCA section 4(a)(1)(B)(i) (i.e., a finding that a chemical substance is or will be produced in substantial quantities and either it may enter the environment in substantial quantities or there may be significant or substantial human exposure to the chemical substance), EPA may require any type of health or environmental effects testing necessary to address unanswered questions about the effects of the chemical substance. EPA need not limit the scope of testing required to the factual basis for the TSCA section 4(a)(1)(A)(i) or (B)(i) findings, as long as EPA also finds that there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and that testing is necessary to develop such data. This approach is explained in more detail in EPA's statement of policy for making findings under TSCA section 4(a)(1)(B) (frequently described as the ''B'' policy) in the **Federal Register** of May 14, 1993 (58 FR 28736, 28738–28739).

In this proposed rule, EPA intends to use its broad TSCA section 4(a) authority to obtain dermal absorption rate data necessary to support OSHA's development of ''skin designations'' (see Unit III.C. of this preamble) for the 47 chemical substances included in the proposed rule. EPA has made preliminary findings for these chemicals under TSCA section 4(a)(1)(B) that: They are produced in substantial quantities; there is or may be substantial human exposure to them; existing data are insufficient to determine or predict their health effects; and testing is necessary to develop such data.

Under TSCA section 10(b), EPA is responsible, through an interagency committee, for collecting data and disseminating the data to other Federal agencies, such as OSHA, as the Agency is proposing in this document. EPA has used its TSCA section 4(a) authority in the past to support regulatory programs of other EPA offices as well as other Federal agencies needing health and/or environmental effects test data. See, e.g., the final test rule for the Office of Water Chemicals (58 FR 59667, 59673 November 10, 1993).

III. Background

A. Why Is EPA Proposing To Take This Action?

Under TSCA section 4(e)(1), the ITC is responsible for recommending chemical substances and mixtures to the EPA Administrator for priority testing consideration. The chemical substances and mixtures so designated by the ITC comprise a list called the *Priority Testing List*. OSHA nominated 658 chemical substances and mixtures for ITC review in September 1991. The results of the ITC's review were published in the **Federal Register** issues of May 5, 1993 (58 FR 26898, 26900) and July 16, 1993 (58 FR 38490, 38492–38493). OSHA requested that the ITC assess the availability of data relevant to dermal absorption for these chemical substances and mixtures and determine the need for further testing (58 FR 26898, 26900, May 5, 1993). OSHA indicated to the ITC that it needed quantitative measures of dermal absorption to evaluate the potential hazard of these chemicals to workers (58 FR 38490, 38492, July 16, 1993). These quantitative measures are expressed as the dermal absorption rate for a particular chemical (59 FR 35720, 35725, July 13, 1994).

In its 31st, 32nd, and 35th ITC Reports to the EPA Administrator (58 FR 26898, May 5, 1993; 58 FR 38490, July 16, 1993; and 59 FR 67596, December 29, 1994, respectively), the ITC designated for *in vitro* dermal absorption rate testing a total of 83 of the chemical substances nominated by OSHA. In reducing OSHA's list of 658 chemicals to 83 chemicals, the ITC

grouped the nominated chemicals into categories as a means of prioritizing the chemicals for consideration. Chemicals that were assigned to categories such as polymers, pesticides, and chloroflurocarbons were eliminated from consideration by the ITC. They were eliminated because, among other reasons, they are regulated under other Federal authorities or because EPA, under TSCA, does not have the authority to require the testing of certain chemicals (58 FR 26898, 26900–26902 and 58 FR 38490, 38493). The remaining chemicals were then grouped by production volume, and literature searches were performed.

The ITC performed searches for data relating to the chemicals on the following data bases: RTECS (Registry of Toxic Effects of Chemical Substances), TOXLINE (TOXicology information onLINE), MEDLINE (MEDlars onLINE), TOXLIT (TOXicology LITerature from special sources), CECATS (OPPT/Risk Assessment Division/Chemical Screening Branch's Existing Chemical Assessment Tracking System), TSCATS (Toxic Substances Control Act Test Submissions), and INDEX MEDICUS. The search strategy was designed to identify any toxicological tests that used the dermal route of exposure. The information from the searches was collected and the chemicals were subcategorized based on the number of postings (58 FR 38490, 38493).

The 83 chemicals designated by the ITC were identified as follows: The ITC first ascertained those chemicals having no dermal information postings in any of the data bases searched, and, in its 31st ITC Report, the ITC designated this group of 24 chemicals for priority testing consideration (58 FR 26898, 26900). A second group of chemicals with limited dermal toxicity or dermal absorption data (as determined by the searches described in this unit) from which dermal absorption rate could not be estimated was then identified by the ITC, which designated this group of 34 chemicals in its 32nd ITC Report (Ref. 1) (58 FR 38490, 38492, 38494). Another 25 chemicals were designated in the 35th ITC Report, after the ITC reviewed the dermal data of 63 high production volume chemicals with slightly larger information bases (59 FR 67596, 67598). These data were insufficient to estimate dermal absorption rate because dermal absorption rate could not be calculated on the basis of the dermal absorption data which were available to the ITC.

The ITC then reviewed data from TSCA section 8(a) and 8(d) rules which were promulgated by EPA for these 83 chemical substances included in the 31st, 32nd, and 35th ITC Reports (40 CFR 712.30(e) (58 FR 68311, December 27, 1993; 59 FR 5956, February 9, 1994; 60 FR 34879, July 5, 1995)). These rules required the reporting to EPA of certain production, use and exposure-related information, and unpublished health and safety data concerning these 83 chemicals.

In reviewing the available data relating to these 83 chemicals, the ITC determined that the dermal absorption rate data for methyl methacrylate (Ref. 2), diethyl phthalate (Ref. 3), and cyclohexanone (Ref. 4) would meet OSHA's data needs for the chemicals (59 FR 35720, 35722, July 13, 1994; 60 FR 42982, 42985, August 17, 1995). Accordingly, the ITC withdrew its designation for these 3 chemicals: Methyl methacrylate and diethyl phthalate in the 34th ITC Report (59 FR 35720, 35725, July 13, 1994), and cyclohexanone in the 36th ITC Report (60 FR 42982, 42987, August 17, 1995).

Eighty of the chemical substances nominated by OSHA are thus currently designated by the ITC for *in vitro* dermal absorption rate testing under TSCA. In the **Federal Register** notices containing the 31st, 32nd, and 35th ITC Reports, EPA additionally solicited proposals for TSCA section 4 enforceable consent agreements (ECAs) for dermal absorption rate testing of the 80 chemical substances. EPA received no proposals for ECAs for dermal absorption rate testing in response to these solicitations.

On April 3, 1996 (61 FR 14773), EPA again solicited interested parties to submit proposals for ECAs. On June 26, 1996, EPA received a proposal for the development of an ECA for *tert*-butyl alcohol from the ARCO Chemical Company (ARCO). On March 26, 1998, EPA received a study entitled ''[^{14}C]-*t*-Butyl Alcohol: Topical Application: Dermal Absorption Study in the Male Rat,'' from ARCO (Ref. 5). This study was reviewed and found acceptable as a means of determining the dermal absorption rate for *tert*-butyl alcohol (Ref. 6). Accordingly, this action does not propose testing of *tert*-butyl alcohol.

In this action, EPA is proposing *in vitro* dermal absorption rate testing of 47 chemical substances of interest to OSHA. These chemical substances are listed in Table 2 of Unit I.A. of this preamble, entitled ''List of Chemical Substances Proposed for Testing,'' and in Table 2 of § 799.5115(i) of the proposed regulatory text, entitled ''Required Testing: Chemical Substances Designated for *In Vitro* Dermal Absorption Rate Testing.'' EPA has selected these 47 chemicals for testing because the Agency believes that the production volumes of these chemicals are higher than the production volumes of the 32 chemicals remaining out of the 80 chemicals currently designated by the ITC. Testing of the latter chemicals for dermal absorption rate will be addressed at a later date.

B. How Was the Test Standard Developed For EPA's Use in This Proposed Rule?

In the solicitations discussed in Unit III.A. of this preamble, EPA referenced an *in vitro* dermal absorption rate test protocol for review by potential submitters in developing their proposed protocols (Ref. 7). The draft protocol was developed by a group of scientists from EPA in conjunction with ITC member and liaison agencies (Consumer Product Safety Commission (CPSC), Department of Defense (DoD), Food and Drug Administration (FDA), National Institute for Occupational Safety and Health (NIOSH), and OSHA) and consisted of the methods of Bronaugh and Collier (Ref. 7). EPA received public comments on the proposed protocol and entered them, along with the protocol itself, into the dockets for the 31st, 32nd, and 35th ITC Reports, as appropriate (docket control numbers OPPTS–41038, OPPTS–41039, and OPPTS–41042, respectively). In addition, the Chemical Manufacturers Association (CMA) submitted a proposed protocol outlining an alternative method (Ref. 8). Scientists from EPA and other Federal agencies represented on the ITC (including OSHA) reviewed the public comments and the CMA proposal. Based on their review of the Bronaugh and Collier protocol, public comments, and the CMA proposal, EPA and ITC scientists developed the *in vitro* dermal absorption rate test method which is the test standard used in this proposed rule.

C. How Will The Data Developed Under This Test Rule Be Used?

This proposed rule would require the development of quantitative measures of dermal absorption rate to assist in evaluating the potential contribution of dermal absorption of the chemical substances proposed for testing to total exposures to workers from chemicals in the workplace. The dermal absorption rate data obtained under this testing program would be used to support OSHA's development of ''skin designations'' for the chemical substances included in this proposed rule.

OSHA assigns a skin designation to a chemical if it determines that cutaneous exposure (through the skin, eyes, and mucous membranes) to the chemical may result in systemic toxicity. Skin

designations are used by OSHA to provide specific guidance to employers concerning whether changes should be made to processes involving chemical substances in order to reduce the hazard of systemic toxicity from dermal absorption of these chemicals. Changes to a process might include changes in engineering controls or changes in the use or type of personal protective equipment. Skin designations alert industrial hygienists, employers, and workers to potential adverse health effects resulting from dermal exposure to chemicals in the workplace.

The information that would be developed under this test rule would not only support OSHA's activities, but also would support chemical risk assessment activities at EPA as well as at other Federal agencies. In particular, these data would provide input for chemical risk assessments involving environmental exposure scenarios which include intentional or incidental skin contact.

IV. EPA Findings

A. What Is The Basis For EPA's Proposal To Test These Chemical Substances?

As indicated in Unit II. of this preamble, in order to develop a rule under TSCA section 4(a) requiring the testing of chemical substances or mixtures, EPA must make certain findings for those chemicals regarding either:

1. Hazard (TSCA section 4(a)(1)(A)(i)); or

2. Production and either chemical release or human exposure (TSCA section 4(a)(1)(B)(i)).

EPA is proposing to require testing of the chemical substances included in this test rule based on its findings under TSCA section 4(a)(1)(B)(i) relating to ''substantial'' production and ''substantial human exposure,'' as well as findings under TSCA sections 4(a)(1)(B)(ii) and (iii).

In EPA's ''B'' policy, discussed in Unit II. of this preamble, ''substantial'' production of a chemical substance or mixture is generally interpreted to be aggregate production (including import) volume equaling or exceeding one million pounds (lbs) per year of that chemical substance or mixture (58 FR 28736, 28746, May 14, 1993). The ''B'' policy sets out the numeric threshold for ''substantial human exposure'' of workers to a chemical substance or mixture of 1,000 workers annually being exposed to that chemical substance or mixture. *Id.* See EPA's ''B'' policy (58 FR 28736, May 14, 1993) for further discussion on how EPA makes decisions under TSCA section 4(a)(1)(B)(i).

EPA has found preliminarily that, under TSCA section 4(a)(1)(B)(i), each of the 47 chemical substances proposed for dermal absorption rate testing is produced in ''substantial quantities'' and there is or may be ''substantial human exposure'' to each chemical substance. In addition, under TSCA section 4(a)(1)(B)(ii), EPA believes that there are insufficient data and experience to reasonably determine or predict the effects of the manufacturing, processing, or use of these chemical substances, or of any combination of such activities, on human health. In particular, as discussed in Unit IV.D. of this preamble, EPA has determined that there are insufficient data relating to dermal absorption rate resulting from human exposure to these chemicals. EPA also finds that testing the substances identified in this document is necessary to develop such data (TSCA section 4(a)(1)(B)(iii)). EPA has not identified any ''additional factors'' as discussed in the ''B'' policy (58 FR 28736, 28746, May 14, 1993) to cause the Agency to use decisionmaking criteria other than those described in the policy.

The specific chemical substances included in this proposed test rule are listed in Table 2 of Unit I.A. of this preamble, and in § 799.5115(i) of the proposed regulatory text.

B. Are These Chemical Substances Produced in Substantial Quantities?

Each of the chemical substances included in this proposal is produced in an amount equal to or greater than one million lbs per year (Ref. 9), based on information gathered pursuant to the 1994 TSCA section 8(a) Inventory Update Rule (40 CFR part 710) and contained in the TSCA Chemical Update System. Their production volumes range from over one million to well over one billion lbs annually. Assuming the continued accuracy of these figures, EPA believes that these annual production volumes are ''substantial'' as that term is used with reference to production in TSCA section 4(a)(1)(B)(i). See 58 FR 28736, 28746, May 14, 1993.

C. Are a Substantial Number Of Workers Exposed To These Chemicals?

EPA finds that the manufacturing, processing, and use of the chemical substances included in this document result or may result in exposure of a substantial number of workers. Table 3, entitled ''Exposure Information for Chemical Substances Included in This Proposed Test Rule,'' in Unit IV.C. of this preamble contains an estimate of the actual and potential worker exposure to these chemical substances (Ref. 10). These chemical substances are used in a wide variety of applications as industrial solvents, which result in potential exposures of workers as described in the exposure support document for this proposed rule (Ref. 10). EPA believes that the exposure to each chemical substance of 1,000 workers or more (Table 3 of this unit) is or may be ''substantial'' as that term is used with reference to ''human exposure'' in TSCA section 4(a)(1)(B)(i). See 58 FR 28376, 28746, May 14, 1993.

