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Tuesday
July 13, 1999

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

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 301

[Docket No. 96–069–3]

High-Temperature Forced-Air Treatments for Citrus

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Direct final rule.

SUMMARY: We are amending the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference into the Code of Federal Regulations, to allow navel oranges from Mexico and areas of the United States that are infested with plant pests in the genus *Anastrepha,* which includes *A. ludens,* the Mexican fruit fly, to be treated with a high-temperature forced-air process currently approved for tangerines, oranges other than navel oranges, and grapefruit from these areas. This action provides an additional option for treating navel oranges from these areas.

DATES: This rule will be effective on September 13, 1999 unless we receive written adverse comments or written notice of intent to submit adverse comments on or before August 12, 1999. The incorporation by reference of the material listed in the rule is approved by the Director of the Federal Register as of September 13, 1999.

ADDRESSES: Please send an original and three copies of any adverse comments or notice of intent to submit adverse comments to: Docket No. 96–069–3, Regulatory Analysis and Development, PPD, APHIS, Suite 3C03, 4700 River Road, Unit 118, Riverdale, MD 20737–1238.

Please state that your comment refers to Docket No. 96–069–3.

You may read any comments that we receive on this docket in our reading room. The reading room is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue, SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 690–2817 before coming.

APHIS documents published in the **Federal Register**, and related information, including the names of organizations and individuals who have commented on APHIS rules, are available on the Internet at http://www.aphis.usda.gov/ppd/rad/webrepor.html.

FOR FURTHER INFORMATION CONTACT: Mr. Pete Grosser, Senior Import Specialist, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236; (301) 734–6799; or e-mail ronald.c.campbell@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

To prevent the spread of plant pests into or within the United States, the U.S. Department of Agriculture (USDA) restricts the importation and interstate movement of many articles, including fruits. As a condition of movement, some fruits are required to be treated for plant pests in accordance with title 7 of the Code of Federal Regulations (CFR). The Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual) of the USDA's Animal and Plant Health Inspection Service (APHIS) contains approved treatment schedules and is incorporated by reference into the CFR at 7 CFR 300.1.

Pursuant to 7 CFR 319.56–2x, USDA allows tangerines, oranges, and grapefruit from Mexico to be imported into the United States if treated in accordance with the PPQ Treatment Manual. In addition, USDA regulates the interstate movement of certain articles from areas of the United States where outbreaks of the Mexican fruit fly have occurred (currently, parts of Texas and California). The pertinent regulations are at 7 CFR 301.64 through 301.64–10; acceptable treatments for the regulated articles are listed in 301.64–10.

On December 30, 1997, we published in the **Federal Register** (62 FR 67761 67763, Docket No. 96–069–1) a proposed rule to, among other things, amend the PPQ Treatment Manual to include high-temperature forced-air treatments for tangerines, oranges (except navel oranges), and grapefruit from Mexico and areas of the United States affected with pests in the genus *Anastrepha,* which includes *A. ludens,* the Mexican fruit fly. We also proposed to amend 7 CFR 300.1 to show that the PPQ Treatment Manual had been so changed and to amend 301.64–10(e) of the Mexican fruit fly regulations to indicate that grapefruit, oranges (except navel oranges), and tangerines from areas of the United States infested with the Mexican fruit fly may be treated with high-temperature forced air in accordance with the PPQ Treatment Manual. The high-temperature forced-air treatments we proposed were developed by the USDA's Agricultural Research Service (ARS) in conjunction with APHIS PPQ Methods Development.

We solicited comments for 60 days ending March 2, 1998. We received 28 comments by that date. They were from Mexican citrus producers, USDA employees, a State government, and a citrus industry association. The commenters generally supported the adoption of the proposed high-temperature forced-air treatments. However, some of the commenters suggested changes or clarifications to the proposed treatments. A comment provided by the ARS researchers who did the research upon which the proposed high-temperature forced-air treatments were based suggested the inclusion of a high-temperature forced-air treatment for navel oranges. The ARS commenters stated that research proving the quarantine security of the treatment for navel oranges was performed shortly after the completion of the research on the treatments for oranges other than navel oranges, tangerines, and grapefruit.

After carefully considering the comments, we published a final rule in the **Federal Register** on December 10, 1998 (63 FR 68161–68165, Docket No. 96–069–2), that, among other things, amended the PPQ Treatment Manual to include a single high-temperature forced-air treatment (described below) for tangerines, oranges (except navel oranges), and grapefruit from Mexico and areas of the United States affected with pests in the genus *Anastrepha.* We

also amended 7 CFR 300.1 to show that the PPQ Treatment Manual had been so changed and 301.64–10(e) of the Mexican fruit fly regulations to indicate that high-temperature forced air in accordance with the PPQ Treatment Manual can be used to treat grapefruit, oranges (except navel oranges), and tangerines for movement from areas of the United States infested with the Mexican fruit fly.

In the preamble to the final rule, we stated that we had reviewed the completed data provided by ARS concerning the inclusion of a high-temperature forced-air treatment for navel oranges and had determined that the treatment would be effective for navel oranges as well. We also indicated that we would soon publish in the **Federal Register** a direct final rule to allow the use of the treatment on navel oranges. We did not include the treatment for navel oranges in the final rule because the proposed rule had not addressed navel oranges.

Therefore, we are now amending the PPQ Treatment Manual to add navel oranges to the list of fruits that may be treated with high-temperature forced air for pests in the genus *Anastrepha*. We are also amending 7 CFR 300.1 to show that the PPQ Treatment Manual has been so revised. We are also amending 301.64–10(e) to remove the exception for navel oranges so that all types of oranges from areas of the United States quarantined under the Mexican fruit fly regulations may be treated with high-temperature forced air as specified in the PPQ Treatment Manual. The high-temperature forced-air treatment that will be authorized is described below.

Treatment Procedure

The treatment must be administered in sealed, insulated chambers; the air may be heated in the chambers, or hot air may be introduced into the chambers. The number of temperature probes must be approved in advance during the chamber certification procedure.

Place the temperature probes into the centers of the largest fruit in the load. Place the fruit inside the chamber, seal it, and begin the treatment.

The target temperature is 44 °C (111.2 °F). Throughout the treatment, record the fruit center temperatures at least once every 2 minutes. If it takes less than 90 minutes for the fruit to reach the target temperature, the fruit must remain at the target temperature for any additional time needed to reach 90 minutes, plus another 100 minutes. If the fruit takes 90 minutes or more to reach the target temperature, the fruit must remain at the target temperature for an additional 100 minutes only.

Hydrocooling after treatment is optional.

The treatment is for fruit of the following sizes:

Fruit variety	Standard pack count [1]	Container size (bu)	Maximum weight (g)	Maximum diameter (in)
Tangerines	120	4/5	245 (8.6 oz)	Not specified.
Navel oranges	100	1 2/5	450 (15.9 oz)	3 13/16.
Oranges (other than navel)	100	1 2/5	468 (16.4 oz)	3 13/16.
Grapefruit	70	1 2/5	536 (18.8 oz)	4 5/16.

[1] Standard pack count is an index based on the approximate number of fruit of uniform diameter that fit into a bushel container of the size indicated.

Examples of Treatment Administration

1. If the center temperature of fruit located in the coolest location inside a forced-air chamber required 112 minutes to reach 44 °C, then the total treatment time for the fruit load would be 212 minutes (112 minutes approach time to target temperature + 100 minutes treatment time at target temperature).

2. If the center temperature of fruit located in the coolest location inside a forced-air chamber required 80 minutes to reach 44 °C, then the total treatment time for the fruit load would be 190 minutes (80 minutes approach time to target temperature + 10 additional minutes so that approach time is the required 90 minutes in duration + 100 minutes treatment time at target temperature).

Note: Tolerance data may be obtained from the USDA–ARS Subtropical Research Center, Crop Quality & Fruit Insects, 2301 S. International Blvd., Weslaco, TX 78596, or the USDA–APHIS–PPQ Oxford Plant Protection Center, 901 Hillsboro Street, Oxford, NC 27565.

Dates

We are publishing this rule without a prior proposal because we view this action as noncontroversial and anticipate no adverse public comment. This rule will be effective, as published in this document, 60 days after the date of publication in the **Federal Register** unless we receive written adverse comments or written notice of intent to submit adverse comments within 30 days of the date of publication of this rule in the **Federal Register**.

Adverse comments are comments that suggest the rule should not be adopted or that suggest the rule should be changed.

If we receive written adverse comments or written notice of intent to submit adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. We will then publish a proposed rule for public comment. Following the close of that comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, if we receive no written adverse comments nor written notice of intent to submit adverse comments within 30 days of publication of this direct final rule, this direct final rule will become effective 60 days following its publication. We will publish a document to this effect in the **Federal Register**, before the effective date of this direct final rule, confirming that it is effective on the date indicated in this document.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule, which allows the use of a process involving high-temperature forced air for treating navel oranges from areas of Mexico and the United States infested with plant pests of the genus *Anastrepha* (which includes *A. ludens*, the Mexican fruit fly), could affect producers and treatment administrators in areas in Texas and California regulated for the Mexican fruit fly and U.S. importers of citrus from Mexico.

The effect of this rule in California should be almost nonexistent as avocados are the major crop in the area in California where an outbreak of the Mexican fruit fly has occurred.

Regulated areas in Texas comprise a major citrus-growing region of the

United States. Four of the five regulated production areas in Texas were infested with Mexican fruit flies in fiscal year (FY) 1996 and FY 1997. In treating fruit for export and for shipment to other U.S. citrus-growing areas, producers generally use methyl bromide fumigation, although other options are available. More than 90 percent of the fruit treated are grapefruit; the rest are oranges. In FY 1996, 5.4 million pounds of citrus from regulated areas of Texas were fumigated, and this amount increased to 19.2 million pounds in FY 1997. Ninety percent of the treated fruit is shipped to California, and 10 percent, to Mexico.

Eight fumigation companies treat citrus shipped from the regulated areas of Texas. The fumigation facilities are located in the packing sheds of major packing houses. Some are private companies; others operate as cooperatives. All of the fumigation companies can be considered small entities by Small Business Administration standards (annual revenue less than $5 million, averaged over 3 years).

The use of high-temperature forced air as an alternative treatment for navel oranges could lead to a slight reduction in revenue for the fumigation companies, if the new treatment is found by the growers to be financially preferable. At growers' meetings in the area, the possibility of building and operating one or two high-temperature forced-air treatment facilities as cooperative ventures has been discussed. However, the consensus has been that more information is needed before the sizable expenditures such facilities would require are made. Producers remain concerned about the speed with which the fruit could be treated and the risk of fruit being damaged by the high temperatures. Producers are unlikely to replace fumigation with the proposed high-temperature forced-air process until these issues are resolved to their satisfaction.

Mexico is a major supplier of oranges to the United States, providing one-third or more of all oranges imported. Mexico exported 7,633 metric tons of oranges (worth about $3.7 million) to the United States in 1996; 10,461 metric tons of oranges ($4.9 million) in 1997; and 9,103 metric tons of oranges ($4.2 million) in 1998. Navel oranges represent approximately 25 percent of the oranges imported from Mexico.

Importations of citrus that originate in certain areas of the State of Sonora, Mexico, considered to be free of the Mexican fruit fly require certification only. Oranges are the only fruit exported to the United States from these areas.

Citrus imports from the rest of Mexico must be treated for *Anastrepha* species. Methyl bromide fumigation has been and continues to be an acceptable treatment, and, as of December 10, 1998, high-temperature forced-air has been acceptable for use on tangerines, oranges other than navel oranges, and grapefruit. A facility capable of treating citrus with high-temperature forced air has been built in Mexico; however, it is not yet in operation. The Mexico Citrus Exporters Association estimates that use of the new facility could lead to annual exports to the United States of an additional 453 metric tons (1 million pounds) of navel oranges. To put this estimate in perspective, this amount is 4.9 percent of the total Mexican orange imports into the United States in 1998.

Citrus producers in the regulated areas in Texas are expected to monitor the experiences of Mexican producers with the new treatment and reassess its future adoption. Effects of this rule on fumigation companies in the regulated areas of Texas (and on any fumigation companies that may serve producers in the regulated areas in California) are expected to be negligible to nonexistent. The proposed treatment will provide another alternative for producers and fumigation companies.

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

Executive Order 12372

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

Executive Order 12988

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

Paperwork Reduction Act

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

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 301

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

Accordingly, we are amending 7 CFR parts 300 and 301 as follows:

PART 300—INCORPORATION BY REFERENCE

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

Authority: 7 U.S.C. 150ee, 154, 161, 162, and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a) introductory text is revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through June 1999 has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 301—DOMESTIC QUARANTINE NOTICES

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

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

§ 301.64–10 [Amended]

4. In 301.64–10, paragraph (e), the words ''(except navel oranges)'' are removed.

Done in Washington, DC, this 6th day of July 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–17613 Filed 7–12–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Parts 331 and 381

[Docket No. 99–036F]

Designation of the State of Alaska Under the Federal Meat Inspection Act and the Poultry Products Inspection Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is announcing that representatives of the State of Alaska have advised the Department of Agriculture that, because of a lack of funding, the State of Alaska will stop administering its State meat and poultry inspection programs after July 30, 1999. FSIS is mandated by law to assume responsibility for administering the meat and poultry inspection programs with respect to operations and transactions within Alaska. Therefore, in accordance with the law, the Secretary of Agriculture is designating the State of Alaska to receive Federal inspection with respect to operations and transactions within the State, and FSIS is amending the Federal meat and poultry inspection regulations by adding Alaska to the list of ''designated'' States.

EFFECTIVE DATE: This final rule will be effective on July 31, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. William Leese, Director, Federal-State Relations Staff, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250–3700 at (202) 418–8897.

SUPPLEMENTARY INFORMATION:

Background

Under section 301 of the Federal Meat Inspection Act (FMIA) and section 5 of the Poultry Products Inspection Act (PPIA), a State may administer State meat and poultry inspection programs provided that it has developed and is effectively enforcing State meat and poultry inspection requirements at least equal to those imposed under titles I and IV of the FMIA and sections 1–4, 6–10, and 12–22 of the PPIA (collectively referred to below as ''the titles''). These titles contemplate continuous ongoing programs. When States can no longer effectively enforce meat and poultry inspection requirements at least equal to Federal requirements, they must be ''designated'' by the Secretary to receive Federal inspection.

In accordance with the FMIA and PPIA, the Secretary had determined that the State of Alaska had developed and was enforcing State meat and poultry inspection requirements for establishments at least equal to Federal meat and poultry inspection requirements under the titles. However, on June 14, 1999, representatives of the State of Alaska notified FSIS that, because of a lack of funding, Alaska will no longer continue to administer its State meat and poultry inspection programs after July 30, 1999. The representatives have requested that the Department assume responsibility for the meat and poultry inspection programs.

In view of the termination date, FSIS has determined that the State of Alaska would not effectively enforce requirements at least equal to those imposed under the titles. Therefore, the Secretary of Agriculture must designate the State of Alaska under section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA. On and after July 31, 1999, the provisions of the titles will apply to operations and transactions within the State of Alaska, unless exempt under sections 23 or 301(c)(2) of the FMIA or sections 5(c)(2) or 15 of the PPIA.

Owners or operators of Alaska's meat and poultry establishments wishing to continue operations after July 30, 1999, must contact the FSIS District Office in Salem, Oregon, in order to receive Federal inspection. This office will provide information concerning requirements and exemptions under the FMIA and the PPIA, applications for inspection, and requests for surveys of establishments. Address correspondence to USDA/FSIS District Office, 530 Center Street, NE, Mezzanine Level, Salem, Oregon 97301.

The Administrator, FSIS, has determined that there is good cause for issuing this final rule without prior notice and opportunity for public comment. Because the State of Alaska has advised FSIS that its State-operated meat and poultry inspection programs will be discontinued, the Agency is mandated by law to assume the responsibilities for administering the meat and poultry inspection programs. It is necessary, therefore, to designate the State of Alaska immediately, in accordance with section 301(c)(3) of the FMIA and section 5(c)(3) of the PPIA, in order to carry out the Secretary's responsibilities under the FMIA and PPIA.

In addition, it does not appear that additional relevant information would be made available to the Secretary by public participation in this rulemaking proceeding. Accordingly, under the administrative procedures in 5 U.S.C. 553, FSIS finds good cause to conclude that notice and other public procedures are impracticable and contrary to the public interest.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been determined to be not significant under Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Administrator, FSIS, has determined that this final rule will not have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601). The U.S. Department of Agriculture, pursuant to law, is assuming the responsibility, previously held by the State of Alaska, of administering the meat and poultry inspection programs with respect to operations and transactions within the State of Alaska. This action will affect approximately 13 State meat and poultry establishments that require inspection in Alaska, most, if not all, of which may be presumed to be very small businesses. However, this is not a substantial number of establishments given the approximately 5,790 very small meat and very small poultry establishments nationwide, which are either federally or State inspected. In addition, the application of certain Federal facility and other requirements will be flexible, and each facility will be reviewed with regard to the circumstances peculiar to that establishment. Further, it is not anticipated that significant costs will be incurred by these Alaska establishments as a result of this action.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) preempts State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. However, the administrative procedures specified in 9 CFR 306.5 and 381.35 must be exhausted prior to any judicial challenge of the application of the provisions of this rule, if the challenge involves any decision of an FSIS employee relating to inspection services provided under the FMIA or the PPIA.

Paperwork Requirements

This rule has been reviewed under the Paperwork Reduction Act and imposes

no new paperwork or recordkeeping requirements.

List of Subjects

9 CFR Part 331

Meat inspection.

9 CFR Part 381

Poultry and poultry products.

Accordingly, 9 CFR parts 331 and 381 are amended as follows:

PART 331—SPECIAL PROVISIONS FOR DESIGNATED STATES AND TERRITORIES; AND FOR DESIGNATION OF ESTABLISHMENTS WHICH ENDANGER PUBLIC HEALTH AND FOR SUCH DESIGNATED ESTABLISHMENTS

1. The authority citation for part 331 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.18, 2.53.

§ 331.2 [Amended]

2. The table in § 331.2 is amended in the ''State'' column by adding ''Alaska'' as the first entry immediately above ''Arkansas'' and in the ''Effective date of application of Federal provisions'' column, by adding ''July 31, 1999'' on the line with ''Alaska.''

§ 331. [Amended]

3. The table in § 331.6 is amended by adding ''Alaska'' as the first entry immediately above ''Arkansas'' under the ''Sections of act and regulations'' columns titled ''Act, section 202; §§ 320.1, 320.2, 320.3, and 320.4,'' ''Act, 203; § 320.5,'' and ''Act, 204; §§ 325.20 and 325.21'' and in the ''Effective date of designation'' column by adding ''July 31, 1999'' on the line with ''Alaska.''

PART 381—POULTRY PRODUCTS INSPECTION

4. The authority citation for part 381 continues to read as follows:

Authority: 7 U.S.C. 138f, 450; 21 U.S.C. 451–470; 7 CFR 2.18, 2.53.

§ 381.221 [Amended]

5. The table in § 381.221 is amended in the ''States'' column by adding ''Alaska'' as the first entry immediately above ''Arkansas'' and in the ''Effective date of application of Federal provisions'' column, by adding ''July 31, 1999,'' on the line with ''Alaska.''

§ 381.224 [Amended]

6. The table in § 381.224 is amended by adding ''Alaska'' as the first entry immediately above ''Arkansas'' under the ''Paragraphs of act and regulations'' columns titled ''Act, 11(b): §§ 381.175–381.178,'' ''Act, 11(c); § 381.179,'' and ''Act, 11(d); 381.194'' and in the ''Effective date'' column by adding ''July 31, 1999'' on the line with ''Alaska.''

Done at Washington, DC, on: July 7, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–17737 Filed 7–12–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–ANE–23; Amendment 39–11219; AD 99–14–08]

RIN 2120–AA64

Airworthiness Directives; Pratt & Whitney JT9D Series Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Pratt & Whitney (PW) JT9D series turbofan engines, that currently requires initial and repetitive inspections of the sixth stage low pressure turbine (LPT) inner airseal, and modification of the sixth stage LPT inner airseal to reduce the potential for two failure modes. This amendment requires additional repetitive borescope inspections for sixth stage LPT inner airseals found with cracks less than one inch in length. This amendment is prompted by the publication of a revision to a PW service bulletin that introduces the new borescope inspections. The actions specified by this AD are intended to prevent an uncontained failure of the sixth stage LPT inner airseal, which can result in damage to the aircraft.

DATES: Effective September 13, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 13, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770, fax (860) 565–4503. This information may be examined at the Federal Aviation Administration (FAA), New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA 01803–5299; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Tara Goodman, Aerospace Engineer, Engine Certification Office, FAA, Engine and Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803–5299; telephone (781) 238–7130, fax (781) 238–7199.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 94–10–09, Amendment 39–8916 (59 FR 36047, July 15, 1994), applicable to Pratt & Whitney (PW) JT9D series turbofan engines, was published in the **Federal Register** on September 9, 1998 (63 FR 48138). That action proposed to add, at intervals not to exceed 50 cycles in service (CIS) since last inspection, additional repetitive borescope inspections for sixth stage LPT inner airseals found with cracks less than one inch in length, in accordance with PW Service Bulletin (SB) No. 5978, Revision 4, dated May 6, 1998.

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

Two commenters state they are not affected by the proposed rule.

One commenter states that it is not affected by the proposed changes to the current AD.

The FAA has switched the placement of paragraphs (b) and (c) of the proposed rule in order to emphasize that rework of the 6th stage LPT inner airseal rear retaining wing must be performed prior to further flight, but that even after rework, the required ECI or borescope inspections must be performed until installation of an improved 6th stage inner airseal. Therefore, proposed paragraph (b) appears as paragraph (c) in the final rule, and proposed paragraph (c) as paragraph (b). After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with this change. The FAA has determined that this change neither increases the economic burden on any operator nor increases the scope of the AD

There are approximately 566 engines of the affected design in the worldwide fleet. The FAA estimates that 157 engines installed on aircraft of U.S. registry will be affected by this AD, that it will take approximately 2.1 work hours per engine to accomplish the required actions, and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $19,782.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–8916 (59 FR 36047, July 15, 1994) and by adding a new airworthiness directive, Amendment 39–11219, to read as follows:

99–14–08 Pratt & Whitney: Amendment 39–11219. Docket No. 92–ANE–23. Supersedes AD 94–10–09, Amendment 39–8916.

Applicability: Pratt & Whitney (PW) Model JT9D–59A, –70A, –7Q, and –7Q3 turbofan engines, installed on but not limited to Boeing 747 series, McDonnell Douglas DC–10 series, and Airbus A300 series aircraft.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent an uncontained failure of the sixth stage low pressure turbine (LPT) inner airseal, accomplish the following:

(a) Prior to further flight, rework the sixth stage LPT inner airseal knife edge diameters in accordance with the Accomplishment Instructions of PW Service Bulletin (SB) 5847, Revision 2, dated October 31, 1990.

(b) Prior to further flight, rework the sixth stage LPT inner airseal rear retaining wing in accordance with the Accomplishment Instructions of PW SB 5745, Revision 2, dated October 24, 1990.

Note 2: Rework of the sixth stage LPT inner airseal rear retaining wing in accordance with paragraph (b) of this AD does not exempt sixth stage LPT inner airseals from initial and repetitive inspections in accordance with paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD.

(c) Eddy current inspect (ECI) or borescope inspect sixth stage LPT inner airseal rear retaining wings for cracks, as follows:

(1) For sixth stage LPT inner airseals identified by part number (P/N) in PW SB No. 5978, Revision 4, dated May 6, 1998, or Revision 3, dated May 20, 1992, with greater than 500 cycles since new (CSN) on the effective date of this AD, accomplish an initial ECI or borescope inspection prior to accumulating more than 250 cycles in service (CIS) after the effective date of this AD, or 500 CIS since the last in-shop fluorescent penetrant inspection (FPI), whichever occurs later, in accordance with the Accomplishment Instructions of PW SB No. 5978, Revision 4, dated May 6, 1998, or Revision 3, dated May 20, 1992.

(2) For sixth stage LPT inner airseals identified by P/N in PW SB No. 5978, Revision 4, dated May 6, 1998, or Revision 3, dated May 20, 1992, with less than or equal to 500 CSN on the effective date of this AD, accomplish an initial ECI or borescope inspection prior to accumulating 750 CSN, or 500 CIS since the last in-shop FPI, whichever occurs later, in accordance with the Accomplishment Instructions of PW SB No. 5978, Revision 4, dated May 6, 1998, or Revision 3, dated May 20, 1992.

(3) For sixth stage LPT inner airseals that meet the continue in service criteria described in PW SB No. 5978, Revision 4, dated May 6, 1998, thereafter, ECI or borescope inspect the sixth stage LPT inner airseal retaining wing for cracks at intervals specified in accordance with the Accomplishment Instructions of PW SB No. 5978, Revision 4, dated May 6, 1998.

(4) Remove cracked sixth stage LPT inner airseals that do not meet the continue in service criteria described in PW SB No. 5978, Revision 4, dated May 6, 1998, and replace with a new, or serviceable sixth stage LPT inner airseal that has been reworked in accordance with paragraph (c) of this AD.

(5) Thereafter, inspect initially, reinspect, and remove from service, if necessary, the replacement sixth stage LPT inner airseals in accordance with paragraphs (c)(1), (c)(2), (c)(3), and (c)(4) of this AD.

(d) Installation of a new, improved 6th stage LPT inner airseal, in accordance with PW SB No. 6054, Revision 1, dated April 24, 1992, constitutes terminating action to the inspections and rework required by this AD.

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this airworthiness directive, if any, may be obtained from the Engine Certification Office.

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

(g) The actions required by this AD shall be done in accordance with the following PW SBs:

Document No.	Pages	Revision	Date
5847	1–4	2	October 31, 1990.
	5	Original	April 11, 1989.
	6	2	October 31, 1990.
	7	Original	April 11, 1989.
	8	2	October 31, 1990.
	9	Original	April 11, 1989.
	10	2	October 31, 1990.

Document No.	Pages	Revision	Date
Total pages: 10.			
5978	1	4	May 6, 1998.
	2	Original	December 19, 1990.
	3,4	4	May 6, 1998.
	5	1	October 10, 1991.
	6	4	May 6, 1998.
	7–11	1	October 10, 1991.
	12	4	May 6, 1998.
	13–18	1	October 10, 1991.
	19	4	May 6, 1998.
	20–33	1	October 10, 1991.
	34	2	April 28, 1992.
Total pages: 34.			
5978	1	3	May 20, 1992.
	2	Original	December 19, 1990.
	3,4	2	April 28, 1992.
	5	1	October 10, 1991.
	6	4	February 1998.
	7–11	1	October 10, 1991.
	12	3	May 20, 1992.
	13–18	1	October 10, 1991.
	19	3	May 20, 1992.
	20–33	1	October 10, 1991.
	34	2	April 28, 1992.
Total pages: 34.			
5745	1–9	2	October 24, 1990.
Total pages: 9.			
6054	1–4	1	April 24, 1992.
	5–7	Original	November 6, 1991.
	8	1	April 24, 1992.
	9–16	Original	November 6, 1991.
Total pages: 16.			

This incorporation by reference was approved by the Director of the **Federal Register** in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Pratt & Whitney, 400 Main St., East Hartford, CT 06108; telephone (860) 565–8770, fax (860) 565–4503. Copies may be inspected at the FAA, New England Region, Office of the Regional Counsel, 12 New England Executive Park, Burlington, MA; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on September 13, 1999.

Issued in Burlington, Massachusetts, on July 2, 1999.

Jay J. Pardee,

Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 99–17427 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–112–AD; Amendment 39–11223; AD 99–15–04]

RIN 2120–AA64

Airworthiness Directives; The New Piper Aircraft, Inc. Models PA–46–310P and PA–46–350P Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all The New Piper Aircraft, Inc. (Piper) Models PA–46–310P and PA–46–350P airplanes. This AD requires calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring for all of the applicable airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. This AD also requires repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of this AD into the Pilot's Operating Handbook of certain airplanes. This AD is the result of field reports that indicate service accuracy problems with the existing turbine inlet temperature system. The actions specified by this AD are intended to prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane.

DATES: Effective August 31, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. Donald J. Young, Aerospace Engineer, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone: (770) 703–6079; facsimile: (770) 703–6097; e-mail address: ''Donald.Young@faa.gov''.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to all Piper Models PA–46–310P and PA–46–350P airplanes was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 23, 1999 (64 FR 13934). The NPRM proposed to require calibrating the turbine inlet temperature system to assure the accuracy of the existing turbine inlet temperature indicator and wiring for all of the applicable airplanes, and repairing or replacing any turbine inlet temperature system that fails the calibration test. The NPRM also proposed to require repetitively replacing the turbine inlet temperature probe on the Model PA–46–350P airplanes, and inserting a copy of this AD into the Pilot's Operating Handbook of certain airplanes.

The NPRM was the result of field reports that indicate service accuracy problems with the existing turbine inlet temperature system.

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

Comment Disposition

The commenter provides reference to other POH revisions than those referenced in the AD. The commenter recommends that the FAA incorporate these into the final rule.

The FAA concurs and has revised the final rule accordingly.

No comments were received regarding the FAA's estimate of the cost impact upon the public.

The FAA's Determination

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

Cost Impact

The FAA estimates that 580 airplanes in the U.S. registry will be affected by the calibration, that it will take approximately 4 workhours per airplane to accomplish the calibration, and that the average labor rate is approximately $60 an hour. Based on these figures, the total cost impact of the calibration on U.S. operators is estimated to be $139,200, or $240 per airplane.

The FAA estimates that it will take approximately 1 workhour per airplane to accomplish the initial turbine inlet temperature probe replacement, and that the average labor rate is approximately $60 an hour. Parts cost approximately $518. Based on these figures, the total cost impact of the replacement on U.S. operators is estimated to be $335,240, or $578 per airplane. These figures only take into account the initial replacement and do not take into account the cost of subsequent repetitive replacements. The FAA has no way of determining the number of replacements each owner/operator will incur over the life of the affected airplanes.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–15–04 The New Piper Aircraft, Inc.: Amendment 39–11223; Docket No. 98–CE–112–AD.

Applicability: Models PA–46–310P and PA–46–350P airplanes, all serial numbers, certificated in any category.

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

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

To prevent improper engine operation caused by improperly calibrated turbine inlet temperature indicators or defective turbine inlet temperature probes, which could result in engine damage/failure with consequent loss of control of the airplane, accomplish the following:

(a) For all affected airplanes (Models PA–46–310P and PA–46–350P), within the next 100 hours time-in-service (TIS) after the effective date of this AD, accomplish the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection, and Turbine Inlet Temperature System Calibration, as follows:

(1) *For Model PA–46–310P airplanes:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (section A.(1)(d), pages 1 and 2); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–310P/350P Maintenance Manual, Chapter 77–20–00 (pages 3 and 4); and

(2) *For Model PA–46–350P airplanes:* Perform the Turbine Inlet Temperature Gauge and Probe Cleaning and Inspection in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.C, page 1); and accomplish the Turbine Inlet Temperature System Calibration in accordance with the PA–46–350P Maintenance Manual, Chapter 77–20–00 (section 1.I., pages 4 through 7).

Note 2: Operators of the Model PA–46–350P airplanes with over 150 hours TIS on the currently installed turbine inlet temperature probe will have to replace the probe as required in paragraph (c) of this AD. In this case, the operator may want to accomplish the replacement prior to the Turbine Inlet Temperature Gauge and Probe

Cleaning and Inspection, and Turbine Inlet Temperature System Calibration.

(b) For all affected airplanes (Models PA–46–310P and PA–46–350P), if the results of paragraph (a) of this AD cannot be met (the turbine inlet temperature system indicator cannot be calibrated or the turbine inlet temperature probe fails the inspection), prior to further flight, repair or replace the failed parts with serviceable parts of the following part numbers:

(1) Lewis Turbine Inlet Temperature Analog Indicator, part number 471–008.

(2) Lewis Turbine Inlet Temperature Digital Indicator, part number 548–811.

(3) Turbine Inlet Temperature Probe, part number 471–009 for the Model PA–46–310P airplanes and part number 481–392 for the PA–46–350P airplanes.

(4) Only the Lewis Turbine Inlet Temperature Analog Indicator (referenced in paragraph (b)(1) of this AD) has a zero adjustment screw. The Lewis Turbine Inlet Temperature Digital Indicator (referenced in paragraph (b)(2) of this AD) must be returned to the factory for adjustment or replacement.

(c) For the Model PA–46–350P airplanes, upon accumulating 250 hours TIS on the currently installed turbine inlet temperature probe or within the next 100 hours TIS after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 250 hours TIS: replace the part number 481–392 turbine inlet temperature probe with a new one of the same part number.

(d) For the operators of the airplanes presented in paragraphs (d)(1) and (d)(2) of this AD, within the next 100 hours TIS after the effective date of this AD, incorporate the emergency operation procedures specified in paragraph (e) of this AD for when a turbine inlet temperature system failure occurs while in-flight by inserting a copy of this AD into the applicable Pilots' Operating Handbook/Airplane Flight Manual (AFM/POH):

(1) For all operators of the Model PA–46–310P airplanes that do not have the applicable POH revision incorporated as follows:

POH	Revision/date	Affected serial numbers
VB–1200	16/March 19, 1999	46–8408001 through 46–8608067 and 4608001 through 4608007.
VB–1300	13/February 25, 1999	4608008 through 4608140.

(2) For those operators of the Model PA–46–350P airplanes that do not have the applicable POH revision incorporated as follows:

POH	Revision/date	Affected serial numbers
VB–1332	16/November 14, 1997	4622001 through 4622200.
VB–1609	1/November 21, 1997	463001 through 4636020.
VB–1602	1/November 28, 1997	4636021 through 4636131.
VB–1446	New/December 3, 1997	4636132 through 4636195.
VB–1710	New/February 23, 1999	All serial numbers beginning with 4636196.

(e) The following are emergency operation procedures for when a turbine inlet temperature system failure occurs while in-flight:

(1) *For Model PA–46–310P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent, or landing, maintain FULL RICH mixture to assure adequate fuel flow for engine cooling.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain cruise power setting and lean to 6 gallons per hour (GPH) fuel flow above that specified in the Power Setting Table in Section 5 of the AFM/POH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(2) *For Model PA–46–350P airplanes:*

(i) If the turbine inlet temperature indication fails during takeoff, climb, descent or landing, set power per the POH Section 5 Power Setting Table and then lean to the approximate POH Power Setting Table fuel flow plus 4 GPH.

(ii) If the turbine inlet temperature indication fails after cruise power has been set, maintain the power setting and increase indicated fuel flow by 1 GPH. Continually monitor engine cylinder head and oil temperatures to avoid exceeding temperature limits.

(f) Inserting a copy of this AD into the applicable POH/AFM as required by paragraph (d) of this AD may be performed by the owner/operator holding at least a private pilot certificate as authorized by § 43.7 of the Federal Aviation Regulations (14 CFR 43.7), and must be entered into the aircraft records showing compliance with paragraph (d) of this AD in accordance with section 43.9 of the Federal Aviation Regulations (14 CFR 43.9).

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

(h) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Atlanta Aircraft Certification Office (ACO), One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

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

(i) Service information that applies to this AD may be obtained from The New Piper Aircraft, Inc., Customer Services, 2926 Piper Drive, Vero Beach, Florida 32960. This information may also be examined at the Federal FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–112–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106

(j) This amendment becomes effective on August 31, 1999.

Issued in Kansas City, Missouri, on July 2, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–17678 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–8]

Establishment of Class E Airspace; Avon Park, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Avon Park, FL. A Global Positioning System (GPS) Runway (RWY) 9 Standard Instrument Approach Procedure (SIAP) has been developed for Avon Park Municipal Airport. As a result, controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Avon Park Municipal Airport. The operating status

of the airport will change from Visual Flight Rules (VFR) operations concurrent with the publication of the SIAP.

EFFECTIVE DATE: 0901 UTC, November 4, 1999.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

SUPPLEMENTARY INFORMATION: .

History

On May 28, 1999, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by establishing Class E airspace at Avon Park, FL, (64 FR 28944). This action provides adequate Class E airspace for IFR operations at Avon park Municipal Airport. Designations for Class E airspace extending upward from 700 feet or more above the surface of the earth are published in FAA Order 7400.9F dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR part 71.1. The Class E designation listed in this document will be published subsequently in the Order.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal was received.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes Class E airspace at Avon Park, FL. A GPS RWY 9 SIAP has been developed for Avon Park Municipal Airport. Controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Avon Park Municipal Airport. The operating status of the airport will change from VFR to include IFR operations concurrent with the publication of the SIAP.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation, as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule 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 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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, EO 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, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth

* * * * *

ASO FL E5 Avon Park, FL [New]

Avon Park Municipal Airport
(Lat. 27°35′28″N, long. 81°31′40″W)

That airspace extending upward from 700 feet or more above the surface of the earth within a 6.6-mile radius of Avon Park Municipal Airport, excluding that airspace within the Sebring, Fl Class E airspace area.

* * * * *

Issued in College Park, Georgia, on June 29, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–17760 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN RESOURCES

Food and Drug Administration

21 CFR Parts 520 and 558

Animal Drugs, Feeds, and Related Products; Chlortetracycline Powder, Etc.; Technical Amendments

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; technical amendments.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to correct errors concerning the sponsor of oral chlortetracycline powder, oral tetracycline powder, and interim use of certain medicated feeds. The amendments are required because the regulations did not reflect a change of sponsor from Fermenta Animal Health to Boehringer Ingelheim Vetmedica.