TABLE 3.—EXPOSURE INFORMATION FOR CHEMICAL SUBSTANCES INCLUDED IN THIS PROPOSED TEST RULE

CAS No.	Chemical name	Number of workers exposed[1]
60–29–7	Ethyl ether	272,746
74–96–4	Ethyl bromide	12,285
75–05–8	Acetonitrile	31,341
75–15–0	Carbon disulfide	45,761
75–35–4	Vinylidene chloride	2,679
77–73–6	Dicyclopentadiene	6,247
77–78–1	Dimethyl sulfate	10,482
78–59–1	Isophorone	47,097
78–83–1	Isobutyl alcohol	256,975
78–87–5	Propylene dichloride	2,944
78–92–2	*sec*-Butyl alcohol	126,200
79–20–9	Methyl acetate	20,455
79–46–9	2-Nitropropane	9,817
91–20–3	Naphthalene	112,695
92–52–4	Biphenyl	32,000

TABLE 3.—EXPOSURE INFORMATION FOR CHEMICAL SUBSTANCES INCLUDED IN THIS PROPOSED TEST RULE—Continued

CAS No.	Chemical name	Number of workers exposed[1]
95–49–8	*o*-Chlorotoluene	11,617
95–50–1	*o*-Dichlorobenzene	92,248
97–77–8	Disulfiram	53,525
98–29–3	*tert*-Butylcatechol	27,528
99–99–0	*p*-Nitrotoluene	4,354
100–00–5	*p*-Nitrochlorobenzene	2,949
100–01–6	*p*-Nitroaniline	1,448
100–44–7	Benzyl chloride	41,075
106–42–3	*p*-Xylene	20,367
106–46–7	*p*-Dichlorobenzene	33,980
107–06–2	Ethylene dichloride	83,245
107–31–3	Methyl formate	7,739
108–03–2	1-Nitropropane	21,535
108–90–7	Chlorobenzene	18,049
108–93–0	Cyclohexanol	112,366
109–66–0	Pentane	38,464
109–99–9	Tetrahydrofuran	356,041
110–12–3	Methyl isoamyl ketone	18,835
111–84–2	Nonane	7,277
120–80–9	Catechol	13,517
121–69–7	Dimethylaniline	30,479
122–39–4	Diphenylamine	155,673
123–42–2	Diacetone alcohol	264,660
126–99–8	*beta*-Chloroprene	17,752
127–19–5	Dimethyl acetamide	28,944
142–82–5	*n*-Heptane	449,487
150–76–5	*p*-Methoxyphenol	250,088
528–29–0	*o*-Dinitrobenzene	1,358
628–63–7	*n*-Amyl acetate	265,435
768–52–5	*N*-Isopropylaniline	>1,000[2]
25013–15–4	Vinyl toluene	25,353
34590–94–8	Dipropylene glycol methyl ether	210,735

[1]National Occupational Exposure Survey (NOES) conducted by the NIOSH (1981–1983), unless otherwise indicated. These data are the most recent available to the Agency (Ref. 10).
[2]Not listed in NOES data base. The exposure analysis for this chemical is attached to Reference 10.

D. Do Sufficient Data Exist For These Chemical Substances?

As discussed in this preamble, dermal absorption rate is an important factor in ascertaining the effects of the 47 chemicals in this proposed rule on human health. EPA has determined that there are no dermal absorption rate data for the chemicals in this proposed rule and, therefore, existing data are insufficient to reasonably determine or predict the human health effects relating to dermal absorption rate that result from manufacturing, processing, or use of the subject chemical substances. This finding is based on the review and analysis of relevant data by the ITC (which included EPA participation), as described in Unit III.A. of this preamble.

E. Is Testing Necessary For These Chemical Substances?

EPA believes that the proposed testing of the 47 subject chemical substances is necessary to develop dermal absorption rate data. This testing is needed to determine if the manufacturing, processing, or use of these chemical substances presents an unreasonable risk of injury to human health.

V. Proposed Rule

A. How Would the Studies Proposed Under This Test Rule Be Conducted?

EPA is proposing specific testing and reporting requirements for the chemical substances specified in Table 2 in § 799.5115(i) of the proposed regulatory text according to the *in vitro* dermal absorption rate test standard set forth at § 799.5115(h) of the proposed regulatory text.

The test standard that would be required under this rule was developed as described in Unit III.B. of this preamble. This standard describes the procedures for measuring a permeability constant (Kp) and a short-term absorption rate for chemicals in liquid form. Measurement of short-term absorption rates is only required when a Kp cannot be obtained using this test standard. For most chemicals, a Kp is useful in estimating skin permeation. However, for ''harsh'' chemicals, i.e., those that may damage the skin more severely with prolonged contact, it is more appropriate to obtain a short-term absorption rate measurement.

This test standard utilizes established *in vitro* diffusion cell techniques that allow absorption rate studies to be conducted using human skin (see the proposed regulatory text at § 799.5115(h)). The *in vitro* approach was chosen for practical considerations because it is efficient in terms of labor and materials and can be performed easily by a variety of laboratories. In addition, *in vitro* diffusion cell studies are necessary for measuring a Kp (Ref. 7).

The *in vitro* dermal absorption rate test standard allows use of cadaver skin and static diffusion cells to maintain the viability of the skin, thus more closely simulating *in vivo* conditions. This test method also requires the use of radiolabelled chemical substances unless the test sponsor can demonstrate that alternative, non-radiolabelled methods provide sensitivity sufficient to detect the parent chemical (and its major metabolites in those cases in which skin viability is maintained). The first six parameters that are discussed (choice of membrane, preparation of membrane, diffusion cell design, temperature, testing hydrophobic chemicals, and vehicle) are similar for determination of either of the two percutaneous absorption rate values. In

contrast, the remaining two parameters (i.e., dose and study duration) are different for the two percutaneous absorption rate values.

Testing under this proposed rule must be conducted in accordance with TSCA Good Laboratory Practice (GLP) Standards (40 CFR part 792).

B. What Substances Would Be Tested Under This Rule?

EPA is proposing that the chemical substances listed in Table 2 in § 799.5115(i) of the proposed regulatory text be tested at a purity of at least 99%.

C. Would I Be Required To Test Under This Rule?

Under TSCA section 4(a)(1)(B), EPA has made preliminary findings that there are insufficient data and experience to reasonably determine or predict health effects resulting from the manufacturing, processing, or use of the chemical substances listed in this proposed rule. As a result, under TSCA section 4(b)(3)(B), manufacturers and processors of these substances would be subject to the rule with regard to those listed chemicals which they manufacture or process.

1. *Would I be subject to this rule?* You would be subject to this rule and may be required to test if you manufacture (which is defined by statute to include import) or process, or intend to manufacture or process, one or more chemical substances listed in this proposed rule during the time period discussed in Unit V.C.2. of this preamble, entitled ''When would my manufacturing or processing (or my intent to do so) cause me to be subject to this rule?'' However, if you do not know or cannot reasonably ascertain that you manufacture or process a listed test substance (based on all information in your possession or control, as well as all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden), you would not be subject to the rule.

2. *When would my manufacturing or processing (or my intent to do so) cause me to be subject to this rule?* You would be subject to this rule if you manufacture or process, or intend to manufacture or process, a substance listed in the rule at any time from the effective date of the final test rule to the end of the test data reimbursement period.

The term *reimbursement period* is defined at 40 CFR 791.3(h) and may vary in length for each substance to be tested under a final TSCA section 4(a) test rule, depending on what testing is required and when testing is completed. See Unit V.C.4. of this preamble, entitled ''How do the reimbursement procedures work?''

3. *Would I be required to test if I were subject to the rule?* It depends on the nature of your activities. All persons who would be subject to this TSCA section 4(a) test rule, which incorporates EPA's generic procedures applicable to TSCA section 4(a) test rules (contained within 40 CFR part 790), would fall into one of two groups, designated here as Tier 1 and Tier 2. Persons in Tier 1 (those who would have to initially comply with the rule) must either: Submit to EPA letters of intent to conduct testing, conduct this testing, and submit the test data to EPA or apply to and obtain from EPA exemptions from testing. Persons in Tier 2 (those who would not have to initially comply with the rule) need not take any action unless they are notified by EPA that they are required to do so, as described in Unit V.C.3.d. of this preamble, entitled ''What would my obligations be if I were in Tier 2?'' Note that persons in Tier 1 who obtain exemptions and persons in Tier 2 would nonetheless be subject to providing reimbursement to persons who do actually conduct the testing, as described in Unit V.C.4. of this preamble, entitled ''How do the reimbursement procedures work?''

a. *Who would be in Tier 1 and Tier 2?* All persons subject to this rule would be considered to be in Tier 1 unless they fall within Tier 2. The following table describes who is in Tier 1 and Tier 2.

TABLE 4.— PERSONS SUBJECT TO THE RULE: PERSONS IN TIER 1 AND TIER 2

Tier 1 (Persons initially required to comply)	Tier 2 (Persons not initially required to comply)
•Persons that manufacture (as defined at TSCA section 3(7)), or intend to manufacture, a test rule substance who are not listed under Tier 2	•Persons that manufacture (as defined at TSCA section 3(7)) or intend to manufacture a test rule substance solely as one or more of the following: —As a byproduct (as defined at 40 CFR 791.3(c)); —As an impurity (as defined at 40 CFR 790.3); —As a naturally occurring substance (as defined at 40 CFR 710.4(b)); —As a non-isolated intermediate (as defined at 40 CFR 704.3); —As a component of a Class 2 substance (as described at 40 CFR 720.45(a)(1)(i)); —In amounts of less than 500 kilograms (kg) (1,100 lbs) annually (as described at 40 CFR 790.42(a)(4)); or —In small quantities solely for research and development (as described at 40 CFR 790.42(a)(5)). •Persons that process (as defined at TSCA section 3(10)) or intend to process a test rule substance (see 40 CFR 790.42(a)(2))

b. *When would it be appropriate for a person in Tier 1 to apply for an exemption rather than to submit a letter of intent to conduct testing?* You may apply for an exemption if you believe that the required testing will be performed by another person (or a consortium of persons formed under TSCA section 4(b)(3)(A)) in Tier 1. You can find procedures relating to exemptions in 40 CFR 790.80 through 790.99, and in the proposed regulatory text at § 799.5115(c)(2), (c)(5), and (c)(7). In this rule, EPA would not require equivalence data (i.e., data demonstrating that your substance is equivalent to the substance actually being tested) as a condition for approval of your exemption. EPA is interested in evaluating the effects attributable to each listed substance itself and has specified almost pure substances for testing.

c. *What would happen if I were in Tier 1 and I submitted an exemption application?* EPA believes that requiring the collection of duplicative data is unnecessarily burdensome. As a result, if EPA has received a letter of intent to test from another source or has received (or expects to receive) the test data that would be required under this rule, the Agency would conditionally approve your exemption application under 40 CFR 790.87. The Agency would

terminate conditional exemptions, if a problem occurs with the initiation, conduct, or completion of the required testing or the submission of the required data to EPA. EPA may then require you to submit a notice of intent to test or an exemption application. See 40 CFR 790.93 and the proposed regulatory text at § 799.5115(c)(6). Persons in Tier 1 who obtain exemptions and persons in Tier 2 would nonetheless be subject to providing reimbursement to persons who do actually conduct the testing, as described in Unit V.C.4. of this preamble, entitled ''How do the reimbursement procedures work?.''

d. *What would my obligations be if I were in Tier 2?* If you are in Tier 2, you would be subject to the rule and you would be responsible for providing reimbursement to persons in Tier 1, as described in Unit V.C.4. of this preamble. You are considered to have an automatic conditional exemption. You would not need to take any action unless you are notified by EPA that you are required to do so.

If a problem occurs with the initiation, conduct, or completion of the required testing, or the submission of the required data to EPA, the Agency may require you to submit a notice of intent to test or an exemption application. See 40 CFR 790.93 and the proposed regulatory text at § 799.5115(c)(6).

In addition, you would need to submit a notice of intent to test or an exemption application if:

i. No manufacturer in Tier 1 has notified EPA of its intent to conduct testing and

ii. EPA has published a **Federal Register** document directing all persons in Tier 2 to submit to EPA letters of intent to conduct testing or exemption applications. See 40 CFR 790.48(b) and the proposed regulatory text at § 799.5115(c)(4) and (c)(5).

The Agency would conditionally approve an exemption application under 40 CFR 790.87, if EPA has received a letter of intent to test or has received (or expects to receive) the test data required under this rule.

e. *How did EPA decide who would be in Tier 1 and Tier 2 and who would be excluded from the rule?* Under 40 CFR 790.2, EPA may establish procedures applying to specific test rules that differ from the generic procedures governing TSCA section 4(a) test rules in 40 CFR part 790. For purposes of this proposed rule, EPA is proposing to set forth certain requirements that differ from those under 40 CFR part 790.

Under 40 CFR part 790, in TSCA section 4(a) test rules EPA traditionally has treated the following persons as being in Tier 2. (These rules are found at 40 CFR part 799, subparts B and D).

- Processors (40 CFR 790.42(a)(2));
- Manufacturers of less than 500 kg (1,100 lbs) per year (''small-volume manufacturers'') (40 CFR 790.42(a)(4)); and
- Manufacturers of small quantities for research and development (''R&D manufacturers'') (40 CFR 790.42(a)(5)).

EPA has historically placed processors in Tier 2 because the Agency ''expected that, in most cases, testing will be performed by the manufacturers and that part of the cost of testing will be passed on to processors through the pricing mechanism, thereby enabling them to share in the costs of testing'' (50 FR 20652, 20654, May 17, 1985). In addition, ''[t]here are so many processors that it would be difficult to include them all in the technical decisions about the tests and in the financial decisions about how to allocate the costs'' (48 FR 31786, 31789, July 11, 1983).

EPA has historically placed small-volume manufacturers and R&D manufacturers in Tier 2 because this type of manufacturing ''normally represents a small percentage of the overall production volume [and] test sponsors are not expected to expend the administrative resources to recover the small proportional amounts of the testing costs from these manufacturers'' (55 FR 18881, May 7, 1990).