EFFECTIVE DATE: July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of June 30, 1997 (62 FR 35075 through 35077), FDA published a document reflecting the change of sponsor of several new animal drug applications from Fermenta Animal Health Co. to Boehringer Ingelheim Vetmedica, Inc. (at that time known as Boehringer Ingelheim Animal Health, Inc.). In 21 CFR 520.445b(d)(4)(iii)(C) and 520.2345d(a)(1) the regulations failed to reflect the change from ''054273'' to ''000010''. Also, in 21 CFR 558.15(g)(1) and (g)(2), the regulation failed to reflect the change from ''Fermenta Animal Health'' to ''Boehringer Ingelheim Vetmedica.'' At this time, the regulations in 21 CFR parts 520 and 558 are amended to reflect the change of sponsor.

This rule does not meet the definition of ''rule'' in 5 U.S.C. 804(3)(A) because it is a rule of ''particular applicability.'' Therefore, it is not subject to the Congressional review requirements in 5 U.S.C. 801–808.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner

of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520 and 558 are amended as follows:

PART 520— ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.445b [Amended]

2. Section 520.445b *Chlortetracycline powder (chlortetracycline hydrochloride or chlortetracycline bisulfate)* is amended in paragraph (d)(4)(iii)(C) by removing ''012286, 053389, and 054273'' and adding in its place ''000010, 012286, and 053389''.

§ 520.2345d [Amended]

3. Section 520.2345d *Tetracycline hydrochloride soluble powder* is amended in paragraph (a)(1) by removing ''054273,'' and adding ''000010,'' before ''046573''.

PART 558— NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

4. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.15 [Amended]

5. Section 558.15 *Antibiotic, nitrofuran, and sulfonamide drugs in the feed of animals* is amended in paragraphs (g)(1) and (g)(2) by removing ''Fermenta Animal Health Co.'' and adding in its place ''Boehringer Ingelheim Vetmedica, Inc.''

Dated: June 28, 1999.

Claire M. Lathers,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 99–17761 Filed 7–12–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[DEA–183F]

21 CFR Part 1308

Schedules of Controlled Substances: Placement of Ketamine into Schedule III

AGENCY: Drug Enforcement Administration, Department of Justice.

ACTION: Final rule.

SUMMARY: With the issuance of this final rule, the Deputy Administrator of the Drug Enforcement Administration (DEA) places the substance ketamine, including its salts, isomers, and salts of isomers, into schedule III of the Controlled Substances Act (CSA) (21 U.S.C. 801 *et seq.*). As a result of this rule, the regulatory controls and criminal sanctions of schedule III will be applicable to the manufacture, distribution, dispensing, importation and exportation of ketamine and products containing ketamine.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Frank Sapienza, Chief, Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537; Telephone: (202) 307–7183.

SUPPLEMENTARY INFORMATION:

Background

Ketamine hydrochloride is marketed in the United States as a general anesthetic for use in human medicine under the trade name Ketalar®. It is also marketed as a veterinary product under various names including Ketajet®, Ketaset®, and Vetalar®. Since 1992, more than 775 reports of ketamine diversion or abuse have been received by the DEA. More than 568 law enforcement reports described encounters of individuals who sold the drug, who had it in their possession and/or were under its influence. Veterinary clinic burglaries which were directed at ketamine were described also. The balance of the reports were of ketamine abuse related hospital emergency department visits.

The wide geographic distribution and prevalence of diversion and/or abuse of ketamine, the spreading notoriety of ketamine as a party drug, Special 'K' or 'K', and the involvement of teenagers and young adults caused the DEA to submit to the Department of Health and Human Services (DHHS) information related to each of the eight factors which are determinative of control under the CSA. The DHHS responded by letter, recommending that ketamine be added to schedule III.

The pharmacological and behavioral effects of ketamine are similar, but somewhat less intense and shorter in duration, to those of the schedule II substance, phencyclidine (PCP). Low dose intoxication with ketamine results in impaired attention, learning, and memory functions. Higher doses may result in ataxia, dizziness, elevated blood pressure, mental confusion, hyperexcitability, catalepsy (the inability to move), amnesia, convulsions, a delusional dream-like state, hallucinations, and psychosis. Long-term use of ketamine is associated with hallucinatory flashbacks, an inability to concentrate, psychological dependence, and tolerance. Reports of ketamine abuse leading to physical or psychological dependence consistent with schedule III criteria have been published.

Diversion of ketamine pharmaceutical products from practitioners has been the most frequently documented source of the drug, with the primary sources being veterinary clinics. The liquid pharmaceutical product is injected or, more commonly, evaporated and the resultant power inhaled (snorted). Clandestine manufacture of ketamine has not been encountered. In contrast to that of PCP, the synthesis of ketamine is difficult.

Notice of Proposed Rule Making

Relying on the scientific and medical evaluation and the recommendation of the Assistant Secretary for Health in accordance with section 201(b) of the CSA [21 U.S.C. 811(b)], and the independent review of the DEA, the Deputy Administrator of the DEA, pursuant to Sections 201(a) and 201(b) of the CSA [21 U.S.C. 811(a) and 811(b) proposed the placement of ketamine, including its salts, isomers, and salts of isomers, into schedule III of the CSA in an April 9, 1999, **Federal Register** notice (64 FR 17299). The notice provided an opportunity for all interested persons to submit their comments or objections in writing on the proposed scheduling of ketamine on or before June 8, 1999.

Comments

The DEA received five comments regarding the proposal. Comments in support of the proposal were received from the American Animal Hospital Association (AAHA), the American Veterinary Medical Association (AVMA), the American Association of Equine Practitioners (AAEP) and a practicing veterinarian. The AAHA, which represents 16,000 veterinary care providers, commented that the movement of ketamine into Schedule III was in the best interest of the veterinary industry and the general public. The AVMA, on behalf of 62,000 members, stated that the security and record keeping required of Schedule III controlled substances will prevent diversion and unauthorized use of ketamine while providing a reasonable mechanism for the continued, responsible use of ketamine for legitimate purposes by members of the veterinary profession. The AAEP which reaches 3.2 million horse owners through its more than 6,200 members world wide strongly supports the placement of ketamine into Schedule III.

The group commented that anesthesia in the horse poses unique dangers to both handlers and the horse; that ketamine has proven to be the safest induction agent known and remains an important medication to the equine practitioner; that the equine veterinary community is keenly aware of the public health concerns associated with this drug; and that many veterinary practices have already taken precautionary steps to prevent its misuse by keeping the drug restricted and secured. A veterinarian whose hospital in Pennsylvania was broken into by individuals seeking ketamine strongly supports the placement of ketamine into Schedule III and notes that publicity of the mandatory security measures will discourage potential burglars.

The Phoenix Scientific, Inc., a supplier of generic veterinary ketamine hydrochloride injection products, opposed the proposal. In summary, the company posited that: 1. The Fort Dodge Animal Health advocacy of the placement of ketamine into Schedule III might be an attempt to limit the production and distribution of the generic equivalent by reputable firms; 2. the problem of diversion of ketamine is not a factor which needs to be addressed further at the manufacturers' level; 3. compliance with the DEA requirements will cause substantial price increases and not stop diversion; and 4. the manufacturer(s) will be burdened with assisting law enforcement and forensic labs throughout the country because a field test for the identification of ketamine does not exist. Further, the company asked that ''a reasonable amount of time'' be allowed for coming into compliance with the regulatory requirements if the proposed action were finalized.

In response, the Deputy Administrator finds that the comments do not relate to the factors determinative of control of a substance [21 U.S.C. 811(c)] or the criteria for placement of a substance in a particular schedule [21 U.S.C. 812(b)]. Therefore, he need not address the objections. In relation to the commenter's request for the allowance of sufficient time for coming into compliance with the Schedule III regulatory requirements, the Deputy Administrator notes that, as described below, the DEA will entertain any justified request for an extension of time in the event that the regulations impose special hardships.

Findings

The Deputy Administrator of the DEA, taking into consideration the comments which were received in response to the publication of the proposed rule, and based on the investigations and review conducted by his staff and relying on the scientific and medical evaluation and the recommendation of the Assistant Secretary for Health, received in accordance with Section 201(b) of the Act [21 U.S.C. 811(b)], finds, pursuant to Sections 201(a) and 201(b) of the Act [21 U.S.C. 811(a) and 811(b)], that:

(1) Ketamine has a potential for abuse less than the drugs or other substances in Schedules I and II;

(2) Ketamine has currently accepted medical use in treatment in the United States; and

(3) Abuse of ketamine may lead to moderate or low physical dependence or high psychological dependence.

Scheduling Action

Based on these findings, the Deputy Administrator of the DEA concludes that ketamine, including its salts and isomers, and salts of isomers, warrants control in Schedule III in the CSA. The Schedule III controls of ketamine will become effective on August 12, 1999. In the event that the regulations impose special hardships on any registrant, the DEA will entertain any justified request for an extension of time to comply with the Schedule III regulations regarding ketamine. The applicable regulations are as follows:

1. *Registration.* Any person who manufactures, distributes, dispenses, imports or exports ketamine or who engages in research or conducts instructional activities or chemical analysis with respect to this substance, or who proposes to engage in such activities, must be registered to conduct such activities in accordance with Part 1301 of Title 21 of the Code of Federal Regulations on and after August 12, 1999. Any person who is currently lawfully engaged in any of the above activities must submit an application for registration by August 12, 1999. Any such person may then continue their lawful activities until the DEA has approved or denied that application.

2. *Disposal of stocks.* Any person who elects not to obtain a Schedule III registration or is not entitled to such registration must surrender all quantities of currently held ketamine in accordance with procedures outlined in 21 CFR 1307.21 on or before August 12, 1999, or may transfer all quantities of currently held ketamine to a person registered under the CSA and authorized to possess Schedule III control substances on or before August 12, 1999. Ketamine to be surrendered to DEA must be listed on a DEA Form 41, ''Inventory of Controlled Substances Surrendered for Destruction.'' DEA Form 41 and instructions can be obtained from the nearest DEA office.

3. *Security.* Ketamine must be manufactured, distributed and stored in accordance with §§ 1301.71, 1301.72(b), (c), and (d), 1301.73, 1301.74, 1301.75(b) and (c) and 1301.76 of Title 21 of the Code of Federal Regulations.

4. *Labeling and packaging.* All commercial containers of ketamine, which are packaged on or after January 13, 2000, must have the appropriate Schedule III labeling as required by §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations. Commercial containers of ketamine packaged before January 13, 2000 and not meeting the requirements specified in §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations may be distributed until May 15, 2000. On and after May 15, 2000 all commercial containers of ketamine must bear the CIII labels as specified in §§ 1302.03–1302.07 of Title 21 of the Code of Federal Regulations.

5. *Inventory.* Registrants possessing ketamine are required to take inventories pursuant to §§ 1304.03, 1304.04 and 1304.11 of Title 21 of the Code of Federal Regulations.

6. *Records.* All registrants must keep records pursuant to §§ 1304.03, 1304.04 and 1304.21–1304.23 of Title 21 of the Code of Federal Regulations.

7. *Prescriptions.* All prescriptions for ketamine are to be issued pursuant to §§ 1306.03–1306.06 and 1306.21–1306.26 of Title 21 of the Code of Federal Regulations. All prescriptions for products containing ketamine issued on or before September 13, 1999, if authorized for refilling, shall as of that date be limited to five refills and shall not be refilled after January 13, 2000.

8. *Importation and Exportation.* All importation and exportation of ketamine shall be in compliance with Part 1312 of Title 21 of the Code of Federal Regulations.

9. *Criminal Liability.* Any activity with ketamine not authorized by, or in violation of, the CSA or the Controlled Substances Import and Export Act shall be unlawful on or after August 12, 1999.

In accordance with the provisions of the CSA [21 U.S.C. 811(a)], this action is a formal rulemaking ''on the record after opportunity for a hearing.'' Such proceedings are conducted pursuant to the provisions of 5 U.S.C. 556 and 557 and, as such, are exempt from review by the Office of Management and Budget pursuant to Executive Order (E.O.) 12866, Section 3(d)(1). The Deputy Administrator, in accordance with the Regulatory Flexibility Act [5 U.S.C. 605(b)], has reviewed this rule and by

approving it, certifies that it will not have a significant economic impact on a substantial number of small business entities. Ketamine products are prescription drugs used as anesthetics in hospitals and clinics. Handlers of ketamine are likely to handle other controlled substances which are already subject to the regulatory requirements of the CSA.

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

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

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

List of Subjects in 21 CFR Part 1308

Administrative practice and procedure, Drug traffic control, Narcotics, Prescription drugs.

Under the authority vested in the Attorney General by Section 201(a) of the CSA [21 U.S.C. 811(a)], and delegated to the Administrator of the DEA by the Department of Justice regulations (28 CFR 0.100) and redelegated to the Deputy Administrator pursuant to 28 CFR 0.104, the Deputy Administrator hereby amends 21 CFR part 1308 as follows:

PART 1308—[AMENDED]

1. The authority citation for 21 CFR part 1308 continues to read as follows:

Authority: 21 U.S.C. 811, 812, 871(b) unless otherwise noted.

2. Section 1308.13 is amended by redesignating the existing paragraphs (c)(5) through (c)(11) as (c)(6) through (c)(12) and by adding a new paragraph (c)(5) to read as follows:

§ 1308.13 Schedule III.

* * * * *

(c) * * *

(5) Ketamine, its salts, isomers, and salts of isomers 7285
[Some other names for ketamine: (±)-2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone].

* * * * *

Dated: July 7, 1999.

Donnie R. Marshall,

Deputy Administrator, Drug Enforcement Administration.

[FR Doc. 99–17803 Filed 7–12–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 20, 25, 31, and 40

[TD 8828]

RIN 1545–AW41

Electronic Funds Transfers of Federal Deposits

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the deposit of Federal taxes by electronic funds transfer (EFT). The final regulations affect certain taxpayers required to make deposits of Federal taxes. For calendar years beginning after 1999, the final regulations provide rules under which certain taxpayers must make deposits by EFT.

DATES: *Effective Date:* These regulations are effective July 13, 1999.

Applicability Date: For dates of applicability, see § 31.6302–1(h)(2).

FOR FURTHER INFORMATION CONTACT: Vincent Surabian, (202) 622–4940 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains amendments to the Income Tax Regulations (26 CFR part 1), the Estate Tax Regulations (26 CFR part 20), the Gift Tax Regulations (26 CFR part 25), the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR part 31), and the Excise Tax Procedural Regulations (26 CFR part 40). On March 23, 1999, a notice of proposed rulemaking was published in the **Federal Register** (64 FR 13940). A public hearing originally scheduled in the notice of proposed rulemaking for May 11, 1999, was canceled as there were no requests to speak. Three written comments were received. After consideration of all comments, the proposed regulations are adopted by this Treasury decision.

Explanation of Provisions

Section 6302(h) requires that, beginning in fiscal year 1999, 94 percent of employment taxes and 94 percent of other depository taxes be collected by EFT. The IRS and Treasury Department previously concluded that the deposit threshold had to be set at $50,000 to satisfy this statutory requirement. More recent experience suggests, however, that the statutory requirement can be satisfied even if the threshold is set at a substantially higher level. Moreover, an increase in the threshold would allow small businesses to make the transition to the EFT system at their own pace as they adopt electronic funds transfer in their other business operations. Accordingly, the final regulations increase the deposit threshold to $200,000 in aggregate Federal tax deposits during a calendar year.

The new $200,000 aggregate deposits threshold will be applied initially to 1998 deposits, and taxpayers that exceed the threshold in 1998 will be required to deposit by EFT beginning in 2000. Taxpayers that first exceed the threshold in 1999 or a subsequent year will similarly be required to deposit by EFT beginning in the second succeeding calendar year. A taxpayer that exceeds the threshold will not be permitted to resume making paper coupon deposits if its deposits fall below $200,000 in a subsequent year. Although a similar rule applies under the current regulations, taxpayers that are currently required to deposit by EFT will be given a fresh start and will not be required to use EFT unless they exceed the $200,000 threshold in 1998 or a subsequent calendar year.

The final regulations also expand the types of nondepository tax payments for which voluntary payment by EFT is allowed to include nondepository payments of Federal income, estate and gift, employment, and various specified excise taxes.

Public Comments

Two commentators on the proposed regulations opposed the increase in the threshold to $200,000. They were concerned that financial institutions

and the Federal government would have to continue to process large volumes of checks and paper coupons.

In addition, they stated that the increase in threshold does not seem justified since the requirement to deposit by EFT does not require an investment by the taxpayer in new technology and greater use of EFT payment methods will contribute to the maintenance of a secure and efficient payment system. The two commentators conclude that the Federal government should continue to use penalty waivers until taxpayers become adept at using the system of depositing by EFT efficiently and accurately. The two commentators did, however, agree with the use of an aggregate deposits test to determine whether a taxpayer is required to deposit by EFT.

As stated in the notice of proposed rulemaking, the IRS and Treasury Department are confident that most taxpayers currently required to deposit by EFT have come to appreciate the simplicity and convenience of the EFT system and will continue to deposit by EFT on a voluntary basis. Despite the increase in the threshold, the continued participation of these taxpayers, coupled with continuing efforts to encourage voluntary enrollment, should ensure the Congressionally-mandated 94 percent of collections by EFT. A lower threshold would, as the commentators suggest, result in even greater use of the EFT system. The IRS and Treasury Department have concluded, however, that the $200,000 threshold appropriately balances concerns relating to small businesses against the benefit of reduced paper transactions.

A third comment suggested removal of the rule in 31 CFR part 203 prohibiting banks from charging fees for processing paper coupon deposits. The regulations in 31 CFR part 203 are issued by the Financial Management Service (FMS) of the Treasury Department, rather than by the Internal Revenue Service. FMS has received similar comments and announced, in the preamble of the 1998 regulations revising 31 CFR part 203 (63 FR 5643), that it intends to issue a notice of proposed rulemaking on removing this prohibition.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in EO 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations and, because these regulations do not impose a collection of information requirement on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of proposed rulemaking that preceded these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information: The principal author of these regulations is Vincent Surabian, Office of Assistant Chief Counsel (Income Tax & Accounting). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

26 CFR Part 25

Gift taxes, Reporting and recordkeeping requirements.

26 CFR Part 31

Employment taxes, Income taxes, Penalties, Pensions, Railroad retirement, Reporting and recordkeeping requirements, Social security, Unemployment compensation.

26 CFR Part 40

Excise taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1, 20, 25, 31, and 40 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by revising the entry for § 1.6302–4 to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 1.6302–4 also issued under 26 U.S.C. 6302(a), (c), and (h). * * *

Par. 2. Section 1.6302–4 is revised to read as follows:

§ 1.6302–4 Use of financial institutions in connection with income taxes; voluntary payments by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle A of the Internal Revenue Code, including any payment of estimated tax. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Par. 3. The authority citation for part 20 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 20.6302–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 4. Section 20.6302–1 is added to read as follows:

§ 20.6302–1 Voluntary payments of estate taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 20 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 25.6302–1 also issued under 26 U.S.C. 6302(a) and (h). * * *

Par. 6. Section 25.6302–1 is added to read as follows:

§ 25.6302–1 Voluntary payments of gift taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 25 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

PART 31—EMPLOYMENT TAXES AND COLLECTION OF INCOME TAX AT SOURCE

Par. 7. The authority citation for part 31 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 8. Section 31.6302–1 is amended as follows:

1. The heading for paragraph (h)(2) is revised.
2. A heading is added for paragraph (h)(2)(i).
3. New paragraph (h)(2)(i)(C) is added.
4. Paragraph (h)(2)(ii) is revised
5. Paragraph (h)(2)(iii) is added.
6. Paragraph (m) is redesignated as paragraph (n).
7. Paragraph (k) is redesignated as new paragraph (m).
8. Paragraph (j) is redesignated as new paragraph (k).
9. New paragraph (j) is added.