In this proposed test rule, EPA has reconfigured the tiers in 40 CFR 790.42. EPA has added the following persons to Tier 2: Byproduct manufacturers; impurity manufacturers; manufacturers of naturally occurring substances; manufacturers of non-isolated intermediates; and manufacturers of components of Class 2 substances. The Agency took administrative burden and complexity into account in determining who was to be in Tier 1 in this proposed rule. EPA believes that those persons in Tier 1 who would conduct testing under this rule, when finalized, would generally be large chemical manufacturers who, in the experience of the Agency, have traditionally conducted testing or participated in testing consortia under previous TSCA section 4(a) test rules.

The Agency also believes that byproduct manufacturers, impurity manufacturers, manufacturers of naturally occurring substances, manufacturers of non-isolated intermediates, and manufacturers of components of Class 2 substances have not themselves historically participated in testing or contributed to reimbursement of those persons who have conducted testing. EPA understands that these may include persons for whom the marginal transaction costs involved in negotiating and administering testing arrangements are deemed likely to raise the expense and burden of testing to a level that is disproportional to the additional benefits of including these persons in Tier 1. Therefore, EPA does not believe that the likelihood of the persons proposed to be added to Tier 2 actually doing the testing is sufficiently high to justify burdening these persons with Tier 1 requirements (e.g., submitting requests for exemptions). Nevertheless, these persons, along with all other persons in Tier 2, would be subject to providing reimbursement to persons who do actually conduct the testing, as described in Unit V.C.4. of this preamble, entitled ''How do the reimbursement procedures work?''

Section 4(b)(3)(B) of TSCA requires all manufacturers and processors of a chemical substance to test that chemical substance if EPA has made findings for that chemical substance, and therefore issued a TSCA section 4(a) test rule requiring testing. However, practicality must be a factor in determining who is subject to a particular test rule. Thus, persons who do not know or cannot reasonably ascertain that they are manufacturing or processing the substances subject to this proposed rule, e.g., manufacturers or processors of the substances as trace contaminants who are not aware of these activities, would not be subject to the rule. See Unit V.C.1 of this preamble and § 799.5115(b)(2) of the proposed regulatory text.

EPA is soliciting comment on who should be included in Tier 1 and Tier 2. The Agency may define these categories differently in response to comments received. EPA is also soliciting comment on who should not be subject to the rule. The latter persons are described at Unit V.C.1 of this preamble and § 799.5115(b)(2) of the proposed regulatory text.

f. *Should EPA prioritize which persons in Tier 2 would be required to perform testing?* EPA is considering subdividing Tier 2 to enable the Agency to prioritize which persons in Tier 2 would be required to perform testing, if needed. This would involve subdividing Tier 2 into:

i. *Tier 2A*. Those who manufacture, or intend to manufacture, a test rule substance solely as one or more of the following: A byproduct; an impurity; a naturally occurring substance; a non-isolated intermediate; a component of a Class 2 substance; in amounts less than 1,100 lbs. annually; or in small quantities solely for research and development.

ii. *Tier 2B.* Those who process, or intend to process, a test rule substance. If the Agency needed testing from persons in Tier 2, EPA would seek testing from persons in Tier 2A before proceeding to Tier 2B. EPA believes that, if the Agency were to subdivide Tier 2, persons in Tier 2A should be required to submit letters of intent to test or exemption applications before processors are called upon because testing costs are traditionally passed by manufacturers along to processors.

EPA is soliciting comment on whether this subtiering scheme should be applied in the final rule.

4. *How do the reimbursement procedures work?* In the past, persons subject to test rules have independently worked out among themselves their respective financial contributions to those persons who have actually conducted the testing. However, if persons are unable to agree privately on reimbursement, they may take advantage of EPA's reimbursement procedures at 40 CFR part 791, promulgated under the authority of TSCA section 4(c). These procedures include: The opportunity for a hearing with the American Arbitration Association; publication by EPA of a **Federal Register** document concerning the request for a hearing; and the appointment of a hearing officer to propose an order for fair and equitable reimbursement. The hearing officer may base his or her proposed order on the production volume formula set out at 40 CFR 791.48, but is not obligated to do so. Under this proposed rule, amounts manufactured as impurities would be included in production volume (40 CFR 791.48(b)), subject to the discretion of the hearing officer (40 CFR 791.40(a)). The hearing officer's proposed order may become the Agency's final order, which is reviewable in Federal court (40 CFR 791.60).

D. What Are the Reporting Requirements Proposed Under This Test Rule?

You would be required to submit interim progress reports for each test every 6 months, beginning 6 months after the effective date of the final rule. You would be required to submit a final report for a specific test by the deadline indicated as the number of months after the effective date that would be shown in Table 2 in § 799.5115(i) of the proposed regulatory text.

E. Would There Be Sufficient Test Facilities and Personnel To Undertake the Testing in This Test Rule?

EPA has conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing services created by TSCA section 4(a) test rules and has found that test facilities and personnel would adequately accommodate the testing specified in this proposed rule (Ref. 11).

F. Might EPA Seek Further Testing of the Chemicals in This Proposed Test Rule?

If EPA determines that it needs additional data regarding any of the chemical substances included in this proposed rule, the Agency might seek further health and/or environmental effects testing for these chemicals. Should the Agency decide to seek such additional testing, EPA would initiate a separate action for this purpose.

VI. Export Notification

Any person who exports, or intends to export, one of the chemical substances contained in this proposed rule in any form will be subject to the export notification requirements in TSCA section 12(b)(1) and 40 CFR part 707, subpart D, but only after the final rule is issued and only if the chemical is contained in the final rule. However, notification of export would generally not be required for articles, as provided by 40 CFR 707.60(b).

VII. Materials in the Official Record

The official record for this proposed rule has been established under docket control number OPPTS–42196. The following is a listing of the documents that have already been placed in the official record for this proposed rule:

A. Supporting Documentation

1. **Federal Register** documents:

a. Notice containing the 31st ITC Report to the EPA Administrator (58 FR 26898, May 5, 1993 (FRL–4583–4)).

b. Notice containing the TSCA section 4(a)(1)(B) Final Statement of Policy (58 FR 28736, May 14, 1993 (FRL–4059–9)).

c. Notice containing the 32nd ITC Report to the EPA Administrator (58 FR 38490, July 16, 1993 (FRL–4630–2)).

d. TSCA Sections 8(a) and 8(d) Final Rules for Chemicals Contained in the 31st ITC Report to the EPA Administrator (58 FR 68311, December 27, 1993 (FRL–4644–1)).

e. TSCA Sections 8(a) and 8(d) Final Rules for Chemicals Contained in the 32nd ITC Report to the EPA Administrator (59 FR 5956, February 9, 1994 (FRL–4745–5)).

f. Notice containing the 34th ITC Report to the EPA Administrator (59 FR 35720, July 13, 1994 (FRL–4870–4)).

g. Notice containing the 35th ITC Report to the EPA Administrator (59 FR 67596, December 29, 1994 (FRL–4923–2)).

h. TSCA Sections 8(a) and 8(d) Final Rules for Chemicals Contained in the 35th ITC Report to the EPA Administrator (60 FR 34879, July 5, 1995 (FRL–4954–9)).

i. Notice containing the 36th ITC Report to the EPA Administrator (60 FR 42982, August 17, 1995 (FRL–4965–6)).

j. Small Business Size Standards; Final Rule, issued by the Small Business Administration (SBA) (61 FR 3280, January 31, 1996).

k. Notice containing EPA's Solicitation of Interested Parties for Proposals for Enforceable Consent Agreements for Testing of 80 Chemicals of Interest to OSHA (61 FR 14773, April 3, 1996 (FRL–5359–3)).

2. Correspondence:

a. ARCO Chemical Company. Letter to Charles M. Auer, USEPA. Proposal for Development of ECA for *Tert*-Butyl Alcohol (June 26, 1996).

b. ARCO Chemical Company. Letter to Keith Cronin, USEPA. Letter transmitting a Dermal Absorption Rate Study in the Male Rat for *Tert*-Butyl Alcohol (March 23, 1998).

3. Other support documentation:

EPA. ''EPA Interim Guidance for Implementing the Small Business Regulatory Enforcement Fairness Act and Related Provisions of the Regulatory Flexibility Act.'' EPA SBREFA Task Force (February 5, 1997).

B. References

1. ITC. Chemicals Under Consideration for the 32nd ITC Report; Summary of Skin Absorption Data on OSHA Tier 2 Chemicals (September 22, 1993).

2. Zeneca. Methyl Methacrylate: *In Vitro* Absorption through Human Epidermis. Zeneca Central Toxicology Report No. CTL/P/4025 provided by the Methacrylate Producers Association, Washington, D.C. (1993).

3. Scott, R.C., Dugard, P.H., Ramsey, J.D., and Rhodes, C. *In Vitro* Absorption of Some *o*-Phthalate Diesters through Human and Rat Skin. *Environmental Health Perspectives*. 74:223–227 (1987).

4. Mraz, J., Galova, E., Nohova, H., and Vitkova, D. Uptake, Metabolism and Elimination of Cyclohexanone in Humans. *International Archives of Occupational Environmental Health*. 66:203–208 (1994).

5. ARCO Chemical Company. [^{14}C]-*t*-Butyl Alcohol: Topical Application: Dermal Absorption Study in the Male Rat. *Huntington Life Sciences* (January 7, 1998).

6. OSHA. Review of [^{14}C]-*t*-Butyl Alcohol: Topical Application: Dermal Absorption Study in the Male Rat. (June 24, 1998).

7. Bronaugh, R.L., and Collier, S.W. Protocol for *In Vitro* Percutaneous Absorption Studies. *In Vitro Percutaneous Absorption: Principles, Fundamentals, and Applications*. R.L. Bronaugh and H.I. Maibach, Eds. CRC Press, Boca Raton, FL. pp. 237–241 (1991).

8. Chemical Manufacturers Association (CMA). Letter to Charles M. Auer, USEPA. (October 21, 1994).

9. EPA. Economic Impact Analysis and Small Entity Impact Analysis of Proposed TSCA Section 4(a) Test Rule for 47 Chemicals Targeted for *In Vitro* Dermal Absorption Rate Testing. OPPT/EETD/EPAB, Washington, DC (May 5, 1999).

10. EPA. CEB Support to the OSHA Chemicals Test Rule—Number of Workers Exposed and TRI Release Data. OPPT/EETD/CEB, Washington, DC (March 1998).

11. EPA. EPA Census of TSCA Testing Laboratories. Washington, DC (October 10, 1996).

12. EPA. Laboratory Cost Estimate for *In Vitro* Dermal Absorption Rate Testing. OPPT/EETD/EPAB, Washington, DC (April 14, 1999).

13. EPA. ''Treatment of 12(b) Export Notification Unit Costs for Section 4 Test Rule Analyses.'' OPPT/EETD/EPAB, Washington, DC (April 1, 1999).

14. EPA. ''Economic Analysis in Support of the TSCA 12(b) Information Collection Request.'' OPPT/EETD/EPAB, Washington, DC (October 30, 1998).

VIII. Regulatory Assessment Requirements

A. Executive Order 12866

Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB), because this action is not likely to result in a rule that meets any of the criteria for a ''significant regulatory action'' provided in section 3(f) of the Executive Order.

EPA has prepared an economic analysis of the potential impact of this proposed rule, which is contained in a document entitled ''Economic Impact Analysis and Small Entity Impact Analysis of Proposed TSCA Section 4(a) Test Rule for 47 Chemicals Targeted for *In Vitro* Dermal Absorption Rate Testing'' (Ref. 9). This document is available as a part of the public version of the official record for this action (instructions for accessing this document are contained in Unit I.B. of this preamble), and is briefly summarized here. The costs developed in the economic impact analysis are based on laboratory test cost estimates that have been placed in the docket for this proposed rule (Ref. 12).

While legally subject to this test rule, processors of a subject chemical would only be required to comply with the requirements of the rule if they are directed to do so by EPA as described in § 799.5115(c)(5) and (c)(6) of the proposed regulatory text. EPA would only require processors to test if no person in Tier 1 has submitted a notice of its intent to conduct testing, or if, under 40 CFR 790.93, a problem occurs with the initiation, conduct, or completion of the required testing, or the submission of the required data to EPA. Because EPA has identified at least one manufacturer in Tier 1 for each subject chemical, the Agency assumes that, for each chemical in this proposed rule, at least one such person will submit a letter of intent to conduct the required testing and that that person will conduct such testing and will submit the test data to EPA. Because processors would not need to comply with the rule initially, the economic analysis does not address processors.

To evaluate the potential economic impact of testing on manufacturers of the chemical substances in this proposed rule, EPA estimated the impact of testing requirements as a percentage of each chemical's sale price. This measure compares the annualized testing costs per pound (based on the conservative assumption that all chemicals are produced in volumes of one million lbs), to the price per pound for each chemical. First, annualized testing costs (including laboratory and administrative expenditures) are calculated by converting the total testing costs in the first year into an equivalent series of expenditures over 15 years using a 7% discount rate. Second, annualized testing costs are divided by one million lbs (the assumed production volume per chemical) to derive the annualized unit (per pound) testing cost. The price impacts—testing costs as a percentage of each chemical's price—are calculated by dividing the annualized unit testing cost by each unit price and multiplying by 100. The Agency's estimated total costs of testing (including both laboratory and administrative costs), annualized testing cost, price impacts, and public reporting burden hours for the chemicals are presented in the economic analysis (Ref. 9).

Based on the economic analysis, the total one-time cost of this action, if finalized as proposed, is estimated to be $1.55 million. When this cost is annualized over 15 years using a 7% discount rate, the total annualized cost is estimated to be $170,576, with an estimated annualized cost of $3,628 per chemical. In addition, the estimated cost of the TSCA section 12(b)(1) export notification, which, in the final rule, would be required for the first export to a particular country of a chemical subject to the rule, is estimated to be $83.38 for the first time that an exporter must comply with TSCA section 12(b)(1) export notification requirements, and $19.08 for each subsequent export notification submitted by that exporter (Ref. 9, 13, and 14).

The economic impacts of the testing, expressed as a percentage of each chemical's sale price, range from 0.09% to 3.3%, with an average impact of 0.64%. EPA estimates that 5 of the 35 chemicals for which price data are available will experience an adverse impact of 1% or greater under the assumption that production volumes for these chemicals are one million lbs. In fact, these chemicals are all manufactured or imported in excess of 10 million lbs, reducing the estimated impact by a factor of 10 to less than 1%. For the remaining 12 chemicals without price data, EPA estimates that with annualized testing costs of $3,628 per chemical and one million lbs production volumes each, an economic impact of 1% or greater would occur only at a sales price below $0.36 per lb. Given that the average price for the other 35 chemicals is $0.97 per lb (prices range from $0.11 to $3.96 per lb), that the unavailability of price data for these 12 chemicals may indicate that they are higher priced specialty chemicals, and that their production volumes are likely to be higher than the one million lbs minimum, the likelihood of an adverse impact is low.

B. Executive Order 12898

This proposed rule does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

C. Executive Order 13045

Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), does not apply to this proposed rule, because it is not ''economically significant'' as defined under Executive Order 12866; and does not concern an

environmental health or safety risk that may have a disproportionate effect on children. This proposed rule would require the development of quantitative measures of dermal absorption rate to assist in evaluating the potential contribution of the chemical substances proposed for testing to total exposures to adult workers. The public is invited, however, to submit or identify peer-reviewed studies and data, of which EPA may not be aware, that assess results of early life exposure to the 47 chemicals proposed for testing in this document.

D. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (RFA), 5 U.S.C. 601 *et seq*., the Agency hereby certifies that this rule, if promulgated as proposed, will not have a significant economic impact on a substantial number of small entities. The factual basis for the Agency's determination is presented in the small entity impact analysis prepared as part of the economic analysis for this proposed rule (Ref. 9), and is briefly summarized here. The costs developed in the small entity impact analysis are based on the laboratory test cost estimates that have been placed in the docket for this proposed rule (Ref. 12).

For the purpose of analyzing potential impacts on small entities, EPA used the RFA definition of small entities in RFA section 601(6). Under this section, a small entity may be a small government, a small non-profit organization, or a small business. Because EPA does not believe that governments or non-profit organizations are likely to be burdened by testing requirements under this proposed rule, EPA's analysis presents only the estimated potential impacts on small businesses.

Section 601(3) of the RFA establishes as the default definition of small business the definition used in section 3 of the Small Business Act (15 U.S.C. 632) under which the SBA establishes small business size standards (13 CFR 121.201). For this proposed rule, EPA has analyzed the potential small business impacts using the size standards established under the RFA section 601(3) definition.

In addition, in analyzing potential impacts, the RFA recognizes that it may be appropriate at times for Federal agencies to use an alternate definition of small business. As such, RFA section 601(3) also provides that an agency may establish a different definition of small business after consultation with the SBA Office of Advocacy and after notice and an opportunity for public comment. Even though the Agency has used the default SBA definition of small business to conduct its analysis of potential small entity impacts for this proposed rule, EPA does not believe that the SBA size standards are generally the best size standards to use in assessing potential small entity impacts with regard to TSCA section 4(a) test rules.

The SBA size standards, which are primarily intended to define whether a business entity is eligible for Federal government programs and preferences reserved for small businesses (13 CFR 121.101), ''seek to ensure that a concern that meets a specific size standard is not dominant in its field of operation'' (13 CFR 121.102(b)). See section 632(a)(1) of the Small Business Act. The SBA size standard is generally based on the number of employees an entity in a particular industrial sector may have. For example, in the chemical manufacturing industrial sector (i.e., SIC 28 and SIC 29), approximately 98% of the industries would be classified as small businesses under the default SBA definition. The SBA size standard for 75% of this industry sector is 500 employees, and the size standards for 23% of this industry sector are 750, 1,000, or 1,500 employees. As a result, when assessing the potential impacts of test rules on chemical manufacturers, EPA believes that a standard based on total annual sales may provide a more appropriate means to judge the ability of a chemical manufacturing firm to support chemical testing without significant costs or burdens.

EPA is currently determining what level of annual sales would provide the most appropriate size cutoff with regard to various segments of the chemical industry usually impacted by TSCA section 4(a) test rules, but has not yet reached a determination. As stated in this unit, therefore, the factual basis for the RFA determination for this proposed rule is based on an analysis using the default SBA size standards. Although EPA is not proposing to establish an alternate small business definition in the small entity impact analysis conducted for this proposed rule, the analysis includes the results of calculations using a size standard based on total annual sales. EPA is interested in receiving comments on whether the Agency should consider establishing an alternate small business definition to use in the small entity impact analyses for future TSCA section 4(a) test rules, and what size cutoff may be appropriate.

Based on the Agency's estimated total costs for this proposed rule, which are summarized in Unit VIII.A. of this preamble, EPA estimates that the annualized cost for the testing in this proposed rule will be $3,628 per chemical. As discussed previously, EPA was unable to obtain any price information on 12 of the 47 chemicals in this proposed test rule. Nevertheless, EPA provides an estimate of the price of these chemicals in the economic analysis, and concludes that the total cost of testing these 47 chemicals as proposed, will not result in a significant impact on the chemical manufacturers subject to the proposed rule, regardless of their size. EPA identified a total of 102 ultimate corporate entities (UCEs) that would be potentially impacted by the proposed test rule. None of these manufacturers would experience a significant impact as a result of the rule.

In addition, the estimated cost of the TSCA section 12(b)(1) export notification, which, as a result of the final rule, would be required for the first export to a particular country of a chemical subject to the rule, is estimated to be $83.38 for the first time that an exporter must comply with TSCA section 12(b)(1) export notification requirements, and $19.08 for each subsequent export notification submitted by that exporter (Ref. 9, 13, and 14). EPA has concluded that the costs of TSCA section 12(b)(1) export notification would have a negligible impact on exporters of the chemicals in the final rule, regardless of the size of the exporter.

The Agency has also examined the standard practices that industry uses in carrying out chemical testing in response to test rules, such as this one. Based on that examination, EPA believes that:

1. Small businesses do not perform the testing themselves, nor do they participate in the organization of the testing effort, because health effects testing of chemical substances is generally carried out by consortia of the large manufacturers or importers of the chemical substances;

2. A small business would experience only very minor costs, if any, in securing an exemption from testing requirements, because exemption request requirements, described generally at 40 CFR 790.80 through 790.99 and the proposed regulatory text at § 799.5115(c)(2), (c)(5), and (c)(7), are minimal and EPA does not charge a fee for filing such a request; and

3. Small businesses are unlikely to be affected by the reimbursement requirements because under the reimbursement provisions described in 40 CFR part 791, manufacturers and importers with a significant share of production or importation are the entities that will likely pay the highest share of testing costs, and the marginal

benefit of securing reimbursement from small contributors may not be worth the cost.

Information relating to this determination has been included in the public version of the official record for the proposed rule. This information will also be provided to the SBA Chief Counsel for Advocacy upon request. Any comments regarding the impacts that this action may impose on small entities, or regarding whether the Agency should consider establishing an alternate definition of small business to be used for analytical purposes for future test rules and what size cutoff may be appropriate, should be submitted to the Agency in the manner specified in Unit I.C. of this preamble.

E. Paperwork Reduction Act

Pursuant to the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), an Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information that is subject to approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after appearing in the preamble of the final rule, are listed in 40 CFR part 9, and included on the related collection instrument. The information collection activities related to chemical testing under TSCA section 4(a) have already been approved under OMB control number 2070–0033 (EPA ICR# 1139), and the information collection activities related to export notification under TSCA section 12(b)(1) are already approved under OMB control number 2070–0030 (EPA ICR# 0795). Since this proposed rule does not contain any new information collection activities, additional review and approval of these activities by OMB under the PRA is not necessary.

Although the information collection activities contained in this proposed rule have already been approved by OMB, the total burden hours currently approved for the information collection activities related to chemical testing in general include an average burden estimate to cover future test rules. As described in the information collection instrument for chemical testing, the Agency's total burden estimate specifically accounts for the potential issuance of approximately 7 final test rules during the approval period, with an estimated burden of less than 20,000 burden hours each. EPA believes that the existing approval includes a sufficient burden hour allocation to cover the estimated burden related to this proposed rule, if finalized as proposed. When the final rule is issued, EPA will verify that the approved burden hours will cover the estimated burden for the final rule, or request that the total approved burden hour allocation be increased accordingly.

The standard chemical testing program involves the submission of letters of intent to test (or exemption applications), study plans, semi-annual progress reports, and test results. For this proposed rule, EPA estimates that the information collection activities related to chemical testing would result in 105.4 burden hours for each chemical, for a total estimated burden increase of 4,954 hours (Ref. 9). The estimated burden of the information collection activities related to export notification is 0.5–1.5 burden hours for each chemical/country combination (Ref. 9). In estimating the total burden hours approved for the information collection activities related to export notification, the Agency has included sufficient burden hours to accommodate any export notifications that may be required by the Agency's issuance of final chemical test rules (Ref. 9, 13, and 14). As such, EPA does not expect to need to request an increase in the total burden hours approved by OMB for export notifications.

As defined by the PRA and 5 CFR 1320.3(b), *burden* means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Comments are requested on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques. Send comments to EPA as part of your overall comments on this proposed action in the manner specified in Unit I.C. of this preamble. In the final rule, the Agency will address any comments received regarding the information collection requirements contained in this proposal.

F. Unfunded Mandates Reform Act

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, EPA has determined that this proposed rule does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. It is estimated that the total one-time cost of the rule, which is summarized in Unit VIII.A. of this preamble, is $1.55 million, with the total annualized cost estimated to be $170,576, and the estimated annual cost per chemical to be $3,628. In addition, EPA has determined that this proposed rule does not significantly or uniquely affect small governments. Accordingly, today's proposed rule is not subject to the requirements of UMRA sections 202, 203, 204, or 205.

G. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments, or EPA consults with those governments. If EPA complies by consulting, Executive Order 12875 requires EPA to provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

EPA does not believe the today's proposed rule under TSCA section 4(a) creates a Federal mandate on State, local, or tribal governments, and thus, EPA does not believe that the requirements of section 1(a) of Executive Order 12875 apply to this rule. The Agency does not know of any State, local, or tribal governments that would be subject to the requirements of the rule if it were promulgated as proposed. In the history of the TSCA section 4(a) testing program, the Agency has never received a letter of intent to

test or an exemption application from a State, local, or tribal government. EPA is requesting comment on whether any State, local, or tribal government would be subject to the requirements of the proposed rule. If, on the basis of these comments, EPA determines that the rule would create a Federal mandate, the Agency will consult with representatives of affected State, local, or tribal governments in accordance with the Executive Order prior to promulgating the final rule.

H. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA has determined that this proposed rule does not significantly or uniquely affect the communities of Indian tribal governments. This determination is based on the Agency's belief that, as a practical matter, the burden of chemical testing under TSCA section 4(a) rules has traditionally fallen on large, private sector manufacturers rather than on tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this proposed rule.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note), directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

If the Agency has made findings under TSCA section 4(a), EPA is required by TSCA section 4(b) to include specific standards for the development of data in test rules. The testing that would be required under this rule would be conducted according to the enforceable *in vitro* dermal absorption rate test standard proposed in this document. This test standard was developed by EPA in conjunction with ITC member and liaison agencies (CPSC, DoD, FDA, NIOSH, and OSHA). It was based on the methods of Bronaugh and Collier (Bronaugh, R.L., and Collier, S.W., Protocol for *In Vitro* Percutaneous Absorption Studies, *In Vitro Percutaneous Absorption: Principles, Fundamentals, and Applications*. R.L. Bronaugh and H.I. Maibach, Eds. CRC Press, Boca Raton, FL. pp. 237–241 (1991)) (Ref. 7) , and modified in response to public comments. The group of scientists that developed this test standard did so based on their experience with the methodologies available for conducting this type of testing. As a result of their collective expertise in these methodologies, they considered the method developed for this testing program to be an effective and efficient method for testing a large number of chemicals to determine an *in vitro* dermal absorption rate using human cadaver skin.

EPA is not aware of any potentially applicable voluntary consensus standards which needed to be considered in lieu of the *in vitro* dermal absorption rate test standard included in this proposed rule. The Agency invites comment on the potential use of voluntary consensus standards in this proposed rule, and, specifically, invites the public to identify potentially applicable voluntary consensus standard(s) and to explain why such standard(s) should be used here.

List of Subjects in 40 CFR Part 799

Environmental protection, Chemicals, Hazardous substances, Reporting and recordkeeping requirements, Laboratories.

Dated: June 1, 1999.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR chapter I, subchapter R, be amended as follows:

PART 799—[AMENDED]

1. The authority citation for part 799 would continue to read as follows:

Authority: 15 U.S.C. 2603, 2611, 2625.

2. By adding § 799.5115 to subpart D to read as follows:

§ 799.5115 Chemical testing requirements for certain chemicals of interest to the Occupational Safety and Health Administration.

(a) *What substances will be tested under this section?* Table 2 in paragraph (i) of this section identifies the chemical substances that must be tested under this section. The purity of each test substance must be 99% or greater unless otherwise specified in this section.

(b) *Am I subject to this section?* (1) If you manufacture (including import) or intend to manufacture, or process or intend to process, any chemical substance listed in Table 2 of paragraph (i) of this section at any time from the effective date specified in Table 2 of paragraph (i) of this section to the end of the test data reimbursement period as defined in 40 CFR 791.3(h), you are subject to this section with respect to that chemical substance.

(2) If you do not know or cannot reasonably ascertain that you manufacture or process a chemical substance listed in Table 2 of paragraph (i) of this section during the time period described in paragraph (b)(1) of this section (based on all information in your possession or control, as well as all information that a reasonable person similarly situated might be expected to possess, control, or know, or could obtain without unreasonable burden), you are not subject to this section with respect to that chemical substance.