The additions and revisions read as follows:

§ 31.6302–1 Federal tax deposit rules for withheld income taxes and taxes under the Federal Insurance Contributions Act (FICA) attributable to payments made after December 31, 1992.

* * * * *

(h) * * *

(2) *Applicability of requirement*—(i) *Deposits for return periods beginning before January 1, 2000.* (A) * * *

(C) This paragraph (h)(2)(i) applies only to deposits required to be made for return periods beginning before January 1, 2000. Thus, a taxpayer, including a taxpayer that is required under this paragraph (h)(2)(i) to make deposits by electronic funds transfer beginning in 1999 or an earlier year, is not required to use electronic funds transfer to make deposits for return periods beginning after December 31, 1999, unless deposits by electronic funds transfer are required under paragraph (h)(2)(ii) of this section.

(ii) *Deposits for return periods beginning after December 31, 1999.* Unless exempted under paragraph (h)(5) of this section, a taxpayer that deposits more than $200,000 of taxes described in paragraph (h)(3) of this section during a calendar year beginning after December 31, 1997, must use electronic funds transfer (as defined in paragraph (h)(4) of this section) to make all deposits of those taxes that are required to be made for return periods beginning after December 31 of the following year and must continue to deposit by electronic funds transfer in all succeeding years. Thus, a taxpayer that exceeds the $200,000 deposit threshold during calendar year 1998 is required to make deposits for return periods beginning in or after calendar year 2000 by electronic funds transfer.

(iii) *Voluntary deposits.* A taxpayer that is not required by this section to use electronic funds transfer to make a deposit of taxes described in paragraph (h)(3) of this section may voluntarily make the deposit by electronic funds transfer, but remains subject to the rules of paragraph (i) of this section, pertaining to deposits by Federal tax deposit (FTD) coupon, in making deposits other than by electronic funds transfer.

* * * * *

(j) *Voluntary payments by electronic funds transfer.* Any person may voluntarily remit by electronic funds transfer any payment of tax imposed by subtitle C of the Internal Revenue

Code. Such payment must be made in accordance with procedures prescribed by the Commissioner.

* * * * *

PART 40—EXCISE TAX PROCEDURAL REGULATIONS

Par. 9. The authority citation for part 40 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 40.6302(a)–1 also issued under 26 U.S.C. 6302 (a) and (h).

Par. 10. Section 40.6302(a)–1 is added to read as follows:

§ 40.6302(a)–1 Voluntary payments of excise taxes by electronic funds transfer.

Any person may voluntarily remit by electronic funds transfer any payment of tax to which this part 40 applies. Such payment must be made in accordance with procedures prescribed by the Commissioner.

Charles O. Rossotti,

Commissioner of Internal Revenue.

Approved: July 2, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–17517 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[TD 8827]

RIN 1545–AW49

Removal of Regulations Providing Guidance Under Subpart F Relating to Partnerships and Branches

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Removal of temporary and final regulations.

SUMMARY: This document removes regulations relating to the treatment under subpart F of certain payments involving branches of a controlled foreign corporation (CFC) that are treated as separate entities for foreign tax purposes or partnerships in which CFCs are partners, as published in the **Federal Register** on March 26, 1998. Removal of the temporary regulations will allow Congress and the Treasury the opportunity to consider in greater depth the issues pertaining to hybrid transactions.

EFFECTIVE DATES: These regulations are removed effective March 23, 1998.

FOR FURTHER INFORMATION CONTACT: Valerie Mark, (202) 622–3840 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998 (63 FR 14669, March 26, 1998), the IRS issued proposed regulations (REG–104537–97) relating to the treatment under subpart F of certain partnership and hybrid branch transactions. The provisions of the proposed regulations concerning hybrid branch transactions were also issued as temporary regulations (TD 8767) (63 FR 14613, March 26, 1998). Congress and taxpayers raised concerns about the proposed and temporary regulations relating to hybrid branch transactions. Accordingly, as announced in Notice 98–35 (1998–27 I.R.B. 35), the IRS has decided to withdraw the proposed regulations (see document withdrawing proposed regulations and setting out new proposed regulations, published elsewhere in this issue of the **Federal Register**) and remove the temporary regulations. Removal of the temporary regulations will allow Congress and the Treasury the opportunity to consider in greater depth the issues pertaining to hybrid transactions.

Drafting Information: The principal author of these regulations is Valerie Mark, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 301 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 1.904–5 [Amended]

Par. 2. In § 1.904–5, paragraph (o) is amended by removing the last sentence.

§ 1.904–5T [Removed]

Par. 3. § 1.904–5T is removed.

§ 1.954–1 [Amended]

Par. 4. Section 1.954–1 is amended by removing paragraph (c)(1)(iv).

§ 1.954–1T [Removed]

Par. 5. Section 1.954–1T is removed.

§ 1.954–2T [Removed]

Par. 7. Section 1.954–2T is removed.

§ 1.954–9T [Removed]

Par. 9. Section 1.954–9T is removed.

PART 301—PROCEDURE AND ADMINISTRATION

Par. 10. The authority citation for 26 CFR part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 301.7701–3 [Amended]

Par. 11. In § 301.7701–3, the last sentence in paragraph (f)(1) is removed.

§ 301.7701–3T [Removed]

Par. 12. Section 301.7701–3T is removed.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: June 29, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–17369 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 602

[TD 8742]

RIN 1545–AU42 and 1545–AV20

Requirements Respecting the Adoption or Change of Accounting Method; Extensions of Time To Make Elections; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 8742), which were published in the **Federal Register** on Wednesday, December 31, 1997 (62 FR 68167), providing the procedures for requesting an extension of time to make certain elections under the Internal Revenue Code.

DATES: This correction is effective December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Cheryl Lynn Oseekey (202) 622–4970 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Sections 301.9100–2 and 301.9100–3 of the Procedure and Administration Regulations are the subject of these corrections. These regulations require information to be collected from taxpayers seeking to obtain from the Commissioner extensions of time to make certain elections.

Need for Correction

As published, final regulations (TD 8742) contains errors which may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 602

Reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 602 is corrected by making the following correcting amendment:

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Paragraph 1. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 2. In § 602.101, paragraph (b) is amended by removing the entry for § 301.9100–1 from the table and adding entries for §§ 301.9100–2 and 301.9100–3 to the table in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB control No.
* * * * *	
301.9100–2	1545–1488
301.9100–3	1545–1488
* * * * *	

Cynthia E. Grigsby,

Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–17518 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–099–007]

RIN 2115–AE47

Drawbridge Operations Regulations; Columbia River, OR

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily revising the operating regulations for the dual Interstate 5 drawbridges across the Columbia River, mile 106.5, between Portland, Oregon, and Vancouver, Washington. The temporary rule will enable the bridge owner to paint the lift towers of the northbound bridge by permitting the vertical lift span to be maintained in the closed (down) position from July 26 to September 26 in 1999 and from July 15 to September 15, 2000, provided that the water level at the bridge remains at or below 6 feet (Columbia River Datum or CRD) at all times during these periods.

DATES: This rule is effective from July 26, 1999, through September 15, 2000.

ADDRESSES: Unless otherwise noted, documents referred to in this preamble are available for inspection and copying at Commander (oan), Thirteenth Coast Guard District, 915 Second Avenue, Seattle, WA 98174–1067 or deliver them to room 3510 between 7:45 a.m. and 4:25 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: John E. Mikesell, Chief, Plans and Programs Section, Aids to Navigation and Waterways Management Branch, Telephone (206) 220–7272.

SUPPLEMENTARY INFORMATION:

Regulatory History

The Coast Guard published a notice of proposed rulemaking in the **Federal Register** (64 FR 17134) on April 8, 1999. The Coast Guard received no letters on the notice of proposed rulemaking. No public hearing was requested and none was held.

Background and Purpose

The purpose of the temporary change to the operation regulations for the dual Interstate 5 drawbridges (33 CFR 117.869) is to permit the bridge owner to paint the lift span of the northbound bridge. According to the Oregon Department of Transportation, the entire structure is badly in need of painting to prevent further loss of steel through corrosion. The adjacent southbound bridge on I–5 is a newer structure and is not included in this painting project. Its draw span, however, operates in unison with the southbound draw span and therefore will be affected by this rule.

Current containment requirements to prevent pollution from the lead paint removal make it necessary to install an envelope around the towers which support the movable span and to isolate

the wire ropes within the towers from contamination. This containment system makes it impossible to operate the lift span while it is in place. Derigging such a containment system can not be achieved in a timely fashion for opening the drawbridge for the passage of vessels.

The closure periods are during that part of the year that coincides with lower water levels on the Columbia River. Most vessels are able to pass through one of the two higher fixed spans of the structure south of the drawspan when the river is low. This obviates the need for the dual draw-bridges to open for these vessels. The containment system will not intrude into the two fixed spans while it is in use in the drawspan.

Discussion of Comments and Changes

The Coast Guard received no letters commenting on the notice of proposed rulemaking. The start date for the closure period is being changed for 1999 from the proposed date of July 15 to July 26 because the Corps of Engineers, Portland District, has predicted that the river level will not be below 6 feet until the last week of July at the earliest. This is largely due to the late melting of the unusually substantial snow pack in the Cascade Mountains. The rule also changes the ending date for the 1999 temporary closure to September 26 instead of the proposed September 15 date. The Coast Guard will consider granting an extension of the closed period if the river level is predicted to remain at or below 6 feet at the bridges. Any extensions to the closures in this rule will be published separately in the **Federal Register**.

The closed period proposed for the year 2000 remains July 15 to September 15.

This final rule does not provide 30 days notice because a comment period was provided in the notice of proposed rulemaking. Pursuant to U.S.C. 553, notice of proposed rulemaking has been published for this regulation. However, good cause exists for making the final rule effective in less than 30 days from date of publication in the **Federal Register**. Publishing a final rule with 30 days notice before it becomes effective would be contrary to public interest since immediate action is necessary. Due to the complex planning and coordination of this bridge maintenance with water levels, the Coast Guard was not provided with notice of the final details of water level predictions for 1999 until less than 30 days prior to the date the maintenance is scheduled to begin. If normal notice and comment procedures were followed, this rule would not become effective until after the date that the maintenance is scheduled to begin. For this reason, following normal rulemaking procedures in this case would be impracticable and contrary to the public interest.

Regulatory Evaluation

This final rule is not a significant regulatory action under 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. It has not been reviewed by the Office of Management and Budget under that Order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard Expects the economic impact of this rule to be so minimal that a full regulatory evaluation is unnecessary. The final rule would permit vital maintenance to be performed without unreasonable inconvenience to river traffic.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considers whether this final rule, will have a significant economic impact on a substantial number of small entities. ''Small entities'' include small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. Therefore, for the reasons discussed in the Regulatory Evaluation section above, the Coast Guard certifies under 5 U.S.C. 605(b) that this final rule will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501–3520).

Federalism

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

Environment

The Coast Guard considered the environmental impact of this final rule and concluded that, under Figure 2–1, paragraph 32(e), of Commandant Instruction M16475.1C, this rule is categorically excluded from further environmental documentation because promulgation of changes to drawbridge regulations have been found not to have a significant effect on the environment. A written ''Categorical Exclusion Determination'' is not required for this final rule.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

For the reasons set out in the preamble, the Coast Guard is amending part 117 of title 33, Code of Federal Regulations, as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); § 117.255 also issued under the authority of Public Law 102–587, 106 Stat. 5039.

2. From July 26, 1999, to September 15, 2000, a new paragraph (a)(3) is added to § 117.869 to read as follows:

§ 117.869 Columbia River.

(a) * * *

(3) The draws of the dual Interstate 5 Bridges, mile 106.5, between Portland, OR and Vancouver, WA, need not open for the passage of vessels from July 26 to September 26, 1999, and from July 15 to September 15, 2000, provided that the river level remains at or below 6 feet Columbia River Datum. If the river level rises to more than 6 feet, the bridges shall operate as provided in paragraphs (a)(1) and (2) of this section.

* * * * *

Dated: 23 June 1999.

Paul M. Blayney,

Rear Admiral, Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 99–17674 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD01–99–115]

RIN 2115–AA97

Safety Zone: T E L Enterprises Fireworks Display, Great South Bay off Davis Park, NY

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a safety zone for the T E L

Enterprises Fireworks Display to be held in Great South Bay off Davis Park, N.Y. on August 7, 1999. This safety zone is needed to protect persons, facilities, vessels and others in the maritime community from the safety hazards associated with this fireworks display. Entry into this safety zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATE: This regulation is effective from August 7, 1999, at 7:45 p.m. until 8:45 p.m. on August 8, 1999. For rain dates for this event, refer to the regulatory text set out in this rule.

ADDRESSES: Documents relating to this temporary final rule are available for inspection and copying at U.S. Coast Guard Group Long Island Sound, 120 Woodward Avenue, new Haven, CT 06512. Normal office hours are between 8 a.m. and 4 p.m., Monday through Friday, except holidays. Comments may also be faxed to this address. The fax number is (203) 468–4445.

FOR FURTHER INFORMATION CONTACT: Lieutenant Commander T.J. Walker, Chief of Port Operations, Captain of the Port, Long Island Sound at (203) 468–4444.

SUPPLEMENTARY INFORMATION:

Regulatory History

Pursuant to 5 U.S.C. 553, good cause exists for not publishing a notice of proposed rulemaking (NPRM) and for making this rule effective in less than 30 days after Federal Register publication. The sponsor of the event did not provide the Coast Guard with the final details for the event in sufficient time to publish a NPRM or a final rule 30 days in advance. The delay encountered if normal rulemaking procedures were followed would effectively cancel the event. Cancellation of this event is contrary to the public interest since the fireworks display is for the benefit of the public.

Background and Purpose

T E L Enterprises is sponsoring a 15 minute fireworks display in Great South Bay off Davis Park, N.Y. The fireworks display will occur on August 7, 1999, from 8:15 p.m. until 8:30 p.m. The safety zone covers all waters of Great South Bay within a 600 foot radius of the fireworks launching barge which will be located in approximate position 40°41′17″N, 073°00′20″W (NAD 1983). This zone is required to protect the maritime community from the dangers associated with this fireworks display. Entry into or movement within this zone will be prohibited unless authorized by the Captain of the Port or his on-scene representative.

Regulatory Evaluation

This temporary final rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. This safety zone involves only a portion of Great South Bay off Davis Park and entry into this zone will be restricted for only 60 minutes on August 7, 1999. Although this regulation prevents traffic from transiting this section of Great South Bay, the effect of this regulation will not be significant for several reasons: The duration of the event is limited; the event is at a late hour; all vessel traffic may safely pass around this safety zone; and extensive, advance maritime advisories will be made.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Coast Guard considered whether this proposal would have a significant economic impact on a substantial number of small entities. ''Small entities'' include independently owned and operated small businesses that are not dominant in their field and (2) governmental jurisdictions with populations of less than 50,000.

For the reasons addressed under the Regulatory Evaluation above, the Coast Guard finds that this rule will not have a significant impact on a substantial number of small entities.

Collection of Information

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

Federalism

The Coast Guard has analyzed this action in accordance with the principles and criteria contained in Executive Order 12612, and has determined that these regulations do not raise sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates

Under the Unfunded Mandates Reform Act of 1995 (Pub. L. 104), the Coast Guard must consider whether this rule will result in an annual expenditure by state, local, and tribal governments, in aggregate of $100 million (adjusted annually for inflation). If so, the Act requires that a reasonable number of regulatory alternatives be considered, and that from those alternatives, the least costly, most cost-effective, or least burdensome alternative that achieves the objective of the rule by selected. No state, local, or tribal government entities will be affected by this rule, so this rule will not result in annual or aggregate costs of $100 million or more. Therefore, the Coast Guard is exempt from any further regulatory requirements under the Unfunded Mandates Act.

Environment

The Coast Guard has considered the environmental impact of this regulation and concluded that under Figure 2–1, paragraph 34(g), of Commandant Instruction, M 16475.C, this rule is categorically excluded from further environmental documentation. A written Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under **ADDRESSES**.

Other Executive Orders on the Regulatory Process

In addition to the statutes and Executive Orders already addressed in this preamble, the Coast Guard considered the following executive orders in developing this final rule and reached the following conclusions:

E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights. This final rule will not effect a taking of private property or otherwise have taking of private property or otherwise have taking implications under this order.

E.O. 12875, Enhancing the Intergovernmental Partnership. This final rule meets applicable standards in sections 3(a) and 3(b)(2) of this order to minimize litigation, eliminate ambiguity, and reduce burden.

E.O. 13405, Protection of Children from Environmental Health Risks and Safety Risks. This final rule is not an economically significant rule and does not concern an environmental risk to safety disproportionately affecting children.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reports and recordkeeping requirements, Security measures, Waterways.

Regulation

For the reasons set out in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—[AMENDED]

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; 49 CFR 1.46. Section 165.100 is also issued under authority of Sec. 311, Pub. L. 105–383.

2. Add temporary § 165.T01–115 to read as follows:

§ 165.T01–115. T E L Enterprises Fireworks Display, Great South Bay off Davis Park, N.Y.

(a) *Location.* The safety zone includes all waters of Great South Bay within a 600 foot radius of the launch barge located in approximate position 40°41′17″N, 073°00′20″W (NAD 1983).

(b) *Effective date.* This section is effective on August 7, 1999 from 7:45 p.m. until 8:45 p.m. August 8, 1999, at the same times as the scheduled rain date for this event.

(c) *Regulations.* (1) The general regulations covering safety zones contained in § 165.23 of this part apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on scene patrol personnel. U.S. Coast Guard patrol personnel include commissioned, warrant, and petty officers of the Coast Guard. Upon being hailed by a U.S. Coast Guard Vessel via siren, radio, flashing light, or other means, the operator of a vessel shall proceed as directed.

P.K. Mitchell,

Captain, Coast Guard, Captain of the Port, Long Island Sound.

[FR Doc. 99–17809 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–15–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV016–6010a; FRL–6372–3]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Approval of Revisions to Coal Preparation Plants and Coal Handling Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action on revisions to the West Virginia State Implementation Plan (SIP). The revisions concern regulations for coal handling and preparation facilities. New permitting, monitoring, reporting, and testing requirements are included for these facilities and new emission limits are included for facilities that are located in the Follansbee particulate matter nonattainment area. EPA is approving these revisions to West Virginia's regulation 45CSR5 ''To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations'' in accordance with the requirements of the Clean Air Act.