(c) *If I am subject to this section, when must I comply with it?* (1)(i) Persons subject to this section are divided into two groups, as set forth in Table 1 of this paragraph: Tier 1 (persons initially required to comply) and Tier 2 (persons not initially required to comply). If you are subject to this section, you must determine if you fall within Tier 1 or Tier 2, based on Table 1 of this paragraph.

TABLE 1.—PERSONS SUBJECT TO THE RULE: PERSONS IN TIER 1 AND TIER 2

Persons initially required to comply with this section (Tier 1)	Persons not initially required to comply with this section (Tier 2)
•Persons not otherwise specified in column 2 of this table that manufacture (as defined at TSCA section 3(7)) or intend to manufacture a chemical substance included in this section.	•Persons that manufacture (as defined at TSCA section 3(7)) or intend to manufacture a chemical substance included in this section solely as one or more of the following: —As a byproduct (as defined at 40 CFR 791.3(c)); —As an impurity (as defined at 40 CFR 790.3); —As a naturally occurring substance (as defined at 40 CFR 710.4(b)); —As a non-isolated intermediate (as defined at 40 CFR 704.3); —As a component of a Class 2 substance (as described at 40 CFR 720.45(a)(1)(i)); —In amounts of less than 500 kilograms (kg) (1,100 lbs) annually (as described at 40 CFR 790.42(a)(4)); or —For research and development (as described at 40 CFR 790.42(a)(5)). •Persons that process (as defined at TSCA section 3(10)) or intend to process a chemical substance included in this section (see 40 CFR 790.42(a)(2)).

(ii) Table 1 of paragraph (c)(1)(i) of this section expands the list of persons specified in § 790.42(a)(2), (a)(4), and (a)(5) of this chapter, who, while legally subject to this section, must comply with the requirements of this section only if directed to do so by EPA under the circumstances set forth in paragraphs (c)(4) and (c)(5) of this section.

(2) If you are in Tier 1 with respect to a chemical substance listed in Table 2 of paragraph (i) of this section, you will be required to comply with this section with regard to that chemical substance, as described in paragraph (d) of this section, no later than 30 days after the effective date specified in Table 2 of paragraph (i) of this section for that chemical substance. Sections 790.45(a) and 790.80(b)(1) of this chapter do not apply to this section.

(3) If you are in Tier 2 with respect to a chemical substance listed in Table 2 of paragraph (i) of this section, you are considered to have an automatic conditional exemption and you will be required to comply with this section with regard to that chemical substance only if directed to do so by EPA under paragraphs (c)(5) or (c)(6) of this section.

(4) If no person in Tier 1 has notified EPA of its intent to conduct one or more of the tests required by this section on any chemical substance listed in Table 2 of paragraph (i) of this section within 30 days after the effective date in Table 2 of paragraph (i) of this section, EPA will publish a **Federal Register** document that will specify the test and the chemical substance for which no letter of intent has been submitted. Section 790.48(b)(2) of this chapter does not apply to this section.

(5) If you are in Tier 2 with respect to a chemical substance listed in Table 2 of paragraph (i) of this section, and if you manufacture or process this chemical as of the effective date specified in Table 2 of paragraph (i) of this section, or within 30 days after publication of the **Federal Register** document described in paragraph (c)(4) of this section, you must do the following: For each test on that chemical specified in the **Federal Register** document described in paragraph (c)(4) of this section, either notify EPA by letter of your intent to test or submit to EPA an exemption application. You must comply within 30 days after the date of publication of the **Federal Register** document described in paragraph (c)(4) of this section. Sections 790.48(b)(3), and 790.80(a)(2) and (b)(1) of this chapter do not apply to this section.

(6) If a problem occurs with the initiation, conduct, or completion of the required testing or the submission of the required data with respect to a chemical substance listed in Table 2 of paragraph (i) of this section, under the procedures in 40 CFR 790.93 and 790.97, EPA will terminate all testing exemptions with respect to that substance and may notify persons in Tier 1 and Tier 2 that they are required to submit letters of intent to test or exemption applications within a specified period of time. A notification will be given by certified letter or by publication of a **Federal Register** document.

(7) If you are required to comply with this section, but your manufacturing or processing of a chemical substance listed in Table 2 of paragraph (i) of this section begins after the applicable compliance date referred to in paragraphs (c)(2), (c)(5) or (c)(6) of this section, you must comply by submitting a letter of intent to test or an exemption application as of the day you begin manufacturing or processing. Sections 790.45(d)(1) and (d)(2), and 790.80(b)(2) and (b)(3) of this chapter do not apply to this section.

(d) *What must I do to comply with this section?* (1) To comply with this section you must either:

(i) Submit to EPA a letter of intent to test, conduct the testing specified in Table 2 of paragraph (i) of this section, and submit the test data to EPA; or

(ii) Apply to and obtain from EPA an exemption from testing.

(2) You must also comply with the procedures governing test rule requirements in part 790 of this chapter, including the submission of letters of intent to test or exemption applications, the conduct of testing, and the submission of data; part 792 of this chapter; and this section.

(e) *If I do not comply with this section, when will I be considered in violation of it?* You will be considered in violation of this section as of 1 day after the date by which you are required to comply with this section. Sections 790.45(e) and (f) of this chapter do not apply to this section.

(f) *How are EPA's data reimbursement procedures affected for purposes of this section?* If persons subject to this section are unable to agree on the amount or method of reimbursement for test data development for one or more chemical substances included in this section, any person may request a hearing as described in 40 CFR part 791. In the determination of fair reimbursement shares under this section, if the hearing officer chooses to use a formula based on production volume, the total production volume amount will include amounts of a chemical substance produced as an impurity.

(g) *Who must comply with the export notification requirements?* Any person who exports, or intends to export, a chemical substance listed in Table 2 of paragraph (i) of this section is subject to part 707, subpart D, of this chapter.

(h) *What test standard must I follow?* The chemical substances identified by Chemical Abstract Service (CAS) registry number and chemical name in Table 2 of paragraph (i) of this section must be tested as follows:

(1) *Applicability*. This *in vitro* dermal absorption rate test standard must be used for all testing conducted under this section.

(2) *Source*. The source used to develop this test standard is the ''Protocol for *In Vitro* Percutaneous Absorption Studies,'' (Referenced in paragraph (h)(8)(i)(A) of this section).

(3) *Purpose*. In the assessment and evaluation of the characteristics of a chemical substance or mixture (test substance), determination of the rate of absorption of the chemical substance where dermal exposure to the chemical substance in the workplace may result in systemic toxicity is important. This test standard is designed to develop data on the rate at which chemicals are absorbed through the skin so that the body burden of chemical resulting from dermal exposure in the workplace can be better evaluated.

(4) *Principles of the test method*. This test standard describes procedures for measuring a permeability constant (Kp) and a short-term *in vitro* absorption rate for chemical substances in liquid form. The test standard utilizes *in vitro* diffusion cell techniques which allow absorption studies to be conducted with human skin. *In vitro* diffusion studies are necessary for measuring a Kp. This test standard specifies the use of cadaver skin and static diffusion cells to maintain the viability of the skin, thus, more closely simulating *in vivo* conditions. It also requires the use of radiolabeled test chemicals unless it can be demonstrated that procedures utilizing a non-radiolabeled test substance are able to measure the substance with a sensitivity equivalent to the radiolabeled method.

(5) *Test procedure*—(i) *Choice of membrane*—(A) *Skin selection*. Human cadaver skin must be used in all testing conducted under this test standard. The most accurate absorption-rate data for regulatory concerns related to human health would be obtained with live human skin. Because this test standard requires the use of static diffusion cells, maintenance of skin viability is not necessary. However, the time elapsed between death and harvest of the tissue must be reported.

(B) *Number of samples*. Data from a total of at least six samples obtained from at least three human subjects must be averaged to allow for biological variation among subjects.

(C) *Anatomical region*. In order to minimize the variability in skin absorption measurements for these tests, samples of human skin must be obtained from the abdominal region of human subjects of known source and disease state. Variability in skin permeation is well known to occur in different anatomical regions. The trunk and its extremities have reasonably similar barrier properties (less than 2-fold differences). Enhanced absorption can be observed in regions of the face (4-fold) and the scrotum (20-fold). Small differences in regional absorption may not be significant compared to intersubject variability

(D) *Validation of human skin barrier*. Barrier properties of human skin must be pretested with a standard compound such as tritiated water prior to conducting an experiment with the test chemical because barrier alteration can result from surgery or topical scrubbing, as discussed in the reference in paragraph (h)(8)(i)(B) of this section.

(ii) *Preparation of membrane*. Full thickness skin must not be used. Because chemicals are taken up by blood vessels directly beneath the epidermis *in vivo*, this *in vitro* test standard must be conducted using a membrane with most of the dermis removed. This is particularly important for hydrophobic chemicals that diffuse slowly through the dermis. A suitable membrane must be prepared from skin with a dermatome at a thickness of 200 to 500 millimeters (mm). The microtomed skin samples can be stored frozen for up to 2 weeks, if necessary, provided that they are frozen quickly and the barrier properties of the samples are confirmed.

(iii) *Diffusion cell design*. Static diffusion cells must be used in these studies. The testing laboratory must verify that the difference in the concentration of the test compound across the skin membrane does not decrease by more than 10% during the experiment. This will ensure that the test compound concentration in the receptor fluid does not alter the penetration rate. Concentration of the neat liquid must be taken as the density of the compound.

(iv) *Temperature*. Skin must be maintained at a physiological temperature of 32° Celsius.

(v) *Testing hydrophobic chemicals*. Chemicals with water solubility less than about 10 milligrams/liter do not freely partition from skin into aqueous receptor fluid. To increase the water solubility of such hydrophobic chemicals, polyethoxyoleate (polyethylene glycol (PEG) 20 oleyl ether) must be added to the receptor fluid at a concentration of 6%. To ensure that an increase in concentration of the chemical in the receptor fluid does not alter penetration rate, the concentration difference across the membrane must not decrease by more than 10% during the experiment.

(vi) *Vehicle*. If the test chemical is a liquid at room temperature and does not damage the skin during the determination of Kp, it must be applied neat. If the chemical cannot be applied neat because it is a solid at room temperature or because it damages the skin when applied neat, it must be dissolved in water. If the concentration of a hydrophobic chemical in water is not high enough so that a steady-state absorption can be obtained, the chemical must be dissolved in isopropyl myristate. A sufficient volume of liquid must be used to completely cover the skin and provide the amount of test chemical needed as described in paragraph (h)(5)(vii) of this section.

(vii) *Dose*--(A) *Kp*. An ''infinite dose'' of the test chemical must be applied to the skin to achieve the steady-state rate of absorption necessary for calculation of a Kp. The actual concentration required to give an undepletable reservoir on the surface of the skin depends on the rate of penetration of the test chemical. Preliminary studies may be necessary to determine this concentration. The diffusion cell tops must be covered with a stopper or with parafilm 7 to ensure that significant evaporation of the vehicle or test chemical does not occur. The skin barrier integrity must be verified at the end of the experiment by measuring the absorption of a standard compound such as tritiated water, as discussed in the reference in paragraph (h)(8)(i)(B) of this section.

(B) *Short-term absorption rate*. Short-term absorption rates must be determined for all test chemicals. The dose of test chemical applied to the skin must be sufficient to completely cover the exposed skin surface. A minimum of four to six diffusion cells must be set up using skin from a single subject and two to three of these shall be terminated at 10 and 60 minutes. Skin absorption at each sampling time is the sum of the receptor-fluid levels and the absorbed chemical that remains in the skin, as discussed in the reference in paragraph (h)(8)(i)(C) of this section. Unabsorbed chemical must be removed from the skin surface by washing gently with soap and water. This procedure must be repeated with skin from two additional subjects. In order to ensure reliable short-term absorption rates, the diffusion cell tops must be covered with a stopper or with parafilm 7 to prevent evaporation of the test chemical.

(viii) *Study duration*—(A) *Kp*. This *in vitro* dermal absorption rate test must be performed until at least four absorption measurements are obtained during the steady state absorption portion of the procedure. A preliminary study may be

useful to establish time points for sampling. The required absorption measurements can be accomplished in an hour or two with fast-penetrating chemicals but require 24 hours or longer for slow-penetrating chemicals. Unabsorbed material need not be removed from the surface of the skin.

(B) *Short-term exposure rate*. The test chemical must be applied to skin for durations of at least 10 and 60 minutes. At the end of the study, the unabsorbed material must be removed from the surface of the skin with soap and water and the amount absorbed into the skin and receptor fluid must be determined, as discussed in the reference in paragraph (h)(8)(i)(C) of this section.

(6) *Results*--(i) *Kp*. The Kp must be calculated by dividing the steady-state rate of penetration (measured in micrograms x hr^{-1} x centimeters $(cm)^{-2}$) by the concentration of the test chemical (measured in micrograms x cm^{-3}) applied to the skin. For example, if the steady-state rate is 1 microgram x hr^{-1} x cm^{-2} and the concentration applied to the skin is 1,000 micrograms x cm^{-3}, then the Kp value is calculated to be 0.001 cm x hr^{-1}.

(ii) *Short-term exposure rate*. The rates of penetration (micrograms x hr^{-1} x cm^{-2}) must be determined from the total amount of test chemical found in the receptor fluid and skin after the 10- and 60-minute exposures.

(7) *Test reports*. In addition to compliance with the TSCA Good Laboratory Practice (GLP) Standards at 40 CFR part 792, the following specific information must be collected and reported under paragraph (i) of this section:

(i) *Test systems and test methods*. (A) A description of the date, time, and location of the test, the name(s) of the person(s) conducting the test, the location of records pertaining to the test, as well as a GLP statement. These statements must be certified by the signatures of the individuals performing the work and their supervisors.

(B) A description of the source, identity, and purity of the test chemical and the source, identity, and handling of the test skin. There must be a detailed description of the test procedure and all materials, devices used and doses tested, as well as a detailed description and illustration of flow-cell design. There must also be a description of the skin preparation method including measurements of the skin membrane thickness.

(C) A description of the analytical techniques to be used, including their accuracy, precision, and detection limits (in particular for non-radiolabeled tests), and, if a radiolabel is used, there must be a description of the radiolabel (e.g., type, location of, and radiochemical purity of the label).

(D) All data must be clearly identified as to dose and specimen. Derived values (means, permeability coefficient, graphs, charts, etc.) are not sufficient.

(ii) *Conduct of study*. Data must be collected and reported on the following:

(A) Monitoring of testing parameters.

(B) Temperature of chamber.

(C) Receptor fluid pH.

(D) Barrier property validation.

(E) Analysis of receptor fluid for radioactivity or test chemical.

(iii) *Results*. The Kp or short-term absorption rate must be presented. In addition, all raw data from each individual diffusion cell must be maintained to support the calculations of Kp and short-term exposure rates. When radiolabeled compounds are used, a full balance of the radioactivity must be presented, including cell rinsing and stability of the test substance in the donor compartment.

(8) *References*. (i) For background information on this test standard, the following references should be consulted. These references are available at the TSCA Nonconfidential Information Center, Rm. NE B–607, Environmental Protection Agency, 401 M St., SW., Washington, DC, 12 noon to 4 p.m., Monday through Friday, except legal holidays.

(A) Bronaugh, R.L., and Collier, S.W. Protocol for *In Vitro* Percutaneous Absorption Studies. *In Vitro Percutaneous Absorption: Principles, Fundamental, and Applications*. R.L. Bronaugh and H.I. Maibach, Eds. CRC Press, Boca Raton, FL. pp. 237–241 (1991).

(B) Bronaugh, R.L., Stewart, R.F., and Simon, M. Methods for *In Vitro* Percutaneous Absorption VII: Use of Excised Human Skin. *Journal of Pharmaceutical Sciences*. Vol. 75, pp. 1094–1097 (1986).

(C) Bronaugh, R.L., Stewart, R.F., and Storm, J.E. Extent of Cutaneous Metabolism during Percutaneous Absorption of Xenobiotics. *Toxicology and Applied Pharmacology*. Vol. 99, pp. 534–543 (1989).

(ii) Two additional documents consulted in developing this test standard are:

(A)Walker, J.D., Whittaker, C. and McDougal, J.N. Role of the TSCA Interagency Testing Committee in Meeting the U.S. Government Data Needs: Designating Chemicals for Percutaneous Absorption Rate Testing. *Dermatoxicology*. F. Marzulli and H. Maibach, Eds. Taylor & Francis, Washington, DC. pp. 371–381 (1996).

(B) Bronaugh, R.L. Stewart, R.F. Methods for *In Vitro* Percutaneous Absorption Studies IV: The Flow-Through Diffusion Cell. *Journal of Pharmaceutical Sciences*. Vol. 74, pp. 64–67 (1985).

(i) *Reporting requirements*. The reports submitted under this section must include the information specified in paragraph (h)(7) of this section. Interim progress reports for each test must be submitted every 6 months, beginning 6 months after the effective date of any specific test listed in Table 2 of this paragraph. A final report for a specific test must be submitted by the deadline indicated as the number of months after the effective date shown in Table 2 of this paragraph.

TABLE 2.—REQUIRED TESTING: CHEMICAL SUBSTANCES DESIGNATED FOR IN VITRO DERMAL ABSORPTION RATE TESTING

CAS No.	Chemical name	Deadline for final report	Number of Interim (6 month) reports required	Effective date
60–29–7	Ethyl ether	9	1	
74–96–4	Ethyl bromide	9	1	
75–05–8	Acetonitrile	9	1	
75–15–0	Carbon disulfide	9	1	
75–35–4	Vinylidene chloride	9	1	
77–73–6	Dicyclopentadiene	9	1	
77–78–1	Dimethyl sulfate	9	1	
78–59–1	Isophorone	9	1	
78–83–1	Isobutyl alcohol	9	1	
78–87–5	Propylene dichloride	9	1	
78–92–2	*sec*-Butyl alcohol	9	1	

TABLE 2.—REQUIRED TESTING: CHEMICAL SUBSTANCES DESIGNATED FOR IN VITRO DERMAL ABSORPTION RATE TESTING—Continued

CAS No.	Chemical name	Deadline for final report	Number of Interim (6 month) reports required	Effective date
79–20–9	Methyl acetate	9	1	
79–46–9	2-Nitropropane	9	1	
91–20–3	Naphthalene	9	1	
92–52–4	Biphenyl	9	1	
95–49–8	*o*-Chlorotoluene	9	1	
95–50–1	*o*-Dichlorobenzene	9	1	
97–77–8	Disulfiram	9	1	
98–29–3	*tert*-Butylcatechol	9	1	
99–99–0	*p*-Nitrotoluene	9	1	
100–00–5	*p*-Nitrochlorobenzene	9	1	
100–01–6	*p*-Nitroaniline	9	1	
100–44–7	Benzyl chloride	9	1	
106–42–3	*p*-Xylene	9	1	
106–46–7	*p*-Dichlorobenzene	9	1	
107–06–2	Ethylene dichloride	9	1	
107–31–3	Methyl formate	9	1	
108–03–2	1-Nitropropane	9	1	
108–90–7	Chlorobenzene	9	1	
108–93–0	Cyclohexanol	9	1	
109–66–0	Pentane	9	1	
109–99–9	Tetrahydrofuran	9	1	
110–12–3	Methyl isoamyl ketone	9	1	
111–84–2	Nonane	9	1	
120–80–9	Catechol	9	1	
121–69–7	Dimethylaniline	9	1	
122–39–4	Diphenylamine	9	1	
123–42–2	Diacetone alcohol	9	1	
126–99–8	*beta*-Chloroprene	9	1	
127–19–5	Dimethyl acetamide	9	1	
142–82–5	*n*-Heptane	9	1	
150–76–5	*p*-Methoxyphenol	9	1	
528–29–0	*o*-Dinitrobenzene	9	1	
628–63–7	*n*-Amyl acetate	9	1	
768–52–5	*N*-Isopropylaniline	9	1	
25013–15–4	Vinyl toluene	9	1	
34590–94–8	Dipropylene glycol methyl ether	9	1	

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Part VII

Environmental Protection Agency

40 CFR Part 745

Lead; Fees for Accreditiation of Training Programs and Certification of Lead-based Paint Activities Contractors; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS–62158A; FRL–6058–6]

RIN 2070–AD11

Lead; Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is issuing this final rule to establish fees for the accreditation of training programs and certification of contractors engaged in lead-based paint activities pursuant to section 402(a)(3) of the Toxic Substances Control Act (TSCA). As specified in section 402(a)(3), EPA must establish and implement a fee schedule to recover, for the U.S. Treasury, the Agency's cost of administering and enforcing the standards and requirements applicable to lead-based paint training programs and contractors engaged in lead-based paint activities. Specifically, this rule establishes the fees to be charged in those States and Indian country without authorized programs for training programs seeking accreditation under 40 CFR 745.225, and for individuals or firms engaged in lead-based paint activities seeking certification under 40 CFR 745.226. About three-quarters of the nation's housing stock built before 1978 (64 million homes) contains some lead-based paint. When properly maintained and managed, this paint poses little risk. If improperly managed, chips and dust from this paint can create a health hazard. Recent studies indicate that nearly one million children have blood-lead levels above safe limits; the most common source of lead exposure in the United States is lead-based paint. Today's rule supports the effort of 40 CFR part 745, subpart L to ensure that contractors claiming to know how to inspect, assess or remove lead-based paint, dust or soil are well qualified, trained and certified to conduct these activities. This final rule is based on a proposal published in the **Federal Register** of September 2, 1998.

DATES: The requirements in this final rule will take effect on June 11, 1999. In accordance with 40 CFR 23.5, this rule shall be promulgated for purposes of judicial review at 1 p.m. Eastern Standard Time on June 11, 1999.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Christine M. Augustyniak, Associate Director, Environmental Assistance Division (7408), Rm. E–543B, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Mike Wilson, Project Manager, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone number: 202–260–4664; fax number: 202–260–0770; e-mail address: wilson.mike@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you operate a training program required to be accredited under 40 CFR 745.225, or if you are a professional (individual or firm) who must be certified to conduct lead-based paint activities in accordance with 40 CFR 745.226. Potentially affected categories and entities may include:

Type of Entity	SIC Code	Examples of Entities
Lead abatement professionals	1799, 8734	Workers, supervisors, inspectors, risk assessors and project designers engaged in lead-based paint activities. Firms engaged in lead-based paint activities.
Training programs	1799, 8331, 8742, 8748	Training programs providing training services in lead-based paint activities.

This table is not intended to be exhaustive, but rather provides a guide to the entities that are likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in this table could also be affected. To determine whether you or your business is affected by this action, you should carefully examine the provisions in 40 CFR part 745. The Standard Industrial Classification (SIC) codes that are provided in the table have been included to assist you and others in determining whether or not this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed in the FOR FURTHER INFORMATION CONTACT section.

II. How Can I Get Additional Information, Including Copies of this or Other Related Documents?

A. Electronically

You may obtain electronic copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under ''Federal Register Environmental Documents.'' You can also go directly to the ''Federal Register'' listings at http://www.epa.gov/homepage/fedrgstr/.

B. In Person

The Agency has established an official record for this action under docket control number OPPTS–62158A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from 12 noon to 4 p.m., Monday through Friday, excluding

legal holidays. The telephone number of the Center is (202) 260–7099.

III. Who Will Be Required to Pay Fees Under this Rule?

The fees in this rule apply to: (1) Training programs applying to EPA for the accreditation and re-accreditation of training courses in the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker, and (2) individuals and firms seeking certification and re-certification from EPA to engage in lead-based paint activities in one or more of the above-mentioned disciplines. Consistent with TSCA section 402(a)(3) and as further described in this preamble, this rule precludes the imposition of fees for the accreditation of training programs operated by a State, federally recognized Indian Tribe, local government, or nonprofit organization. This exemption does not apply to the certification of firms or individuals.

This rule applies only in States and Indian country where there are no authorized programs pursuant to 40 CFR part 745, subpart Q. For further information regarding the authorization status of States or Indian Tribes contact the National Lead Information Center (NLIC) at 1–800–424–LEAD.

IV. Under What Legal Authority Is this Action Being Issued?

EPA is issuing this rule under the authority of section 402 of TSCA (15 U.S.C. 2682). Sections 402(a)(1) and (a)(2) require the Agency to promulgate regulations for, among other things, the accreditation of training programs and the certification of individuals and firms engaged in lead-based paint activities. The regulation titled ''Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child Occupied Facilities'' was published in the **Federal Register** of August, 29 1996 (61 FR 45805) (FRL–5389–9), and appears at 40 CFR part 745, subpart L. Section 402(a)(3) of TSCA requires, with certain exceptions, that the Administrator of EPA impose a fee on persons operating accredited training programs and on individuals and firms engaged in lead-based paint activities certified under TSCA. Section 402(a)(3) requires that the fees be established at a level necessary to cover the costs of administering and enforcing the standards and regulations under this section. EPA does not have the authority to retain fees collected under this program. Therefore, fees collected by the Agency will be deposited into the U.S. Treasury as required by 31 U.S.C. 3302(b).

Section 553 of the Administrative Procedure Act (APA) provides that most final rules should become effective no sooner than 30 days after publication in the **Federal Register**. The purpose of the 30–day lag time is to ''afford persons affected a reasonable time to prepare for the effective date of a rule or rules or to take any other action which the issuance of rules may prompt.'' Sen. Rep. 752, 79th Cong., 1st sess. at p.15. However, the APA also provides that agencies may for ''good cause'' make rules effective in less than 30 days. Such good cause exists if it is in the interest of the persons affected by the rule that it be issued earlier. Attorney General's Manual on the APA at 37. EPA is invoking the ''good cause'' exemption in section 553(d)(3) of the APA to make this rule effective in less than 30 days because EPA believes that the early effective date will allow parties seeking certification or accreditation under the rule to receive the benefit of earlier EPA action on their applications. This may be particularly important to those training programs which have submitted early applications for accreditation in States and Tribes where EPA is administering the lead program, and which will not be able to offer lead-based paint activities training that satisfies EPA requirements after March 1, 1999, without EPA accreditation. Those parties wishing to defer payment of fees established under this rule may simply defer submission of an application to EPA for accreditation or certification.

V. How Does this Action Fit into EPA's Overall Lead Program?

The Residential Lead-Based Paint Hazard Reduction Act of 1992 (Title X) amended TSCA by adding a new Title IV. TSCA section 402, *Lead-Based Paint Activities Training and Certification*, directs EPA to promulgate regulations to govern the training and certification of individuals engaged in lead-based paint activities, the accreditation of training programs, and to establish standards for conducting lead-based paint activities. Section 404 of TSCA requires that EPA establish procedures for States and Indian tribes seeking to establish their own lead-based paint activities programs. On August 29, 1996, EPA promulgated final rules that implemented sections 402 and 404 of TSCA titled ''Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities.'' These rules are codified at 40 CFR part 745, subparts L and Q.

Section 402(a)(3) of TSCA directs the Agency to establish fees to recover the cost of administering and enforcing the lead-based paint activities training and certification program. The statute provides an exemption from fee payment for training programs operated by a State government, local government, or nonprofit organization.

Today's rule addresses this TSCA requirement with respect to entities regulated under part 745, subpart L. This rule establishes fees for the certification and periodic re-certification of individuals and firms, and for the accreditation and periodic re-accreditation of training programs. Also included are fees for examinations, replacement of a lost certificate or identification card, and for registration in more than one EPA-administered jurisdiction.

This rule also provides an exemption from fee payment for training programs operated by federally recognized Indian Tribes. As more fully described in the proposal for this rule, EPA's action in exempting Tribal training programs from the requirement to pay user fees recognizes that Tribes are government entities that should not be singled out from States and local governments for the payment of user fees.

EPA expects to develop additional regulations addressing lead-based paint activities for commercial and public buildings, bridges and superstructures, renovation and remodeling, and for the disposal of lead-based paint debris. To the extent EPA requires additional accreditations or certifications pursuant to such rules, additional fee rules may be developed.