DATES: This rule is effective on September 13, 1999 without further notice, unless EPA receives adverse written comment by August 12, 1999. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Written comments should be mailed to Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; the Air and Radiation Docket and Information Center, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460; and West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, or by e-mail at knapp.ruth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On November 15, 1991, EPA received an attainment plan from West Virginia for the Follansbee PM–10 nonattainment area.[1] The plan consisted of several portions including bilateral consent orders between the State of West Virginia and six companies in the Follansbee area, emergency revisions to West Virginia Regulation 5 ''To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants'', and air quality modeling. EPA advised the State that the revisions to Regulation 5 were not approvable as a SIP revision because West Virginia's emergency rules, are by State law, temporary. On August 10, 1993, West Virginia submitted formal State Implementation Plan (SIP) revisions to EPA of the permanently adopted revisions to Regulation 5. The SIP revision provides new emission limits and operating practices for coal preparation and handling facilities in the Follansbee, West Virginia PM–10 nonattainment area and new permitting, monitoring, reporting and testing requirements for coal handling facilities statewide.

Summary of the SIP Revision

The revisions to Regulation 5 are scattered throughout the rule. The major changes to the rule are provisions for the following:

(1) Special limits on emissions from coal handling operations and coal preparation plants in the Follansbee PM–10 nonattainment area, including an emission limit of 0.001 pounds of particulate matter per ton of coal crushed or screened; a limit of 5% opacity from any crushing, screening, or conveying operation; and a plan to control fugitive dust from haul roads, pile areas, berms, and plant access roads;

(2) A requirement for the continuous measurement of exit gas temperature or scrubber pressure drop and water pressure at thermal drier units statewide; and

(3) Revisions to reporting and testing requirements, and provisions related to granting variances.

These regulations went into effect in the State of West Virginia in 1993. EPA is publishing this revision to West Virginia's Regulation 5 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on September 13, 1999 without further notice unless EPA receives adverse comment by August 12, 1999. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action.

[1] The Follansbee particulate matter nonattainment area is that part of Brooke County, West Virginia west of State Route 2, north of an eastward extension of the southern boundary of Steubenville Township, Ohio, and south of the Market Street Bridge. There is only one coal preparation facility in the Follansbee area, and it has been inactive for several years.

Any parties interested in commenting must do so at this time.

II. Final Action

EPA is approving the revisions to West Virginia Regulation 5 ''To Prevent and Control Air Pollution from the Operation of Coal Preparation Plants and Coal Handling Facilities''. These revisions strengthen the State Implementation Plan by providing additional controls for particulate matter.

III. Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

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. If EPA complies by consulting, E.O. 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 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 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.

C. Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that the EPA determines (1) is ''economically significant,'' as defined under E.O. 12866, and (2) the environmental health or safety risk addressed by the rule 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. This final rule is not subject to E.O. 13045 because it is not an economically significant regulatory action as defined by E.O. 12866, and it does not address an environmental health or safety risk that would have a disproportionate effect on children.

D. Executive Order 13084

Under E.O. 13084, EPA may not issue a regulation that is not required by statute, that significantly affects 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 EPA complies by consulting, Executive Order 13084 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.'' Today's 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 E.O. 13084 do not apply to this rule.

E. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions. This final rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2). Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of a flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.* v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

F. Unfunded Mandates

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated annual costs to State, local, or tribal governments in the aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule. EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated annual costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

G. 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).

H. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action to approve the revisions to West Virginia regulation 45 CSR 5 must be filed in the United States Court of Appeals for the appropriate circuit by September 13, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Particulate matter, Reporting and recordkeeping requirements.

Dated: June 29, 1999.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart XX—West Virginia

2. Section 52.2520 is amended by adding paragraphs (c)(42) to read as follows:

§ 52.2520 Identification of plan.

* * * * *

(c) * * *

(42) Revisions to the West Virginia Regulations for coal preparation and handling facilities 45CSR5 submitted on August 10, 1993 by the West Virginia Department of Commerce, Labor and Environmental Resources:

(i) Incorporation by reference.

(A) Letter of August 10, 1993 from the West Virginia Department of Commerce, Labor, and Environmental Resources transmitting revisions to West Virginia's regulation 45CSR5 ''To Prevent and Control Air Pollution From the Operation of Coal Preparation Plants and Coal Handling Operations''.

(B) Revisions to West Virginia regulation 45CSR5 regarding coal preparation and handling plants specifically: Revisions to 45CSR5 which require specific emission limits on particulate matter emissions at coal preparation and handling facilities in the Follansbee PM10 nonattainment area, monitoring of thermal driers and control equipment statewide, revised permitting, testing and reporting requirements.

(ii) Additional Material—Remainder of the August 10, 1993 submittal on 45CSR5.

[FR Doc. 99–17626 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6376–5]

National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: This final rule amends the national emission standard for hazardous air pollutants (NESHAP) for halogenated solvent cleaning by: permanently exempting nonmajor (or ''area'') batch cold solvent cleaning machines that use halogenated solvent from the Federal operating permit program; and deferring Federal operating permit requirements until December 9, 1999 for all other nonmajor halogenated solvent cleaning machines. With this amendment, these sources will be treated by our Federal Operating Permits Program in the same way EPA allows them to be treated by State operating permit programs adopted under title V of the Clean Air Act (CAA). State programs are already allowed to exempt/defer such sources from their requirements for title V operating permits. Without today's amendment, sources located in areas that do not have State title V permit programs (such as Indian country) could be subject to more burdensome requirements than may apply to sources located elsewhere. Today's action will reduce an undue regulatory burden on industry as well as on EPA's Regional Offices.

DATES: This rule takes effect on September 13, 1999, without further notice unless EPA receives adverse comment by August 12, 1999. If EPA receives such comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: *Comments.* If you have adverse comments on this action, you may submit them in writing (in duplicate, if possible) to Docket No. A–92–39 at the following address: Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460. EPA requests that you send a separate copy of the comments to the contact person listed below at the same time that you submit comments to the docket.

Docket. Today's direct final rulemaking and other related materials are available for review in the docket. Copies may be obtained by request from the Air Docket by calling (202) 260–7548. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC, 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information about the final rule, contact Candace Carraway (telephone 919–541–3189), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Drop 12, Research Triangle Park, North Carolina, 27711.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'' or ''our'' are used we mean EPA.

Entities Affected by This Action

Entities affected by this action are stationary air sources that are nonmajor halogenated solvent cleaning machines (typically known as ''degreasers'') that are (1) subject to subpart T of 40 CFR part 63, and (2) subject to the Federal Operating Permits Program rule at 40 CFR part 71. Examples of affected categories and entities are in the following table:

Category	NAICS code	Examples of affected entities
Halogenated Solvent Cleaners	447	Gasoline Stations.
	332	Fabricated Metal Product Manufacturing.
	333	Machinery Manufacturing.
	334	Computer and Electronic Product Manufacturing.
	335	Electrical Equipment, Appliance, and Component Manufacturing.
	336	Transportation Equipment Manufacturing.

This table is not exhaustive. Numerous industries use halogenated solvent cleaners. Other types of entities not listed in the table could also be affected by this action.

Rationale for Direct Final Rulemaking

We are publishing this rule without prior proposal because we view this as a noncontroversial amendment and anticipate no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register** publication, we are publishing a separate proposal to exempt and defer nonmajor halogenated solvent cleaners if adverse comments are filed. This rule will be effective on September 13, 1999, without further notice unless we receive adverse comment by August 12, 1999. If we receive adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a later final rule based on the proposed rule. We will not start a second comment period on this action. If you want to comment, you must do so at this time.

Outline

The contents of today's preamble are listed in the following outline:

I. Background of the Final Rule
A. Statutory and Regulatory Framework
B. Rationale for Exemption/Deferral
II. Administrative Requirements
A. Docket
B. Executive Order 12866
C. Regulatory Flexibility
D. Paperwork Reduction Act
E. Unfunded Mandates Reform Act
F. Submission to Congress and the General Accounting Office
G. Executive Order 13045
H. Executive Order 12875
I. Executive Order 13084
J. National Technology Transfer Advancement Act

I. Background of the Final Rule

Under section 112 of the CAA, stationary air pollution sources that do not have the potential to emit 10 or more tons per year of a single hazardous air pollutant (HAP) and 25 or more tons per year of total HAP are nonmajor or area sources. Our regulations provide that sources with the potential to emit greater than these levels are major sources and must obtain a title V operating permit from a State, local, or Tribal permitting authority, or from us if the permitting authority does not administer a permit program that we have approved.

Many halogenated solvent cleaners are nonmajor sources. When we adopted regulations for halogenated solvent cleaners, we allowed State and local agencies to exempt or defer nonmajor sources from their permit programs. Today's rulemaking provides a level playing field by allowing nonmajor halogenated solvent cleaners out of our Federal Operating Permit Program on a permanent or temporary (deferred) basis.

However, a title V permit is required if the nonmajor or area halogenated solvent cleaner is:

- Subject to title V for a reason other than being subject to the area source requirements in the NESHAP for halogenated solvent cleaning, or
- Located at a facility that is required to obtain a title V permit (e.g., the facility is a major source).

The statutory and regulatory framework discussed below provides background information on the permitting requirements of title V of the CAA, the criteria that we use to decide whether to allow the exemption of sources from permitting requirements, and the action we have already taken to allow State, local, and Tribal agencies to exempt or defer nonmajor halogenated solvent cleaners.

A. Statutory and Regulatory Framework

1. Permitting Requirements under the CAA

Title V of the CAA as amended in 1990 (42 U.S.C. 7661 et seq.) requires us to develop regulations that set minimum standards for approvable State programs for operating permits. We issued those regulations (codified in part 70 of chapter I, title 40, of the CFR) on July 21, 1992 (57 FR 32250).

We issued rules establishing the Federal Operating Permit Program on July 1, 1996 (61 FR 34202), codified at 40 CFR part 71. The part 71 regulations authorize us to issue permits when a State, local, or Tribal agency has not developed an approvable program, has not adequately administered or enforced its approved operating permits program, or has not issued permits that comply with the applicable requirements of the CAA.

Section 502(a) of the CAA initially requires that major and nonmajor sources subject to standards or regulations under section 111 or 112 of the Act obtain operating permits. However, section 502(a) also provides that in some cases, we may exempt certain nonmajor source categories from the requirement to obtain operating permits. This means that nonmajor sources that are subject to the NESHAP for halogenated solvent cleaning must obtain title V permits unless the requirement is deferred or the sources are exempted from the requirement to obtain a permit.

2. Criteria for Exemptions from Permitting Requirements

We may exempt certain source categories from the requirement to obtain operating permits if we determine through rulemaking that compliance with such requirements is ''impracticable, infeasible, or unnecessarily burdensome on such categories.'' We may not exempt major sources. When we issue standards or other requirements under section 112 of the CAA, we determine whether to exempt any or all nonmajor sources subject to the standard or requirement from the requirement to obtain a title V permit (40 CFR 70.3(b)(2); 40 CFR 71.3(b)(2)). If a NESHAP does not exempt or defer nonmajor sources from title V permitting, then nonmajor sources that are subject to the NESHAP must obtain title V permits (40 CFR 63.1(c)(2)(iii)).

3. Exemption and Deferral under the NESHAP for Halogenated Solvent Cleaning

The NESHAP for halogenated solvent cleaning were proposed in the **Federal Register** on November 29, 1993 (58 FR 62566) and were promulgated on December 2, 1994 (59 FR 61801). These standards were codified at 40 CFR part 63, subpart T.

In the 1994 final rule for halogenated solvent cleaning, we determined that

compliance with part 70 permitting requirements administered by State and local permitting authorities would be impracticable, infeasible, or unnecessarily burdensome on such sources. So, the final rule provided that owners or operators of any batch cold solvent cleaning machine that was not itself a major source of pollutants and that was not located at a major source could be exempt from permitting requirements under State title V operating permit programs (known as ''part 70 programs'')(40 CFR 63.468(j)). In addition, the final rule provided that States could defer permitting requirements for 5 years under their part 70 programs for all other types of solvent cleaning machines subject to subpart T, if the machines are not major or located at major sources. On June 5, 1995 (60 FR 29484), we promulgated corrections to the NESHAP which clarified the length of the deferral for nonmajor halogenated solvent cleaners, i.e., such sources may be deferred from part 70 permitting requirements until December 9, 1999.

B. Rationale for Exemption/Deferral

Today's action is necessary because the final NESHAP for halogenated solvent cleaning did not address whether to exempt or defer the permitting requirements that apply to sources that are subject to the part 71 program. We had not yet established the part 71 program when the final NESHAP was issued. It has recently come to our attention that numerous nonmajor halogenated solvent cleaners are located in Indian country. We believe it would not be appropriate to leave these sources subject to our operating permits program by default without considering whether the burden of obtaining permits would be any different for them than it would be for sources that are currently deferred or exempted under State and local operating permits programs. Without today's rulemaking, nonmajor halogenated solvent cleaners that are located in areas subject to the part 71 program (such as Indian country) would have to obtain a permit, while similar sources located in other areas might not. Today's action will eliminate this disparate treatment. However, note that today's action does not relieve sources of the requirement to meet all applicable requirements established by the NESHAP. Also, today's action does not affect the authority of State, local, or Tribal permitting authorities to require that these sources obtain title V permits.

The great majority of nonmajor sources nationwide are owned or operated by small businesses, and we believe this is also true for nonmajor halogenated solvent cleaners in Indian country. If required to obtain permits, many such businesses would require greater assistance from the permitting staff at our Regional Offices because of their relative lack of technical and legal expertise, resources, and experience in dealing with environmental regulation. If our Regional Offices are overburdened from a backlog of permits to be processed, nonmajor sources will be unable to obtain technical and procedural assistance necessary to help them file timely and complete applications. This scenario would constitute an impracticable, infeasible, and unnecessary burden on these nonmajor sources, especially considering that by definition they emit less than majors.

Currently, we administer the part 71 program for sources in U.S. Territories and on the Outer Continental Shelf as well as in Indian country. The vast majority of sources subject to the part 71 program are located in Indian country. We estimate that as many as 200 nonmajor halogenated solvent cleaners are in Indian country, and that most are owned or operated by small entities, primarily small gasoline service stations and repair shops.

We believe that requiring nonmajor halogenated solvent cleaners in Indian country to obtain title V permits when similar sources located elsewhere are generally not required to do so would have a disparate impact on the economies of Tribal communities. One of the benefits of the title V program is that it has improved enforcement of, as well as compliance with, applicable requirements that are included in the permit. However, we have previously concluded that for nonmajor halogenated solvent cleaners, States may determine that the burden associated with permitting outweighs the enhancement to the enforceability of the NESHAP which would result from including the standards in a part 70 permit. Similarly, we believe that the burden of permitting nonmajor halogenated solvent cleaners under the part 71 program outweighs the enforcement benefits. Also, we believe it is reasonable for purposes of national consistency for part 71 to provide such nonmajor sources the same relief from permitting requirements as is available under most State part 70 programs. So today's rule will exempt nonmajor batch cold solvent cleaners from part 71 and defer part 71 permitting requirements for other nonmajor halogenated solvent cleaners.

Besides burdening sources, requiring our Regional Offices to issue permits to these nonmajor sources would be burdensome on us and would divert our resources from permitting larger emitting sources. Unlike States, we have just 2 years in which to take action on all part 71 permit applications from Indian country sources. Permitting large numbers of nonmajor sources would stress our permitting system at its most vulnerable time and possibly keep us from issuing permits to both major and nonmajor sources on time. It could also divert resources from our efforts to develop substantive pollution control programs in Indian country and to assist Tribes in developing their own programs. Since pollution control programs in Indian country are far less developed than in neighboring States, we believe these efforts are more important than requiring nonmajor halogenated solvent cleaners to get part 71 permits.

The deferral from part 71 permitting requirements which is established in today's rulemaking extends to December 9, 1999 which is 5 years after the effective date of the first part 70 program that we approved. The existing deferral authorized for State, local, and Tribal part 70 programs also expires on December 9, 1999. If the deferral is not extended further, then halogenated solvent cleaners that are currently deferred would be required to submit title V permit applications to the applicable permitting authority (State, local, Tribal, or EPA) by December 9, 2000. Before that date, we plan to complete a rulemaking that addresses whether to extend the deferral under both part 70 and part 71 programs. The exemption for nonmajor batch cold solvent cleaners under part 70 and part 71 will not expire on December 9, 1999. No additional rulemaking is needed to extend it.

II. Administrative Requirements

A. Docket

The docket for this regulatory action is A–92–39. The docket is an organized and complete file of all the information submitted to or otherwise considered by EPA in the development of this rulemaking.

B. Executive Order 12866

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 the Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant'' regulatory action as one that is likely to lead to a rule that may:

1. Have an annual effect on the economy of $100 million or more, adversely and materially affecting 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 program or the rights and obligation of recipients thereof;

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

Pursuant to the terms of E.O. 12866, it has been determined that this rule is not a ''significant'' regulatory action because it does not raise any of the issues associated with ''significant'' regulatory actions. The rule will have a negligible effect on the economy and will not create any inconsistencies with other actions by other agencies, alter any budgetary impacts, or raise any novel legal or policy issues. For these reasons, this action was not submitted to OMB for review.

C. Regulatory Flexibility

We have determined that it is not necessary to prepare a regulatory flexibility analysis in connection with this final rule. We have also determined that this final rule will not have a significant economic impact on a substantial number of small entities. There are no compliance costs associated with this action. As explained earlier in this notice, this action relieves sources of regulatory requirements under the title V program.

D. Paperwork Reduction Act

The information collection requirements of the previously promulgated NESHAP were submitted to and approved by OMB. Today's changes to the NESHAP would not increase the information collection burden estimates made previously. In fact, they are expected to reduce the required paperwork by providing the opportunity for delays for some sources and exemptions for others from requirements to obtain a title V permit.

E. Unfunded Mandates Reform Act

Today's action imposes no costs on State, local, and Tribal governments. The EPA has determined that today's 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 1 year. Therefore, the Agency concludes that it is not required by section 202 of the Unfunded Mandates Reform Act of 1995 to provide a written statement to accompany this regulatory action.

F. Submission to Congress and the General Accounting Office

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. The 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).

G. Executive Order 13045

The E.O. 13045, ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1977), 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.

We interpret 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: (1) it is not an economically significant rule as defined by E.O. 12866, and (2) it does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 12875: Enhancing Intergovernmental Partnership

Under E.O. 12875, EPA may not issue a regulation that is not required by statute and that creates a mandate 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 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, 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.''

The EPA has concluded that this rule will not create a mandate upon any State, local, or Tribal governments.

I. 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 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, E.O. 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. It does not result in any expenditure of Tribal government revenue or have any impact on Tribal governments. The rule applies to all nonmajor sources for which EPA is the permitting authority, regardless of whether they are located in Indian country. Accordingly, the requirements of section 3(b) of E.O. 13084 do not apply to this rule.

J. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) directs all Federal agencies to use voluntary consensus standards instead of government-unique standards in their regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., material specifications, test methods, sampling and analytical procedures, business practices, etc.) that are developed or adopted by one or more voluntary consensus standards bodies. Examples of organizations generally regarded as voluntary consensus standards bodies include the American Society for Testing and Materials, the National Fire Protection Association, and the Society of Automotive Engineers. The NTTAA requires Federal agencies like EPA to provide Congress, through OMB, with explanations when an agency decides not to use available and applicable voluntary consensus standards.

This action does not involve any new technical standards or the incorporation by reference of existing technical standards. Therefore, consideration of voluntary consensus standards is not relevant to this action.

List of Subjects in 40 CFR Part 63

Environmental protection, Air pollution control, Hazardous substances, Operating permits.

Dated: July 6, 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 set forth below.

Part 63—[AMENDED]

1. The authority citation for part 63 continues to read as follows:

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

Subpart T—[Amended]

2. Section 63.468 is amended by revising paragraph (j) to read as follows:

§ 63.468 Reporting requirements.

* * * * *

(j) The Administrator has determined, pursuant to the criteria under section 502(a) of the Act, that an owner or operator of any batch cold solvent cleaning machine that is not itself a major source and that is not located at a major source, as defined under 40 CFR 70.2 or 71.2, whichever is applicable, is exempt from title V permitting requirements for that source. An owner or operator of any other solvent cleaning machine subject to the provisions of this subpart is subject to title V permitting requirements. These sources, if not major or located at major sources as defined under 40 CFR 70.2 or 71.2, whichever is applicable, may be deferred by the applicable title V permitting authority from title V permitting requirements for 5 years after the effective date of the first part 70 program approved by EPA (i.e., until December 9, 1999). All sources receiving deferrals shall submit title V permit applications within 12 months of such date (by December 9, 2000). All sources receiving deferrals still must meet the compliance schedule as stated in § 63.460.

* * * * *

[FR Doc. 99–17628 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 80

[FRL–6375–1]

RIN 2060–AG76

Regulation of Fuels and Fuel Additives: Corrections to Standards and Requirements for Reformulated and Conventional Gasoline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendments.

SUMMARY: Through the 1990 amendments to the Clean Air Act (CAA), Congress required EPA to publish rules requiring that gasoline sold in certain areas be reformulated to reduce vehicle emissions of toxic and ozone-forming compounds. EPA published rules for the certification and enforcement of reformulated gasoline (RFG) and provisions for non-reformulated or conventional gasoline on February 16, 1994.

In a final rule published on December 31, 1997, EPA took final action on several revisions to the RFG/conventional gasoline regulations. However, the December 31, 1997 final rule included two clerical errors. One of these errors involved an incorrect designation in the amendatory language published in the **Federal Register**, which resulted in the inadvertent deletion of certain regulatory text when the regulation was published in the Code of Federal Regulations (CFR) on July 1, 1998. The other was a typographical error in a revised chart for Phase II Complex Model Averaged Standards for RFG. The correct text for both appears in earlier editions of the CFR. This action corrects these errors in the current CFR. This action does not make any substantive changes to the RFG/conventional gasoline regulations.

DATES: This action will be effective on July 27, 1999.

ADDRESSES: Materials relevant to the final rule establishing standards for reformulated gasoline and anti-dumping standards for conventional gasoline are contained in Public Dockets A–92–01, A–92–12, and A–97–03 and are incorporated by reference. These materials are available for review at EPA's Air Docket Section, Waterside Mall (Room M–1500), 401 M Street, S.W., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Marilyn Bennett, Fuels and Energy Division, U.S. EPA, 401 M Street, S.W. (6406J), Washington, D.C. 20460. Telephone: (202) 564–8989.

SUPPLEMENTARY INFORMATION:

Regulated Entities

Regulated categories and entities affected by this action include:

Category	NAICS [1]	SIC Codes [2]	Examples of regulated entities
Industry	324110	2911	Refiners, importers, and distributors of motor vehicle fuel; motor vehicle fuel retail outlets and wholesale purchaser-consumer facilities.

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

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could be potentially regulated by this action. Other types of entities not listed in the table could also be regulated. To determine whether your entity is regulated by this action, you should carefully examine the applicability criteria of part 80, subparts D, E and F, of title 40 of the Code of Federal Regulations. If you have questions regarding applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT SECTION**

Today's correcting amendments are available electronically on the day of publication from the Office of Federal Register Internet Web site listed below. Today's correcting amendments are also 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 desired date or use 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. Correction of Typographical Error in § 80.41(f)

On December 31, 1997, EPA published a final rule which made several revisions to the RFG/conventional gasoline regulations, including the deletion of the NOx per-gallon minimum standards for complex model averaged RFG. However, the December 31, 1997 **Federal Register** rule, which re-published the charts at §§ 80.41(d) and (f) (Phase I and Phase II Complex Model Averaged Standards) to delete the NOx per-gallon minimum standards, included a typographical error in the entry for the benzene per-gallon standard in the chart at § 80.41(f). The entry for the benzene per-gallon standard at § 80.41(f) in the December 31, 1997 notice reads ''Per-Gallon Minimum'' whereas the proper designation is ''Per-Gallon Maximum.'' As a result, this improper designation was published in the July 1, 1998 CFR. The proper designation appeared in the final RFG rule published in the **Federal Register** on February 16, 1994, and in all editions of the CFR published between the publication of the final rule in 1994 and the July 1, 1998 edition. Today's action will correct the CFR to again properly designate the per-gallon standard for benzene at § 80.41(f) as ''Per-Gallon Maximum.''

II. Correction of Inadvertent Deletion of Regulatory Text at § 80.101(f)(4)

The December 31, 1997 **Federal Register** rule, which finalized several revisions to the RFG rule, included a revision to the introductory text of paragraph of § 80.101(f)(4). However, the amendatory language in the **Federal Register** rule failed to designate that the revision to paragraph (f)(4) affected only the introductory text and that the remainder of paragraph (f)(4) was to remain unchanged. As a result, paragraphs (f)(4)(i) and (f)(4)(ii) were inadvertently deleted in the July 1, 1998 CFR. Today's action corrects this error.

In a rule published on June 9, 1999, (64 FR 30904), a new paragraph (f)(4)(iii) was added to § 80.101. The June 9, 1999 rule reserved paragraphs (f)(4)(i) and (f)(4)(ii), the original text of which is being reinstated by this action. The June 9, 1999 rule also inadvertently deleted the introductory text of § 80.101(f)(4), which is being reinstated by today's action. Because the June 9, 1999 rule is effective on July 26, 1999, the effective date of today's action is July 27, 1999, so that this action will supersede the June 9, 1999 rule regarding the § 80.101(f)(4) introductory text and the text of paragraphs (f)(4)(i) and (f)(4)(ii).

III. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58 FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 F.R. 19885, April 23, 1997) because 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. This rule is not subject to the requirements of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because it does not include any information collection requirements. This rule is not subject to the requirements of the National Technology Transfer and Advancement Act (NTTAA) because it does not include provisions for technical standards.

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). This rule will be effective on July 27, 1999.

List of Subjects in 40 CFR Part 80

Environmental Protection, Fuel additives, Gasoline, Imports, Labeling, Motor vehicle pollution, Penalties, Reporting and recordkeeping requirements.

Dated: July 1, 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 corrected by making the following correcting amendments:

PART 80—REGULATION OF FUELS 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. Section 80.41 is amended by amending the paragraph (f) table ''Phase II Complex Model Averaged Standards'' by revising the entry for ''Benzene (percent, by volume)'' to read as follows:

§ 80.41 Standards and requirements for compliance.

* * * * *

(f) * * *

PHASE II COMPLEX MODEL AVERAGED STANDARDS

* * * * *	
Benzene (percent, by volume):	
Standard	≤0.95
Per-Gallon Maximum	≤1.30

* * * * *

3. Effective July 27, 1999, § 80.101 is amended by adding paragraph (f)(4) introductory text, (f)(4)(i) and (f)(4)(ii) to read as follows:

§ 80.101 Standards applicable to refiners and importers.

* * * * *

(f) * * *

(4) Any compliance baseline under paragraph (f)(1) of this section shall be adjusted for each averaging period as follows:

(i) If the total volume of the conventional gasoline, RBOB, reformulated gasoline, and California gasoline as defined in § 80.81(a)(2), produced or imported by any refiner or importer during the averaging period is equal to or less than that refiner's or importer's 1990 baseline volume as determined under § 80.91(f)(1), the compliance baseline for each parameter or emissions performance shall be that refiner's or importer's individual 1990 baseline; or

(ii) If the total volume of the conventional gasoline, RBOB, reformulated gasoline, and California gasoline as defined in § 80.81(a)(2), produced or imported by any 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), the compliance baseline for each parameter or emissions performance shall be calculated according to the following formula:

$$CB_i = \left(B_i * \left(\frac{V_{1990}}{V_a}\right)\right) + \left(DB_i * \left(1 - \frac{V_{1990}}{V_a}\right)\right)$$

Where:

CB_i = The compliance baseline value for parameter or emissions performance i.

B_i = The refiner's or importer's individual baseline value for parameter or emission performance i calculated according to the methodology in § 80.91.

DB_i = The anti-dumping statutory baseline value for parameter or emissions performance i, as specified at § 80.91(c)(5)(iii) or (c)(5)(iv), respectively.

V_{1990} = The 1990 baseline volume as determined under § 80.91(f)(1).

V_a = The total volume of reformulated gasoline, conventional gasoline, RBOB, and California gasoline as defined in § 80.81(a)(2) produced or imported by a refiner or importer during the averaging period.

* * * * *

[FR Doc. 99–17496 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

Global Positioning System (GPS) Technology; Extension of Application Date

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of extension of deadline for submission of applications to participate in the GPS technology pilot demonstration project.

SUMMARY: The FHWA is extending the deadline for motor carriers to submit applications to participate in the agency's Global Positioning System (GPS) technology pilot demonstration project. This project allows qualified motor carriers that use GPS technology and related safety management computer systems to enter into an agreement with the FHWA to use such systems to record and monitor drivers' hours-of-service, in lieu of requiring them to prepare handwritten records of duty status. This project is intended to demonstrate that the motor carrier industry can use this technology to improve compliance with the hours-of-service requirements in a manner which promotes safety and operational efficiency while reducing paperwork.

DATES: Applications must be received on or before December 31, 1999.

ADDRESSES: Written applications should be mailed to the Office of Motor Carrier Research and Standards (HCS–10), Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Neill L. Thomas, Office of Motor Carrier Research and Standards (HMCS–10), (202) 366–4009, or Mr. Charles Medalen, Office of Chief Counsel (HCC–20), (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays. Application requests and specific questions regarding this pilot demonstration project may also be directed to the contact person(s) named in this notice or the Division Offices of the FHWA in your State.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded by using a computer modem and suitable communications software from the Government Printing Office's Electronic Bulletin Board Service at (202) 512–1661. Internet users may reach the Office of the Federal Register's home page at: *http://www.nara.gov/fedreg* and the Government Printing Office's database at: *http://www.access.gpo.gov/nara.*

Background

On September 30, 1988, the FHWA published a final rule (53 FR 38666) to allow motor carriers to use certain automatic on-board devices to record their drivers' duty status in lieu of the handwritten records required by 49 CFR 395.8. This provision is now codified at 49 CFR 395.15. Many motor carriers employing this technology found that their compliance with the hours-of-

service regulations improved. New technologies are emerging, however, and the narrowly crafted on-board recorder provision is becoming obsolete.

Before considering changes to the rule, the FHWA determined that it would be prudent to demonstrate the effectiveness of more recent technology for ensuring compliance with the hours-of-service regulations. On April 6, 1998, the FHWA announced a pilot project that would allow motor carriers to use GPS tracking systems and related computer programs to monitor compliance with the hours-of-service regulations. Drivers would be exempted from the requirement to maintain paper logs (63 FR 16697). Werner Enterprises, Inc., was the first carrier to enter into an agreement with the FHWA to use a GPS system for this purpose. The FHWA believes GPS technology and many of the complementary safety management computer systems currently available to the motor carrier industry provide at least the same degree of monitoring accuracy as 49 CFR 395.15. The FHWA also believes the project will demonstrate that reduced paperwork and recordkeeping requirements are consistent with highway safety, while providing economic advantages to the motor carrier industry.

Reason for Extending the Application Deadline

The FHWA has received letters or telephone calls from 17 entities that have expressed their desire to participate in the pilot program. Development of the related safety management computer systems has been slow. Those motor carriers that wish to participate in the pilot demonstration project have been unable to purchase or develop the requisite computer systems and software that complement the GPS technology before the extended application deadline of June 30, 1999. Two entities have informed us that they now have the requisite software. Others will be coming on-line shortly. Therefore, to ensure the best possible results for this pilot project, the agency is extending the application period to December 31, 1999. Motor carriers that wish to participate in the pilot demonstration project must have GPS technology and complementary safety management computer systems which meet all of the conditions specified in the April 6, 1998, notice.

Authority: 5 U.S.C. 553(b); 23 U.S.C. 315; 49 U.S.C. 31133, 31136, and 31502; sec. 345, Pub. L. 104–59, 109 Stat. 568, 613; and 49 CFR 1.48.

Issued on: July 7, 1999.

Kenneth R. Wykle,

Federal Highway Administrator.

[FR Doc. 99–17804 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 216

[I.D. 062499B]

Regulations Governing the Taking of Marine Mammals by Alaskan Natives; Marking and Reporting of Beluga Whales Harvested in Cook Inlet

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

ACTION: Interim final rule; notice of public hearing.

SUMMARY: On May 24, 1999, NMFS published an interim final rule amending 50 CFR 216.23 to require that Alaskan Natives harvesting beluga whales in Cook Inlet collect the lower left jaw from harvested whales and complete a report (64 FR 27925). At that time, NMFS requested public comments on the rule and announced that a public hearing would be held as part of the process. NMFS announces the location, date, and time of the hearing.

DATES: The hearing will be held on Thursday, July 29, 1999, beginning at 3:00 p.m.

ADDRESSES: The hearing will be held in room 135 of the Anchorage Federal Office Building, 222 W. 7th Avenue, Anchorage, Alaska.

FOR FURTHER INFORMATION CONTACT: Brad Smith, (907) 271–5006.

Special Accommodations

This hearing is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Brad Smith (see **FOR FURTHER INFORMATION CONTACT**) by July 26, 1999.

Dated: July 7, 1999.

Art Jeffers,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–17794 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 990330083–9166–02; I.D. 031999B]

RIN 0648–AK32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Certification of Bycatch Reduction Devices

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

ACTION: Final rule.

SUMMARY: In accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP), NMFS establishes procedures for the testing and certification of bycatch reduction devices (BRDs) for use in shrimp trawls in the exclusive economic zone (EEZ) in the Gulf of Mexico. Consistent with these procedures, NMFS certifies the Jones-Davis and Gulf fisheye BRDs for use in the Gulf of Mexico. NMFS also establishes the specifications for the Jones-Davis, Gulf fisheye, and fisheye BRDs. The intended effect is to foster the development and provide for the certification of additional BRDs.

DATES: Effective July 13, 1999, except for the collection-of-information requirements in: § 622.41(h)(3)(i) and (h)(3)(ii), Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual, and Appendix I—Qualifications of Observer. This rule is being issued prior to the Office of Management and Budget's (OMB) approval of the information collection requirements in: § 622.41(h)(4)(i) and (h)(4)(ii), Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual, and Appendix I—Qualifications of Observer. When OMB approval is received, the effective dates of these paragraphs and appendices will be published in the **Federal Register**.

ADDRESSES: Copies of the regulatory impact review (RIR) may be obtained from the Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office,

NMFS, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual* should be sent to the Southeast Regional Office, NMFS.

FOR FURTHER INFORMATION CONTACT: Steve Branstetter, NMFS, 727–570–5305.

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

In accordance with the FMP's framework procedure for adjusting management measures, NMFS published and requested comments on a proposed rule (64 FR 23039, April 29, 1999) to establish procedures for the testing and certification of BRDs for use in shrimp trawls in the EEZ in the Gulf of Mexico. The preamble to the proposed rule described the testing and certification procedures and the background and rationale for them. That information is not repeated here.

In this rule, in addition to establishing the BRD testing and certification procedures, NMFS is also certifying the Jones-Davis and Gulf fisheye BRDs, providing the specifications for construction and installation of these BRDs (specifications), and amending the fisheye BRD specifications. NMFS previously certified the Jones-Davis and Gulf fisheye BRDs by interim rule (63 FR 27499, May 19, 1998; 63 FR 64430, November 20, 1998). The interim rule published May 19, 1998, and amended by the interim rule published November 20, 1998, also established the specifications for the newly certified BRDs. The fisheye BRD, as distinguished from the Gulf fisheye BRD, was certified in a final rule published April 16, 1997 (62 FR 18536). The specifications included in this final rule are identical to the specifications in the April 16, 1997, final rule (62 FR 18536), as amended by the interim rule of November 20, 1998 (63 FR 64430).

To be certified for use in the Gulf of Mexico, a BRD must reduce the bycatch mortality of juvenile red snapper by a minimum of 44 percent from the average level of mortality for these age groups during the years 1984–1989 (bycatch reduction criteria). The NMFS' Galveston Laboratory assembled a database of field evaluations for the Gulf fisheye and Jones-Davis BRDs under a research plan developed by the Gulf and South Atlantic Fisheries Development Foundation and an initial BRD-testing protocol developed by NMFS prior to the development of the protocol established by this rule. The NMFS Pascagoula Laboratory reviewed this database to determine whether the BRDs met the red snapper bycatch reduction criterion established in Amendment 9 to the FMP. NMFS' Pascagoula Laboratory determined that the data were collected according to the established protocol at the time. That protocol required that an adequate sample consisting of data from no less than 30 successful tows be collected aboard commercial shrimp trawlers in the act of fishing shoreward of the 100-fm (183-m) depth contour west of 85°30′ W. long., that trawl nets be equipped with certified hard turtle-excluder-devices (TEDs), that only outboard nets be used as control and experimental nets, and that the control and experimental nets be alternated from one side of the vessel to the other during the period of the test. NMFS' analyses of the data collected on the Gulf fisheye and the Jones-Davis BRD indicated that the BRDs met the bycatch reduction criterion. These analyses formed the basis for interim certification of these BRDs pending the implementation of the protocol in this final rule. The conditions under which the data were collected and analyzed for the interim certification also meet the criteria outlined in the protocol implemented by this rule. Therefore, NMFS certifies in this rule the Jones-Davis and Gulf fisheye BRDs for use in the Gulf of Mexico shrimp fishery.

Comments and Responses

Comments were received from three entities on the proposed rule; an industry organization, a consulting firm, and a Sea Grant office. Relevant comments and responses are included here.

Pre-certification Phase Testing

Comment 1: One commenter stated that the objective of the pre-certification phase test should be to allow the applicant to examine the overall functionality of the proposed BRD design without a focus on red snapper exclusion or shrimp retention.