VI. Summary of Proposed Rule and Public Comments

On September 2, 1998, EPA issued a direct final rule (63 FR 46668) (FRL–6017–8), and proposed rule (63 FR 46734) (FRL–6017–7) to establish fees for the accreditation of training programs and certification of contractors engaged in lead-based paint activities pursuant to section 402(a)(3) of the Toxic Substances Control Act (TSCA). As specified in section 402(a)(3), the proposed rule would have established fees to recover, for the U.S. Treasury, the Agency's cost of administering and enforcing the standards and requirements applicable to lead-based paint training programs and contractors engaged in lead-based paint activities. Specifically, the proposal established the fees to be charged in those States and Indian country without authorized programs, for training programs seeking accreditation under 40 CFR 745.225, and for individuals or firms engaged in lead-based paint activities seeking certification under 40 CFR 745.226.

In response to the proposal, EPA received 23 letters from the public during the comment period. On October 16, 1998, EPA announced that it was withdrawing the direct final rule and acting on the proposed rule (63 FR 55547) (FRL–6040–1). The Fees for Accreditation of Training Programs and Certification of Lead-based Paint Activities Contractors Proposal docket (OPPTS-62158) contains the proposal, public comments on the proposal, material EPA has added in reply to the public comments, and the Regulatory Impact Analysis for the proposed and the final rules.

As indicated above EPA received 23 comments by the close of the comment period. The largest number of responses was received from public health and environmental protection departments (32% of the responses) and lead-based paint activities firms (32% of the responses). Other commenters included representatives of lead-based paint training programs (14% of the responses) and businesses providing both training and consulting services (14% of the responses). A summary of all comments received, and EPA's responses, may be found in the appropriate sections of this preamble, or in the Response to Comments document which is available for public review in the TSCA Docket for this rulemaking (see Unit II. of this preamble). The paragraphs that follow briefly describe some of the key concerns that were raised by the commenters.

The majority of the comments received raised concerns regarding the fee levels. Specifically the concerns include the following: (1) The fees will be a disincentive to building a network of qualified trainers and abatement professionals; (2) the fees will promote unlawful practice; (3) the fees will have a negative impact on programs to train low-income persons; (4) worker fees are too high and this is magnified by mobility issues; (5) State concerns that the fees do not represent true cost; and (6) the fees will increase abatement cost and reduce the number of homes for which lead-based paint hazards are abated.

Several commenters raised concerns regarding the proposed provisions allowing fee exemptions for training programs operated by State and local governments, federally recognized Indian Tribes, and nonprofit organizations. Commenters also addressed the proposed rule's effect on small business, the multi-jurisdiction registration fee, the proposed one-time firm certification fee, and the inconsistency of inspector and risk assessor fees.

Importantly, EPA received no comments which questioned the overall program cost or the manner in which it was derived.

VII. Final Rule Provisions

In light of the public's comments, the Agency has carefully reviewed the proposed rulemaking and identified areas, within the Agency's discretion, which have been modified in this final rulemaking to respond to public comments. Except for these changes, this final rule is as proposed on September 2, 1998. These changes are described below.

A. Inconsistency of Risk Assessor and Inspector Fees

A commenter notes that the Federal fees seem to be inconsistent for risk assessors versus inspectors. Since an inspection can be conducted not only by a person certified by EPA as an inspector, but also by a person certified by EPA as a risk assessor, it would seem appropriate that the certification and re-certification fee for the risk assessor should be higher than the certification and re-certification fees for the inspector.

Upon review of risk assessor and inspector fees, an error was identified in the manner in which the burden determinations were applied. This error involved the transposition of numbers associated with evaluation factors used in determining the supervisor, risk assessor, and inspector fee levels. The Agency has recalculated the fees based upon corrected evaluation factors with the following result:

Lead-based Paint Activities-Individual	Certification	Re-certification
Inspector	$400	$350
Risk assessor	$520	$420
Supervisor	$470	$390

B. Firm Fee

EPA received comments regarding the firm fee. The commenters note that a one-time fee collected from a firm will do little in future fiscal years to recover the costs associated with the firm. Furthermore, several commenters do not feel that the proposed fee is adequate to recover costs.

The Agency evaluated the one-time certification fee for firms and agrees that it is inadequate to recover costs associated with the firm in future years. Therefore, the Agency will charge a fee to maintain a firm's certification of $430 every 3 years following initial certification to recover the continuing costs associated with the firm. This fee will include the established fixed amount to recover enforcement and headquarters administrative costs along with the cost of additional administrative tasks associated with this fee collection.

C. Worker Fee Levels and Worker Mobility

EPA received comments which expressed concern that worker fee levels are too high. One commenter feels that the total impact of training, certification, and lost wages during training for workers is cost prohibitive. Another commenter points out that workers are hourly wage-earners and cannot afford the fees proposed by EPA.

Many of the commenters were also concerned that the high fee levels are magnified by worker mobility issues which will further drive contracting firms costs up. The commenters feel that workers are hired for a particular job and laid off at the completion of that job. Therefore, workers tend to move from firm to firm and even out of the business. The commenters believe that these costs are prohibitive for contractor firms and make the cost of employee attrition unmanageable.

EPA also received comments which raised the issue that the proposed fees would have a disproportionately negative impact on efforts to train and certify low-income persons from the neighborhoods that are most impacted by lead hazards. As one commenter states ''the fees will have a chilling effect on community/low-income worker training programs.''

In response to these comments the Agency has decided to adjust the program cost distribution as it relates to firms and workers. The Agency, in a

separate determination discussed above, has evaluated the one-time certification fee for firms and has determined that it is inadequate to recover costs associated with the firm in future years. The Agency will charge a fee to maintain a firms certification of $430 every 3 years following initial certification. Therefore, the Agency has applied the increased revenue generated by the additional firm fee to reduce the worker fee level. The worker fee has decreased approximately 22% from $360 to $280. This $280 fee for workers provides for a 3– or 5–year certification period based upon the type of course completed. This translates to an annual cost of between $56 and $94. The worker re-certification fee was correspondingly lowered to $240.

D. Multi-jurisdiction Registration Fees for Firms

A commenter noted that firms are not assessed a multi-jurisdiction registration fee as are individuals and training providers.

Upon review of multi-jurisdiction registration fees for firms, an omission was found in the text of the proposed rule. The Economic Analysis for the rulemaking takes into account multi-jurisdiction registration for firms, the proposed rule does not. Therefore, EPA has modified the final rule text to include multi-jurisdiction fee provisions for firms.

E. Multi-jurisdiction Registration Fees for Indian Country

EPA received comments which argue that the accreditation and certification fees would be a disincentive to building a network of qualified trainers and abatement professionals.

Upon further evaluation it was determined that the multi-jurisdiction registration fee may cause a negative impact on the availability of lead abatement services in Indian Country. The Agency feels that the proposed multi-jurisdiction fee may be prohibitive and decrease the number of individuals, firms, and training programs willing to offer services in Tribes.

Therefore, the Agency has decided to change the multi-jurisdiction registration fee by modifying how the fee relates to Indian Tribes. Certification and accreditation to perform lead-based paint activities in Indian Tribes without authorized programs will be issued according to the boundaries established by the 10 EPA Regions. Therefore, an individual, firm, or training program that is certified or accredited to provide lead abatement services or training in any unauthorized Indian Tribe within a given EPA Region will be able to provide services in all unauthorized Indian tribes within the EPA Region. Also, the title ''multi-state registration fee'' in the proposed regulatory text has been modified to ''multi-jurisdiction fee'' to better reflect the nature of the fee.

F. Definition of Nonprofit

EPA received a comment which questions the adequacy of the proposed definition of ''nonprofit.'' The commenter states that labor-management sponsored training programs, which are operated as nonprofit entities, are for the most part not qualified under 501(c)(3) of the Internal Revenue Service (IRS) code.

EPA notes that Subtitle C of Title X (section 1033), amending the Occupational Safety and Health Act of 1970, provides authority to provide grants to nonprofit organizations seeking to establish training programs. That provision defines nonprofit organizations as including colleges and universities, joint labor-management trust funds, states and nonprofit government employee organizations. As indicated, this statutory language includes labor-management trust funds, many of which the commenter notes would not be eligible for fee waivers under the proposed rule. It is the Agency's position that the definition of nonprofit be refined for purposes of this rulemaking in order to be consistent with this related provision.

In the process of refining the definition of nonprofit, the Agency has determined that no single IRS tax exempt classification or group of classifications adequately incorporates nonprofit training programs for purposes of this rulemaking. Therefore, a more general definition was developed which enables the Agency to adequately ensure the nonprofit status of an organization without incorporating the constraints of the IRS tax exemption classifications. The revised definition reads as follows: ''Nonprofit means an entity which has demonstrated to any branch of the Federal Government or to a State, municipal, tribal or territorial government, that no part of its net earnings inure to the benefit of any private shareholder or individual.''

VIII. How Do I Pay the Fees?

Each fee payment described in this rule shall be in U.S. currency and shall be paid by check or money order. Individuals, firms, or training programs shall submit fee payments in accordance with instructions provided with the application materials. No application will be considered complete until payment is made and final certification/accreditation shall be dependent on the payment of the applicable fees.

IX. How Can I Apply for Accreditation or Certification?

The application requirements can be found in 40 CFR 745.225 and 745.226. In addition, the Agency has prepared application packages and guidance on applying. This material is available from EPA through the National Lead Information Center at 1–800–424–LEAD.

X. How Do the Regulatory Assessment Requirements Apply to this Action?

A. Executive Order 12866

Under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993) it has been determined that this is not a ''significant regulatory action'' subject to review by the Office of Management and Budget (OMB). EPA has prepared an economic analysis of the potential impact of this action, which is estimated to be $5.6 million over the next 5 years. The analysis is contained in a document entitled ''Economic Analysis of the TSCA Section 402(a)(3) Lead-Based Paint Accreditation and Certification Fee Rule.'' This document is available as a part of the public version of the official record for this action.

B. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agency hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. As indicated in Unit I. of this preamble, within the EPA-administered universe, the potentially affected entities consist of the following three basic types of entities: (1) Individuals engaged in lead-based paint activities; (2) firms engaged in lead-based paint activities; and (3) for-profit entities providing lead-based paint training. The potential impact of this action on small entities within this universe is described in Chapter 6 of the economic analysis, as referred to in Unit X.A. of this preamble.

In estimating the universe of potentially impacted small entities, EPA used the definitions provided by the Small Business Administration (SBA). This rule provides fee waivers for training programs operated by State and local governments, Indian Tribes, and nonprofit organizations. As such, these entities are not affected by this rule. With regard to individuals, to the extent that ''individuals'' are in business for themselves, EPA considered that entity to be a firm with one employee. The

analysis assumes that firms are likely to pay all or a portion of their employee's certification fees. As a result, the small entity impact analysis focuses on the potential impacts on two distinct types of affected entities, i.e., firms engaged in lead-based paint activities (including individuals in business for themselves), and for-profit entities providing lead-based paint training.

EPA estimates that 1,541 firms engaged in lead-based paint activities will be certified during the first 5 years in the EPA- administered program universe. Using the revenue distribution for Standard Industrial Code (SIC) 1799 and 8734, EPA estimates that approximately 98% of these firms qualify as ''small'' under the SBA definition for small businesses. However, even if the Agency assumes that the firms pay all of the certification fees for their employees, the impact is still estimated to be less than 1% of annual revenues for all of these firms.

Within the EPA-administered program universe, EPA estimates that there will be 52 training providers accredited during the first 5 years in the EPA-administered program universe. Of the 52, only 60% (31) of these training providers are estimated to be for-profit entities that will be required to pay a fee. Using the revenue distribution for SIC 1799, EPA estimates that virtually all of these for-profit training providers qualify as ''small'' under the SBA definition of small business. Although it is estimated that 12 of these 31 fee paying for-profit training providers may incur impacts that are slightly higher than 3% of their revenue, the data also suggest that these for-profit training providers have greater revenues than the SIC 1799 revenue distribution suggests. For example, using the revenue distribution of Massachusetts and Ohio training providers, only 1 of the 31 for-profit training providers is estimated to have a potential impact of greater than 1% of annual sales.

As indicated above, additional details regarding the Agency's basis for this certification are presented in Chapter 6 of the economic analysis, which is included in the public version of the official record for this action. In addition, information relating to this determination will be provided to the Chief Counsel for Advocacy of the Small Business Administration upon request.

C. Paperwork Reduction Act

This regulatory action does not contain any information collection requirements that require additional approval by the Office of Management and Budget (OMB) under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq*. The information collection referenced in this rule (i.e., those included in 40 CFR 745.238) have already been approved by OMB under control number 2070–0155 (EPA ICR #1715.02). This rule does not have any impact on the existing burden estimate or collection description, such that additional approval by OMB is necessary.

The existing Information Collection Request (ICR), identified as EPA ICR 1715.02, identifies and quantifies the burden associated with the submission of applications by individuals, firms, and training programs. The burden estimates are based on the following required submissions:

1. *Firms*. A certification letter.

2. *Training program*. An application which includes the following: (i) The training programs name, address, and telephone number, (ii) a list of courses for which it is applying for accreditation, (iii) a statement signed by the training program manager that clearly indicates how the training program meets the minimum requirement for accreditation, or a statement that indicates that the training program will use the EPA-developed curriculum if available, (iv) a copy of the course test, a description of the activities and procedures for conducting the assessment of hands on skills, and a description of the facilities and equipment for lecture and hands on training, and (v) a quality control plan, which outlines procedures for periodic revision of training materials and exams, annual reviews of instructors, and adequacy of training facilities.

3. *Individuals*. For supervisors, risk assessors, and inspectors an application which includes the submission of proof of: (i) Completion of an accredited training course, (ii) passing the course test, (iii) meeting the educational and/or experience requirements (if applicable), and (iv) passing the third party exam. For project designers and abatement workers an application which includes submission of proof of: completion of a training course, passing the course test, and meeting educational and/or experience requirements (if applicable).