Response: The pre-certification procedures are specifically designed to allow the applicant to modify the design and configuration of a prototype BRD during pre-certification phase testing and to evaluate the overall effectiveness and operational functionality of the prototype BRD. However, in addition to evaluating the operational functionality of the prototype BRD, the applicant will need to know if the prototype BRD has the potential to meet the red snapper bycatch reduction criterion. This information will allow the applicant to decide whether or not to apply for certification testing authorization.

Certification Phase Testing

Comment 2: One commenter suggested that a particular BRD candidate's performance, as evaluated during a certification test, might not be applicable when the BRD is used in different styles of nets, or with different TEDs, or under different fishing conditions. The commenter suggested that, prior to certification, extensive commercial field evaluations of the BRD candidate be conducted under a variety of fishing conditions aboard different vessels and/or with different fishing gear designs to obtain statistically sound estimates of the BRD's true ability to meet the bycatch reduction criterion.

Response: NMFS disagrees. The protocol describes a statistically valid procedure to determine whether a BRD candidate meets the bycatch reduction criterion, and, thus, can be certified for general use in the shrimp fishery. If a certified BRD is subsequently found not to meet the certification criterion, the protocol provides a mechanism for the Regional Administrator to decertify that particular BRD through the FMP framework procedure.

Comment 3: Two commenters suggested that, even after the tuning tests are completed, the catch efficiency of the two nets used in the certification phase testing may begin to deviate over the 30-tow test period and that any such biases should be incorporated into the final statistical analyses.

Response: The protocol requires that the BRD candidate be moved from the net on one side of the vessel to the net on the other side of the vessel at specific time intervals. This procedure is intended to negate any undetected net/side bias by introducing that bias into both the experimental net and control net data.

Comment 4: Two commenters had several technical concerns about the procedures to be used when testing a soft TED for certification as a BRD, and recommended that both nets should be equipped with soft TEDs during both the tuning and certification phases of the certification test. The commenters were also concerned about an undue burden being placed on the trawler and its crew because installation of a soft TED must be done by a skilled installer, which will require the vessel to return to port between the tuning and certification phases. One of the

commenters further suggested that this problem could be avoided by testing the soft TED against a control net containing a disabled soft TED; this would ensure that the efficiency was similar between the two nets because they were both equipped with the same TED.

Response: NMFS disagrees that the trawler or its crew, which is voluntarily participating in the test, will be unduly burdened from having to return to port to replace the TED in the experimental net. NMFS disagrees that the test should be conducted using a soft TED in the experimental net and a disabled soft TED in the control net. BRD performance is to be measured against the performance of a standard net, and a standard net is a net equipped with a functioning certified TED. Using hard TEDs in both the control and experimental nets during the tuning tows will ensure that the two nets are fishing with equivalent efficiency, and, once the soft TED is installed in the experimental net, any changes in catch rates can be attributed to the influence of the soft TED.

Comment 5: Two commenters requested clarification of the statement ''A gear change (i.e., changing nets, doors, or rigging) during a test constitutes the beginning of a new test.'', noting that, under this definition, the repair of damaged gear that did not change the original gear configuration of the trawl could still be interpreted as meeting the criterion for beginning a new test.

Response: NMFS intends the word ''gear change'' in this section of the protocol to represent wholesale replacement of gear components, such as doors, nets, or alterations in the configuration, including such actions as shortening tickler chains, adjusting the leg lines, or removing or adding headrope floats or footrope weights. These kinds of changes would alter the fishing efficiency of that particular trawl array, and, thus the test would need to be re-started. NMFS does not intend the definition of ''gear change'' to include the repair of damaged components of the trawl array to the original configuration, such as sewing up tears in the net or repairing a damaged tickler chain.

Comment 6: Two commenters questioned the requirement to restrict tow times during a test to a specific timeframe with an allowance of only 10 percent. They noted that consistent tow times do not necessarily represent normal fishing activities and that tow times might need to be adjusted, based on fishing conditions, during a test. One commenter noted that a 10-percent allowance for a tow-time range of 2 to 8 hours could range from 12 to 48 minutes, thus introducing unnecessary bias into the calculations of catch-per-unit-effort and catch composition. This commenter indicated that this allowance was unnecessary and that tow times should be standardized.

Response: NMFS recognizes that fishers do not necessarily tow their nets for a standard length of time, and that tow times may vary for reasons including changing environmental conditions or catch rates. BRD certification tests are to be conducted under normal operational conditions, but they must also be conducted in a scientifically rigorous manner suitable for standard statistical analyses. Any foreseeable deviations from the prescribed protocol must be described and justified in the application and must be approved by the Regional Administrator prior to beginning the certification test. Additionally, deviations from the prescribed protocol required by unforeseen events during a certification test must be made in a scientifically sound manner and must be described and explained in the final report submitted to the Regional Administrator. The Regional Administrator will evaluate the appropriateness of the deviation prior to making a final determination concerning the BRD candidate's ability to meet the certification criterion. NMFS disagrees with the comment that the tow times must be standardized without an allowance or that the allowance would introduce an unacceptable bias into the catch per unit of effort data. Catch per unit effort will not change if the catchability co-efficient of the net does not change during the tow, which is a basic assumption of this sampling protocol. The ranges in tow time variations given as examples by the commenter are not applicable to any given test. The applicant will be establishing a specific tow time prior to beginning the tests, and, thus the allowance will remain constant as long as the applicant adheres to that designated tow time. Thus, no changes to the protocol are necessary.

Statistical Analysis

Comment 7: Two commenters questioned the continued use of the Goodyear (1995) VPA-based stock assessment model for calculating fishing mortality reduction attributable to the BRD candidate. One commenter further noted that the more recent observer-based data sets indicated that the size distributions of red snapper in the shrimp trawl bycatch were different than the size distribution of the red snapper shrimp trawl bycatch data set used by Goodyear.

Response: NMFS recently provided a report to the Gulf of Mexico Fishery Management Council summarizing a data collection effort by NMFS during the summer of 1998 concerning BRD efficiency. In that report, NMFS compared results from the original (1995) Goodyear procedure with results from an update of the underlying data set. Analyses by NMFS indicated that updates to the underlying information used by the Goodyear procedure agreed with the original analysis. NMFS will continue to evaluate the procedure for routine evaluations of BRD effectiveness as additional information becomes available and will implement any appropriate changes to this protocol through the FMP framework procedure.

Comment 8: One commenter questioned the use of a two-sided confidence interval in the statistical analysis.

Response: The BRD candidate will be evaluated for its ability to meet the bycatch reduction criterion through the use of a modified one-sided t-test. The null hypothesis, $R \leq R_o$, will be rejected if $t > t_{alpha-1}$. This test will determine whether the BRD meets the certification criterion and is eligible for certification by the Regional Administrator. Confidence intervals, while illustrating the range of expected results of the BRD candidate, are not used as part of the certification determination.

Observer Requirements

Comment 9: Two commenters expressed concerns about the requirement that the observer not have a previous or current financial relationship with the applicant, noting that this requirement would restrict certain agencies and organizations that have trained observers on staff from effectively participating as applicants in BRD certification testing.

Response: NMFS disagrees. An applicant must select an observer from a list of qualified observers maintained by the Regional Administrator. A qualified observer who is associated with a specific organization or agency and who is on the list of observers maintained by the Regional Administrator could still participate in the test, as long as the organization or agency is not the applicant.

Comment 10: Two commenters stated that the requirement for an observer to have a Bachelor's Degree in fishery biology or in a closely related field might exclude some very capable observers without degrees.

Response: NMFS does not intend to exclude any qualified candidates from

being included on the list of qualified observers. The qualification criteria include having a Bachelor's Degree, having 6 months experience as an observer, or successfully completing a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center. An observer candidate need meet only one of these three criteria. No changes are necessary.

Changes From the Proposed Rule

In § 622.7, paragraph (aa) has been revised to eliminate an incorrect cross reference and to clarify the intent of the prohibition.

In § 622.41, paragraph (h)(2) was revised to reflect certification of the Jones-Davis and Gulf fisheye BRDs in this rule. Also in § 622.41, references to paragraph (h)(4) were revised to read (h)(3) to conform to reorganization of codified text due to expiration of interim rule text. Other than the paragraph designations, there were no changes to codified text.

In Appendix D to part 622, paragraph C.2. was revised and paragraphs D and E were added to incorporate specifications for the Jones-Davis and Gulf fisheye BRDs certified in this rule and to incorporate a minor revision of the specifications for the fisheye BRD. These specifications, including the minor revision, are identical to those implemented previously by an interim rule that expired May 15, 1999.

In Appendix H to the *Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual*, the explanations of type I and type II errors were corrected.

Classification

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration when this rule was proposed that, if adopted as proposed, it would not have a significant economic impact on a substantial number of small entities. No comments were received regarding this certification and the basis for it has not changed. As a result, a regulatory flexibility analysis was not prepared. Copies of the RIR are available (see **ADDRESSES**).

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 contains collection-of-information requirements subject to the PRA—namely, the BRD certification process, consisting of applications for pre-certification or certification of a new BRD, pre-certification adjusting, the testing itself, the submission of the test results, application for observer position, and references for observers. These requirements have been submitted to OMB for approval. The public reporting burden for this collection of information which includes the application, pre-certification phase, testing, and submission of results, is estimated to average 211 hours. The public reporting burden for applying for an observer position will average 1 hour per response and the burden for obtaining references will average 1 hour per response. The collection consists of an Application Form, Vessel Information Form, Gear Specification Form, TED/BRD Specification Form, Station Sheet Form, Species Characterization Form, Length Frequency Form, and Condition and Fate Form. The average response time for each of these forms is 20 minutes, except for the Species Characterization Form which has a 5-hour response time and the Application Form which has a 2.3-hour response time. In addition, 4 hours will be needed to prepare the final report. Send comments regarding these burden estimates or any other aspect of the collection-of-information requirement, including suggestions for reducing the burden, to NMFS and to OMB (see **ADDRESSES**).

These collection-of-information requirements are contained in § 622.41(h)(3)(i) and (h)(3)(ii), Appendix—Gulf of Mexico Bycatch Reduction Device Testing Protocol Manual, and Appendix I—Qualifications of Observer. This rule is being issued prior to approval by OMB of these information collection requirements. When OMB approval is received, a notice will be published in the **Federal Register** making the information requirements in those sections and appendices effective.

This rule establishes the procedures for testing and certification of BRDs, thus providing the mechanism for increasing the number and types of certified BRDs available for use by the Gulf of Mexico shrimp trawl fishery. Certification of additional BRDs will provide the industry greater flexibility in choosing a BRD that is optimal for particular fishing operations and conditions. The BRD specifications incorporated in this rule are essential for the proper construction and installation of the newly certified BRDs and are identical to the specifications previously implemented by NMFS via interim rule that recently expired. For these reasons, under 5 U.S.C. 553(d)(3), the Assistant Administrator for Fisheries, NOAA, for good cause, finds that it would be unnecessary and contrary to the public interest to delay for 30 days the effective date of this rule.

Immediate implementation of these testing and certification procedures also allows for immediate certification of the Jones Davis and Gulf fisheye BRDs that NMFS has determined are in compliance with the procedures based on prior testing. Because these certifications relieve a restriction on the affected public, under 5 U.S.C. 553(d)(1), they are not subject to a 30-day delay in effective date.

As noted above, the collection-of-information components of this rule will not take effect until approval by OMB and publication of a separate notice in the **Federal Register** making these components effective.

List of Subjects in 50 CFR Part 622

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

Dated: July 1, 1999.

Andrew A. Rosenberg,

Deputy Asst. Administrator for Fisheries, National Marine Fisheries Service.

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

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

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

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

2. In § 622.7, paragraph (bb) is reserved and paragraph (aa) is added to read as follows:

§ 622.7 Prohibitions.

* * * * *

(aa) Falsify information submitted regarding an application for testing a BRD, testing of a BRD, or the results of such testing, as specified in § 622.41(h)(3).

(bb) [Reserved]

3. In § 622.41, the first sentence of paragraph (h)(1)(i) and paragraph (h)(2) are revised and paragraph (h)(3) is added to read as follows:

§ 622.41 Species specific limitations.

* * * * *

(h) * * *

(1) * * *

(i) Except as exempted in paragraphs (h)(1)(ii) through (iv) and paragraph (h)(3)(iii) of this section, on a shrimp trawler in the Gulf EEZ shoreward of the 100-fathom (183-m) depth contour west of 85°30' W. long., each net that is rigged for fishing must have a certified BRD installed. * * *

* * * * *

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

(i) Fisheye.

(ii) Gulf fisheye.

(iii) Jones-Davis.

(3) *Procedures for certification of additional BRDs.* The process for the certification of additional BRDs consists of two phases—an optional pre-certification phase and a required certification phase.

(i) *Pre-certification.* The pre-certification phase allows a person to test and evaluate a new BRD design for up to 60 days without being subject to the observer requirements and rigorous testing requirements specified for certification testing in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.*

(A) A person who wants to conduct pre-certification phase testing must submit an application, as specified in the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual,* to the RD. The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual,* which is available from the RD, upon request, contains the application forms.

(B) After reviewing the application, the RA will determine whether to issue a letter of authorization (LOA) to conduct pre-certification trials upon the vessel specified in the application. The RA will issue a pre-certification phase LOA if the BRD design is substantially unlike any BRD design previously determined not to meet the BRD certification criterion or, if the design is substantially similar to a BRD design previously determined not to meet the BRD certification criteria, and the application demonstrates that the design could meet the certification criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as using a larger sample size than that previously used). If the RD authorizes pre-certification, the RD's letter of authorization must be on board the vessel during any trip involving the BRD testing.

(ii) *Certification.* A person who proposes a BRD for certification for use in the Gulf EEZ must submit an application to test such BRD, conduct the testing, and submit the results of the test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual.* The RA will issue a LOA to conduct certification trials upon the vessel specified in the application if the RA finds that: The test plan meets the requirements of the protocol; the observer identified in the application is qualified and has no current or prior financial relationship with the entity seeking BRD certification; the application presents a BRD candidate substantially unlike BRDs previously determined not to meet the current bycatch reduction criterion, or the applicant has shown good cause for reconsideration (such as the likelihood of improved statistical results yielded from a larger sample size than that previously used); and for BRDs not previously tested for certification, the results of any pre-certification trials conducted have been reviewed and deemed to indicate a reasonable scientific basis for conducting certification testing. If authorization to conduct certification trials is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. If a BRD meets the certification criterion, as determined under the testing protocol, NMFS will publish a notice in the **Federal Register** adding the BRD to the list of certified BRDs in paragraph (h)(2) of this section providing the specifications for the newly certified BRD, including any special conditions deemed appropriate based on the certification testing results.

(iii) A shrimp trawler that is authorized to participate in the pre-certification phase or to test a BRD in the EEZ for possible certification has such written authorization on board and is conducting such test in accordance with the *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* is granted a limited exemption from the BRD requirement specified in paragraph (h)(1) of this section. The exemption from the BRD requirement is limited to those trawls that are being used in the certification trials. All other trawls rigged for fishing must be equipped with certified BRDs.

4. In Appendix D to part 622, paragraph C.2. is revised and paragraphs D and E are added to read as follows:

Appendix D to Part 622—Specifications for Certified BRDs

* * * * *

C. * * *

2. *Minimum Construction and Installation Requirements.* The fisheye has a minimum opening dimension of 5 inches (12.7 cm) and a minimum total opening area of 36 square inches (91.4 square cm). The fisheye must be installed at the top center of the codend of the trawl to create an opening in the trawl facing in the direction of the mouth of the trawl no further forward than 11 ft (3.4 m) from the codend drawstring (tie-off rings) or 70 percent of the distance between the codend drawstring and the forward edge of the codend, excluding any extension, whichever is the shorter distance. In the Gulf EEZ only, when the fisheye BRD is installed in this position, no part of the lazy line attachment system (i.e., any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the codend) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the codend retrieval system.

D. *Gulf fisheye.*

1. *Description.* The Gulf fisheye BRD is a cone-shaped rigid frame constructed from aluminum or steel that is inserted into the top center of the codend, or is offset not more than 15 meshes perpendicular to the top center of the codend, to form an escape opening.

2. *Minimum Construction and Installation Requirements.* The Gulf fisheye is a cone-shaped rigid frame constructed of aluminum or steel rods. The rods must be at least ¼-inch (6.35-mm) diameter. Any dimension of the escape opening must be at least 5.0 inches (12.7 cm), and the total escape opening area must be at least 36.0 in^2 (232.3 cm^2). The Gulf fisheye must be installed in the codend of the trawl to create an escape opening in the trawl, facing in the direction of the mouth of the trawl, no further forward than 12.5 ft (3.81 m) and no less than 8.5 ft (2.59 m) from the codend tie-off rings. When installed in this position, no part of the lazy line attachment system (i.e., any mechanism, such as elephant ears or choker straps, used to attach the lazy line to the codend) may overlap the fisheye escape opening when the fisheye is installed aft of the attachment point of the codend retrieval system. The Gulf fisheye may not be offset more than 15 meshes perpendicular to the top center of the codend.

E. *Jones-Davis.*

1. *Description.* The Jones-Davis BRD is similar to the expanded mesh and the extended funnel BRDs except that the fish escape openings are windows cut around the funnel rather than large-mesh sections. In addition, a webbing cone fish deflector is installed behind the funnel.

2. *Minimum Construction and Installation Requirements.* The Jones-

Davis BRD must contain all of the following.

(a) *Webbing extension.* The webbing extension must be constructed from a single piece of 1⅝-inch (3.5-cm) stretch mesh number 30 nylon 42 meshes by 120 meshes. A tube is formed from the extension webbing by sewing the 42-mesh side together.

(b) *28-inch (71.1-cm) cable hoop.* A single hoop must be constructed of ½-inch (1.3-cm) steel cable 88 inches (223.5 cm) in length. The cable must be joined at its ends by a 3-inch (7.6-cm) piece of ½-inch (1.3-cm) aluminum pipe and pressed with a ⅜-inch (0.95-cm) die to form a hoop. The inside diameter of this hoop must be between 27 and 29 inches (68.6 and 73.7 cm). The hoop must be attached to the extension webbing 17½ meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with ⅜-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(c) *24-inch (61.0-cm) hoop.* A single hoop must be constructed of either number 60 twine 80 inches (203.2 cm) in length or ⅜-inch (0.95-cm) steel cable 75½ inches (191.8 cm) in length. If twine is used, the twine must be laced in and out of the extension webbing 39 meshes behind the leading edge, and the ends must be tied together. If cable is used, the cable must be joined at its ends by a 3-inch (7.6-cm) piece of ⅜-inch (0.95-cm) aluminum pipe and pressed together with a ¼-inch (0.64-cm) die to form a hoop. The inside diameter of this hoop must be between 23 and 25 inches (58.4 and 63.4 cm). The hoop must be attached to the extension webbing 39 meshes behind the leading edge. The extension webbing must be quartered and attached in four places around the hoop, and every other mesh must be attached all the way around the hoop using number 24 twine or larger. The hoop must be laced with ⅜-inch (0.95-cm) polypropylene or polyethylene rope for chaffing.