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An Agency may not conduct or sponsor, and a person is not required to respond to a collection of information subject to OMB approval under the PRA, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations, after initial publication in the **Federal Register**, are maintained in a list at 40 CFR part 9.

Comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing applicant burden, including through the use of automated collection techniques, may be submitted to the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section at the beginning of this document, with a copy to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503, marked ''Attention: Desk Officer for EPA.'' Please remember to include the ICR number in any correspondence.

D. Unfunded Mandates Reform Act (UMRA)

Pursuant to Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4), EPA has determined that this regulatory action is not subject to the requirements of sections 202 and 205. This rule is not expected to result in expenditures of $100 million or more in any given year for State, local and Tribal governments, in the aggregate, or for the private sector. This rule contains no regulatory requirements that might significantly or uniquely affect small governments. Therefore, no action is needed under section 203 of the UMRA.

E. Executive Orders 12875

Under Executive Order 12875, entitled ''Enhancing Intergovernmental Partnerships'' (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local and tribal governments, the nature of their concerns, copies of any written communications from the governments,

and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

Today's rule does not create an unfunded Federal mandate on State, local or tribal governments. The rule does not impose any enforceable duties on these entities. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

F. Executive Order 13084

Under Executive Order 13084, entitled ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's rule does not significantly or uniquely affect the communities of Indian tribal governments. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

G. Executive Order 12898

Pursuant to Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994), the Agency has considered environmental justice related issues with regard to the potential impacts of this action on the environmental and health conditions in low-income and minority communities. The Agency's analysis determined that the fees are not likely to cause disproportionate impacts for minority or low-income populations. The cost of the fees, even if passed on to consumers, is a small fraction of the cost of lead hazard evaluation and abatement projects. Thus, the establishment of these fees is not likely to result in fewer lead hazard evaluation or abatement activities. In addition, EPA, HUD, and State and local organizations have developed programs to help disadvantaged communities respond to lead risks.

H. Executive Order 13045

Executive Order 13045 applies to any rule that EPA determines (1) is economically significant as defined under Executive Order 12866, and (2) addresses an environmental health or safety risk that has a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children; and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency. EPA has determined that this rule is not subject to Executive Order 13045 because it is not an economically significant regulatory action as defined by Executive Order 12866 (see Unit X.A. of this preamble). Furthermore, although this rule is associated with EPA's overall lead-based paint management program which is designed to reduce health risks to children, this rule itself simply establishes a user fee schedule and does not address environmental health or safety risk.

I. National Technology Transfer and Advancement Act

This regulatory action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Pub. L. 104–113, 12(d) (15 U.S.C. 272 note). Section 12(d) of NTTAA directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

J. Submission to Congress and the Comptroller General

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

List of Subjects in 40 CFR Part 745

Environmental protection, Fees, Hazardous substances, Lead poisoning, Reporting and recordkeeping requirements.

Dated: May 28, 1999.

Carol M. Browner,

Administrator.

Therefore, 40 CFR part 745 is amended as follows:

PART 745— [AMENDED]

1. The authority citation for part 745 continues to read as follows:

Authority: 15 U.S.C. 2605, 2607, 2615, 2681-2692, and 42 U.S.C. 4852d.

2. In § 745.223 by adding the following three new definitions in alphabetical order to read as follows:

§ 745.223 Definitions.

* * * * *

Local government means a county, city, town, borough, parish, district, association, or other public body (including an agency comprised of two or more of the foregoing entities) created under State law.

* * * * *

Nonprofit means an entity which has demonstrated to any branch of the Federal Government or to a State, municipal, tribal or territorial government, that no part of its net earnings inure to the benefit of any private shareholder or individual.

* * * * *

State means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Canal Zone, American Samoa, the Northern Mariana Islands, or any other territory or possession of the United States.

* * * * *

3. In § 745.225 by adding paragraphs (b)(4) and (f)(3)(v) to read as follows:

§ 745.225 Accreditation of training programs: target housing and child-occupied facilities.

* * * * *

(b) * * *

(4) A training program applying for accreditation must submit the appropriate fees in accordance with § 745.238.

* * * * *

(f) * * *

(3) * * *

(v) A payment of appropriate fees in accordance with § 745.238.

* * * * *

4. In § 745.226 by adding paragraphs (a)(6), (e)(3), (f)(6), and (f)(7) to read as follows:

§ 745.226 Certification of individuals and firms engaged in lead-based paint activities: target housing and child-occupied facilities.

* * * * *

(a) * * *

(6) Individuals applying for certification must submit the appropriate fees in accordance with § 745.238.

* * * * *

(e) * * *

(3) Individuals applying for re-certification must submit the appropriate fees in accordance with § 745.238.

* * * * *

(f) * * *

(6) Firms applying for certification must submit the appropriate fees in accordance with § 745.238.

(7) To maintain certification a firm shall submit appropriate fees in accordance with § 745.238 every 3 years.

* * * * *

5. By adding § 745.238 to read as follows:

§ 745.238 Fees for accreditation and certification of lead-based paint activities.

(a) *Purpose*. To establish and impose fees for certified individuals and firms engaged in lead-based paint activities and persons operating accredited training programs under section 402(a) of the Toxic Substances Control Act (TSCA).

(b) *Persons who must pay fees*. Fees in accordance with paragraph (c) of this section must be paid by:

(1) *Training programs*. (i) All non-exempt training programs applying to EPA for the accreditation and re-accreditation of training programs in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker.

(ii) Exemptions. No fee shall be imposed on any training program operated by a State, federally recognized Indian Tribe, local government, or nonprofit organization. This exemption does not apply to the certification of firms or individuals.

(2) *Firms and individuals*. All firms and individuals seeking certification and re-certification from EPA to engage in lead-based paint activities in one or more of the following disciplines: inspector, risk assessor, supervisor, project designer, abatement worker.

(c) *Fee amounts*—(1) *Certification and accreditation fees*. Initial and renewal certification and accreditation fees are specified in the following table:

Certification and Accreditation Fee Levels

Training Program	Accreditation[1]	Re-accreditation[1] [every 4 years, see 40 CFR 745.225(f)(1) for details]
Initial Course		
Inspector	$2,500	$1,600
Risk assessor	$1,760	$1,150
Supervisor	$3,250	$2,050
Worker	$1,760	$1,150
Project designer	$1,010	$710
Refresher Course		
Inspector	$1,010	$710
Risk assessor	$1,010	$710
Supervisor	$1,010	$710
Worker	$1,010	$710
Project designer	$640	$490

Lead-based Paint Activities-Individual	Certification[1]	Re-certification[1] [every 3 or 5 years, see 40 CFR 745.226(e)(1) for details]
Inspector	$400	$350
Risk assessor	$520	$420
Supervisor	$470	$390
Worker	$280	$240
Project designer	$470	$390

Lead-based Paint Activities-Firm	Certification[1]	Certification Renewal[1] [every 3 years, see 40 CFR 745.226(f)(7) for details]
Firm	$540	$430

[1]Fees will be adjusted periodically based on adjustments accounting for changes in participation and operating costs.

(2) *Certification examination fee.* Individuals required to take a certification exam in accordance with § 745.226 will be assessed a fee of $70 for each exam attempt.

(3) *Multi-jurisdiction registration fee.* An individual, firm, or training program certified or accredited by EPA may wish to provide training or perform lead-based paint activities in additional EPA-administered jurisdictions. A fee of $35 per discipline will be assessed for each additional EPA-administered jurisdiction in which an individual, firm, or training program applies for certification/re-certification or accreditation/re-accreditation. For purposes of this multi-jurisdiction registration fee, an EPA-administered jurisdiction is either an individual state without an authorized program or all Indian Tribes without authorized programs that are within a given EPA Region.

(4) *Lost identification card or certificate.* A $15 fee shall be charged for replacement of an identification card or certificate. (See replacement procedure in paragraph (e) of this section.)

(d) *Application/payment procedure—(1) Certification and re-certification in one or more EPA-administered jurisdiction*— (i) Individuals. Submit a completed application (titled ''Application for Individuals to Conduct Lead-based Paint Activities''), the materials described at § 745.226, and the application fee(s) described in paragraph (c) of this section.

(ii) Firms. Submit a completed application (titled ''Application for Firms to Conduct Lead-based Paint Activities''), the materials described at § 745.226, and the application fee(s) described in paragraph (c) of this section.

(2) *Accreditation and re-accreditation in one or more EPA-administered jurisdiction.* Submit a completed application (titled ''Accreditation Application for Training Programs''), the materials described at § 745.225, and the application fee described in paragraph (c) of this section.

(3) *Application forms.* Application forms and instructions can be obtained from the National Lead Information Center at: 1–800–424–LEAD.

(e) *Identification card replacement and certificate replacement.* (1) Parties seeking identification card or certificate replacement shall complete the applicable portions of the appropriate application in accordance with the instructions provided. The appropriate applications are:

(i) Individuals. ''Application for Individuals to Conduct Lead-based Paint Activities.''

(ii) Firms. ''Application for Firms to Conduct Lead-based Paint Activities.''

(iii) Training programs. ''Accreditation Application for Training Programs.''

(2) Submit application and payment in the amount specified in paragraph (c)(4) of this section in accordance with the instructions provided with the application package.

(f) *Adjustment of fees.* (1) EPA will collect fees reflecting the costs associated with the administration and enforcement of subpart L of this part with the exception of costs associated with the accreditation of training programs operated by a State, federally recognized Indian Tribe, local government, and nonprofit organization. In order to do this, EPA will periodically adjust the fees to reflect changed economic conditions.

(2) The fees will be evaluated based on the cost to administer and enforce the program, and the number of applicants. New fee schedules will be published in the **Federal Register**.

(g) *Failure to remit a fee.* (1) EPA will not provide certification, re-certification, accreditation, or re-accreditation for any individual, firm, or training program which does not remit fees described in paragraph (c) of this section in accordance with the procedures specified in paragraph (d) of this section.

(2) EPA will not replace identification cards or certificates for any individual, firm, or training program which does not remit fees described in paragraph (c) of this section in accordance with the procedures specified in paragraph (e) of this section.

[FR Doc. 99–14597 Filed 6–8–99; 8:45 am]

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federal register

Wednesday
June 9, 1999

Part VIII

The President

Executive Order 13124—Amending the Civil Service Rules Relating to Federal Employees With Psychiatric Disabiliites

Federal Register
Vol. 64, No. 110
Wednesday, June 9, 1999

Presidential Documents

Title 3—

The President

Executive Order 13124 of June 4, 1999

Amending the Civil Service Rules Relating To Federal Employees With Psychiatric Disabilities

By the authority vested in me as President by the Constitution and the laws of the United States of America, including sections 3301 and 3302 of title 5, United States Code, and in order to give individuals with psychiatric disabilities the same hiring opportunities as persons with severe physical disabilities or mental retardation under the Civil Service Rules, and to permit individuals with psychiatric disabilities to obtain Civil Service competitive status, it is hereby ordered as follows:

Section 1. *Policy.*

(a) It is the policy of the United States to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for persons with disabilities. The Federal Government as an employer should serve as a model for the employment of persons with disabilities and utilize the full potential of these talented citizens.

(b) The Civil Service Rules governing appointment of persons with psychiatric disabilities were adopted years ago when attitudes about mental illness were different than they are today, which led to stricter standards for hiring persons with psychiatric disabilities than for persons with mental retardation or severe physical disabilities. The Civil Service Rules provide that persons with mental retardation, severe physical disabilities, or psychiatric disabilities may be hired under excepted appointing authorities. While persons with mental retardation or severe physical disabilities may be appointed for more than 2 years and may convert to competitive status after completion of 2 years of satisfactory service in their excepted position, people with psychiatric disabilities may not.

(c) The Office of Personnel Management (OPM) and the President's Task Force on Employment of Adults with Disabilities believe that the Federal Government could better benefit from the contributions of persons with psychiatric disabilities if they were given the same opportunities available to people with mental retardation or severe physical disabilities.

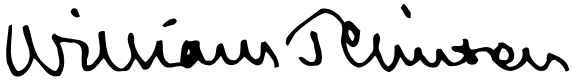
Sec. 2. *Implementation.*

(a) The Director of the Office of Personnel Management shall, consistent with OPM authority, provide that persons with psychiatric disabilities are subject to the same hiring rules as persons with mental retardation or severe physical disabilities.

(b) Civil Service Rule III (5 CFR Part 3) is amended by adding the following new paragraph to subsection (b) of section 3.1:

''(3) An employee with psychiatric disabilities who completes at least 2 years of satisfactory service in a position excepted from the competitive service.''

Sec. 3. The Director of the Office of Personnel Management shall prescribe such regulations as may be necessary to implement this order.



THE WHITE HOUSE,
June 4, 1999.

[FR Doc. 99–14825
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Checked baggage; security on domestic flights; comments due by 6-18-99; published 4-19-99

Airworthiness directives:

Bell Helicopter Textron; comments due by 6-15-99; published 4-16-99

Bombadier; comments due by 6-16-99; published 5-17-99

Empresa Brasileira de Aeronautica S.A.; comments due by 6-17-99; published 5-18-99

Raytheon; comments due by 6-18-99; published 4-28-99

Robinson Helicopter Co.; comments due by 6-14-99; published 4-13-99

Sikorsky; comments due by 6-15-99; published 4-16-99

Class E airspace; comments due by 6-18-99; published 5-4-99

TRANSPORTATION DEPARTMENT

National Highway Traffic Safety Administration

Motor vehicle safety standards:

Defect and noncompliance reports and notification; manufacturer notification to dealers of safety related defects; implementation; comments due by 6-18-99; published 5-19-99

TRANSPORTATION DEPARTMENT

Research and Special Programs Administration

Hazardous materials transportation:

Registration and fee assessment program; comments due by 6-14-99; published 4-15-99

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

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H.R. 1034/P.L. 106–32

To declare a portion of the James River and Kanawha Canal in Richmond, Virginia, to be nonnavigable waters of the United States for purposes of title 46, United States Code, and the other maritime laws of the United States. (June 1, 1999; 113 Stat. 115)

Last List May 26, 1999

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