(d) *Funnel.* The funnel must be constructed from four sections of 1½-inch (3.8-cm) heat-set and depth-stretched polypropylene or polyethylene webbing. The two side sections must be rectangular in shape, 29½ meshes on the leading edge by 23 meshes deep. The top and bottom sections are 29½ meshes on the leading edge by 23 meshes deep and tapered 1 point 2 bars on both sides down to 8 meshes across the back. The four sections must be sewn together down the 23-mesh edge to form the funnel.

(e) *Attachment of the funnel in the webbing extension.* The funnel must be installed two meshes behind the leading edge of the extension starting at the center seam of the extension and the center mesh of the funnel's top section leading edge. On the same row of meshes, the funnel must be sewn evenly all the way around the inside of the extension. The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop). Starting at the top center seam, the back edge of the top funnel section must be attached four meshes each side of the center. Counting around 60 meshes from the top center, the back edge of the bottom section must be attached 4 meshes on each side of the bottom center. Clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position.

(f) *Cutting the escape openings.* The leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid. The area of the escape opening must total at least 864 in^2 (5,574.2 cm^2). Two escape openings 10 meshes wide by 13 meshes deep must be cut 6 meshes apart in the extension webbing, starting at the top center extension seam, 3 meshes back from the leading edge and 16 meshes to the left and to the right (total of four openings). The four escape openings must be double selvaged for strength.

(g) *Alternative Method for Constructing the Funnel and Escape Openings.* The following method for constructing the funnel and escape openings may be used instead of the method described in paragraphs F.2.d., F.2.e., and F.2.f. of this section. With this alternative method, the funnel and escape openings are formed by cutting a flap in each side of the extension webbing; pushing the flaps inward; and attaching the top and bottom edges along the bars of the extension webbing to form the v-shape of the funnel. Minimum requirements applicable to this method include: (1) The funnel's top and bottom back edges must be attached one mesh behind the 28-inch (71.1-cm) cable hoop (front hoop); (2) clearance between the side of the funnel and the 28-inch (71.1-cm) cable hoop (front hoop) must be at least 6 inches (15.2 cm) when measured in the hanging position; (3) the leading edge of the escape opening must be located within 18 inches (45.7 cm) of the posterior edge of the turtle excluder device (TED) grid; and, (4) the area of the escape opening must total at least 864 in^2 (5,574.2 cm^2). To construct the funnel and escape openings using this method, begin 3½ meshes from the leading edge of the extension, at the top center seam, count over 18 meshes on each side, and cut 13 meshes toward the back of the extension. Turn parallel to the leading edge, and cut 26 meshes toward the bottom center of the extension. Next, turn parallel to the top center seam, and cut 13 meshes forward toward the leading edge, creating a flap of webbing 13 meshes by 26 meshes by 13 meshes. Lengthen the flap to 18 meshes by adding a 4½-mesh by 26-mesh rectangular section of webbing to the 26-mesh edge. Attach the 18-mesh edges to the top and bottom of the extension by sewing 2 bars of the extension to 1 mesh on the flap in toward the top center and bottom center of the extension, forming the exit opening and the funnel. Connect the two flaps together in the center with a 7-inch piece of number 42 twine to allow adequate clearance for fish escapement between the flaps and the side openings. On each side, sew a 6-mesh by 10½-mesh section of webbing to 6 meshes of the center of the 26-mesh cut on the extension and 6 meshes centered between the 13-mesh cuts 3½ meshes from the leading edge. This forms two 10-mesh by 13-mesh openings on each side.

(h) *Cone fish deflector.* The cone fish deflector is constructed of 2 pieces of 1⅝-inch (4.13-cm) polypropylene or polyethylene webbing, 40 meshes wide by 20 meshes in length and cut on the bar on each side forming a triangle. Starting at the apex of the two triangles, the two pieces must be sewn together to form a cone of webbing. The apex of the cone fish deflector must be positioned within 10–14 inches (25.4–35.6 cm) of the posterior edge of the funnel.

(i) *11-inch (27.9-cm) cable hoop for cone deflector.* A single hoop must be constructed of 5⁄16-inch (0.79-cm) or ⅜-inch (0.95-cm) cable 34½ inches (87.6 cm) in length. The ends must be joined by a 3-inch (7.6-cm) piece of ⅜-inch (0.95-cm) aluminum pipe pressed together with a ¼-inch (0.64-cm) die. The hoop must be inserted in the webbing cone, attached 10 meshes from the apex and laced all the way around with heavy twine.

(j) *Installation of the cone in the extension.* The cone must be installed in the extension 12 inches (30.5 cm) behind the back edge of the funnel and attached in four places. The midpoint of a piece of number 60 twine 4 ft (1.22 m) in length must be attached to the apex of the cone. This piece of twine must be attached to the 28-inch (71.1-cm) cable

hoop at the center of each of its sides; the points of attachment for the two pieces of twine must be measured 20 inches (50.8 cm) from the midpoint attachment. Two 8-inch (20.3-cm) pieces of number 60 twine must be attached to the top and bottom of the 11-inch (27.9-cm) cone hoop. The opposite ends of these two pieces of twine must be attached to the top and bottom center of the 24-inch (61-cm) cable hoop; the points of attachment for the two pieces of twine must be measured 4 inches (10.2 cm) from the points where they are tied to the 11-inch (27.9-cm) cone hoop.

Note: The *Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual* and appendices H and I to the Manual are published as appendices to this document. These appendices will not appear in the Code of Federal Regulations.

Appendix—Gulf Of Mexico Bycatch Reduction Device Testing Protocol Manual

Definitions

Bycatch reduction criterion is that the BRD reduces the mortality of juvenile (age 0 and age 1) red snapper by a minimum of 44 percent from the average level of bycatch mortality (F=2.06) on these age classes during the years 1984–1989.

Bycatch reduction device (BRD) is any gear or trawl modification designed to allow finfish to escape from a shrimp trawl.

BRD candidate is a bycatch reduction device to be tested for certification for use in the commercial shrimp fishery of the Gulf of Mexico.

Catch per unit of effort (CPUE) means the number or pounds of fish (e.g., red snapper) or shrimp taken during a pre-defined measure of fishing activity (e.g., per hour).

Certification phase is a required testing phase whereby an individual so authorized by the RA may conduct a discrete testing program, with a sample size adequate for statistical analysis (no less than 30 tows), to determine whether a BRD candidate meets the bycatch reduction criterion.

Certified BRD is a BRD that has been tested according to this protocol and has been determined by the RA as having met the bycatch reduction criterion.

Control trawl means a trawl used during the certification testing that is not equipped with a BRD. The catch of this trawl is compared to the catch of the experimental trawl.

Experimental trawl means the trawl used during the certification tests that is equipped with the BRD candidate.

Evaluation and oversight personnel includes scientists, observers, and other technical personnel who, by reason of their occupational or other experience, scientific expertise or training, are approved by the RA as qualified to evaluate and oversee the application and testing process. Scientists and other technical personnel will (1) review a BRD certification test application for its merit, and (2) critically review the scientific validity of the certification test results.

Observer means a person on the list maintained by the RA of individuals qualified to supervise and monitor a BRD certification test. Applicants may obtain the list of individuals qualified to be an observer from the RA. The observer chosen by the applicant may not have any current or prior financial relationship with the entity seeking BRD certification. For information on observer qualification criteria and the observer application process, see Appendix I.

Pre-certification phase is an optional testing phase whereby an individual, so authorized by the RA, can experiment with the design, construction, and configuration of a BRD and gather data.

Regional Administrator (RA) means the Southeast Regional Administrator, National Marine Fisheries Service, 9721 Executive Center Drive North, St. Petersburg, Florida 33702, phone 727–570–5301.

Required measurements refers to the quantification of the dimensions and configuration of the trawl, the BRD candidate, the doors, the location of the BRD in relation to other parts of the trawl gear, and other quantifiable criteria used to assess the performance of the BRD candidate.

Sample size means the number of successful tows (a minimum of 30 tows per test are required).

Shrimp loss means the percent difference in average CPUE (e.g. kg/hr) between the amount of shrimp caught in the control trawl and the amount of shrimp caught in the experimental trawl.

Successful tow means that the control and experimental trawl were fished in accordance with the requirements set forth in the protocol and the terms and conditions of the letter of authorization, that the control or experimental net caught at least five red snapper during the tow, and that no indication exists that problematic events, such as those listed in Appendix D–5, occurred during the tow which would impact or influence the fishing efficiency (catch) of one or both nets.

Tow time means the total time (hours and minutes) an individual trawl was fished while being towed (i.e., the time between ''dog-off'' and start of haul back).

Trawl means a net and associated gear and rigging, as illustrated in Appendix B–5 of this manual, used to catch shrimp. The terms trawl and net are used interchangeably throughout the manual.

Tuning a net means adjusting the trawl and its components to minimize the differences in shrimp catch between the two nets that will be used as the control and experimental trawls during the certification tests.

I. Introduction

Purpose of the Protocol

This protocol sets forth a standardized scientific procedure for the testing of a BRD candidate and for the evaluation of its ability to meet the bycatch reduction criterion. For a BRD candidate to be certified by the RA, the BRD candidate must meet the bycatch reduction criterion.

There are two phases to this procedure: An optional, but recommended, pre-certification phase and a required certification phase. An applicant is encouraged to take advantage of the pre-certification phase which allows experimentation with different BRD designs and configurations prior to certification phase testing (see below for details). The certification phase requires the applicant to conduct a discrete testing program, with a sample size of no less than 30 tows to determine whether the BRD candidate meets the bycatch reduction criterion. There is no cost to the applicant for the RA's administrative expenses such as preparing applications, issuing letters of authorization (LOAs), or evaluating test results or certifying BRDs. However, all other costs associated with either phase (e.g., field testing) are at the applicant's expense.

II. Pre-Certification Phase (Optional)

The pre-certification phase provides a mechanism whereby an individual can experiment with the design, construction, and configuration of a prototype BRD for up to 60 days to improve the design's effectiveness at reducing the bycatch of red snapper and to determine whether it is likely to meet the bycatch reduction criterion. To conduct pre-certification phase evaluations of a prototype BRD, the applicant must apply for, receive, and have on board the vessel during testing, an LOA from the RA.

A. Application

In order to obtain an LOA to conduct pre-certification phase evaluations of a prototype BRD, an individual must submit a complete application to the RA. A complete application consists of a completed application form, Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (the form is appended as Appendix J–1), and the following: (1) a brief statement of the purpose and goal of the activity for which the LOA is requested; (2) a statement of the scope, duration, dates, and location of the testing; (3) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD design; (4) an 8.5-inch x 11-inch (21.6-cm x 27.9-cm) diagram drawn to scale of the BRD and approved TED in the shrimp trawl; (5) a description of how the BRD is supposed to work; and (6) a copy of the testing vessel's documentation or its state registration.

An applicant requesting a pre-certification LOA of an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to 50 CFR 227.72(e)(5)(ii). The pre-certification phase LOA application must also append a copy of that authorization.

B. Issuance

The RA will review the application for completeness. If the application is incomplete, the RA will inform the applicant of the incompleteness and give the applicant an opportunity to cure. If incompleteness is not cured within 30 days, the application will be returned to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct pre-certification phase testing upon the vessel specified in the application if the BRD design is substantially unlike BRD designs previously determined not to meet the current performance criterion, or if the design is substantially similar to BRD designs previously determined not to meet the current performance criteria and the application

demonstrates that the design could meet the bycatch reduction criterion through design revision or upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used). If a pre-certification phase LOA is denied, the RA will return the application to the applicant along with a letter of explanation including relevant recommendations as to curing the deficiencies which caused the denial. In arriving at a decision, the RA may consult with evaluation and oversight personnel. Issuance of a LOA allows the applicant to remove or disable the existing BRD in one net (to create a control net), and to place the prototype BRD in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the test must be equipped with a certified BRD. All trawls under tow during the pre-certification phase tests must be equipped with an approved TED unless operating under an authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA, and experimental TED authorization if applicable, must be on board the vessel while the pre-certification phase tests are being conducted. The term of the LOA will be 60 days.

C. Applicability

The pre-certification phase allows an individual to compare the catches of a control net to the catches of the experimental net (net equipped with the prototype BRD) to estimate the potential efficiency of the prototype BRD. If that individual subsequently applies for a certification phase LOA to test this design he/she must include the results of the pre-certification phase evaluation with the certification application. The RA will use this information to determine if there is a reasonable scientific basis to conduct certification phase testing. Therefore, for each paired tow, the applicant should keep a written record of the weight of the shrimp catch, the weight of the finfish catch, and the total catch (in numbers) of red snapper of each net. The form contained in Appendix D should be used to record this information.

III. Certification Phase (Required)

In order to have a BRD certified, it must, under certification phase testing, be consistent with the requirements of the testing protocol and LOA and be determined by the RA to meet the bycatch reduction criterion.

A. Application

To conduct certification phase testing, an individual must obtain a certification phase LOA. To obtain a certification phase LOA, an individual must submit a complete application to the RA. The complete test application consists of an Application to Test A Bycatch Reduction Device in the Exclusive Economic Zone (Appendix J–1), a copy of the vessel's current Coast Guard certificate of documentation or, if not documented, its state registration certificate; the name of a qualified observer who will be on board the vessel during all certification test operations (see Appendix I); and a test plan showing: (1) an 8.5-inch × 11-inch (21.6-cm × 27.9-cm) diagram drawn to scale of the BRD candidate; (2) an 8.5-inch × 11-inch (21.6-cm × 27.9-cm) diagram drawn to scale of the BRD candidate and approved TED in the shrimp trawl; (3) a description of how the BRD candidate is supposed to work; (4) the results of previous pre-certification phase tests; (5) the location, time, and area where the certification phase tests would take place; and (6) the identity of the observer from the list of qualified individuals maintained by the RA and certification that the observer has no current or prior financial relationship with the applicant or entity seeking BRD certification.

An applicant requesting a certification phase LOA to test an unapproved hard or soft TED as a BRD must first apply for and obtain from the RA an experimental TED authorization pursuant to requirements of 50 CFR part 227.72(e)(5)(ii). The application for the certification phase LOA also must append a copy of that authorization.

A.1 Special Circumstances Not Covered By Protocol

Because actual testing conditions may vary, it may be necessary to deviate from the prescribed protocol to determine if a BRD candidate meets the bycatch reduction criterion. Any foreseeable deviations from the protocol must be described and justified in the application, and if scientifically acceptable will be approved by the RA in the LOA. The RA may consult with evaluation personnel to determine whether the deviations are scientifically acceptable. Without the RA's approval in the LOA, results from any tests deviating from the protocol may be rejected as scientifically unacceptable, and could result in a denial of certification.

B. Observer Requirement

A qualified observer must be on board the vessel during all certification testing operations (See Appendix I). A list of qualified observers is available from the RA. Observers may include employees or individuals acting on behalf of NMFS, state fishery management agencies, universities, or private industry who meet the minimum requirements outlined in Appendix I, but the individual chosen may not have a current or prior financial relationship with the entity seeking BRD certification. It is the responsibility of the applicant to ensure that a qualified observer is on board the vessel during the certification tests. Compensation to the observer, if necessary, must be paid by the applicant. Any change in information or testing circumstances, such as replacement of the observer, must be reported to the R.A. within 30 days. Under 50 CFR 600.746, the owner and operator of any fishing vessel required to carry an observer as part of a mandatory observer program under the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801, *et seq.*) is required to comply with guidelines, regulations, and conditions to ensure their vessel is adequate and safe to carry an observer, and to allow normal observer functions to collect scientific information as described in this protocol. A vessel owner is deemed to meet this requirement if the vessel displays one of the following: (i) A current Commercial Fishing Vessel Safety Examination decal, issued within the last 2 years, that certifies compliance with regulations found in 33 CFR, chapter I, and 46 CFR, chapter I; (ii) a certificate of compliance issued pursuant to 46 CFR 28.710; or (iii) a valid certificate of inspection pursuant to 46 U.S.C. 3311.

C. Issuance

The RA will review the application for completeness. If the application is not complete, the RA will notify the applicant of the incompleteness and give the applicant an opportunity to cure. If the incompleteness is not cured within 30 days, the RA will return the application to the applicant. Upon receipt of a complete application, the RA will issue a LOA to conduct certification phase testing of the BRD candidate specified in the application if: (1) the test plan meets the requirements of the protocol; (2) the qualified observer named in the application has no current or prior financial relationship with the entity seeking BRD certification; (3) the BRD candidate design is substantially unlike BRD designs previously determined not to meet the current bycatch reduction criterion, or if the BRD candidate design is substantially similar to a BRD design previously determined not to meet the current bycatch reduction criterion, the application demonstrates that the design could meet the bycatch reduction criterion upon retesting (e.g., the application shows that statistical results could be improved upon retesting by such things as a larger sample size than that previously used); and (4) the results of any pre-certification phase testing conducted indicate a reasonable scientific basis for further testing. The submission of pre-certification phase data to provide a scientific basis for the conduct of certification testing is not an absolute requirement for the issuance of a certification phase LOA. For example, a request to conduct certification phase testing of a minor modification of a certified BRD design would not need to include pre-certification phase data. Similarly, a request for certification phase testing of a previously failed design that under a different test plan (e.g., larger sample sizes) could yield improved statistical results would likewise not need pre-certification phase data. However, pre-certification phase data would normally be needed to establish a reasonable scientific basis for conducting certification phase testing (e.g., that the BRD could meet the certification criterion upon certification testing). In making these determinations, the RA may consult with evaluation and oversight personnel. If a LOA to conduct certification phase testing is denied, the RA will provide a letter of explanation to the applicant, together with relevant recommendations to address the deficiencies resulting in the denial. Issuance of a LOA allows the applicant to remove or disable the existing certified BRD in one net (to create a control net) and to place the BRD candidate in another net in lieu of a certified BRD (to create an experimental net). All other trawls under tow during the tests must be equipped with a BRD. All trawls under tow during the certification tests must be equipped with an approved TED unless operating under an

authorization issued pursuant to 50 CFR 227.72(e)(5)(ii). The LOA will specify the date when the applicant may begin to test the BRD candidate, the observer who will conduct the onboard data collection, and the vessel to be used during the test. The LOA and experimental TED authorization, if applicable, must be onboard the vessel while the certification phase tests are being conducted.

D. Testing Protocol

Certification testing must be conducted in areas and at times when commercial quantities of penaeid shrimp and juvenile (age 0 and age 1) red snapper are available to the gear. The best time for testing a BRD candidate is July and August (July 1—August 31) due to the availability of red snapper on the penaeid shrimp commercial grounds located shoreward of the 100-fm (183-m) depth contour west of 85°30′ W. longitude, the approximate longitude of Cape San Blas, FL. Data should be recorded on the forms found in Appendices B through G, using the instructions provided for each form.

D.1. Tuning the Control and Experimental Trawls Prior to BRD Certification Trials

The primary assumption in assessing the bycatch reduction efficiency of the BRD candidate during paired-net tests is that the inclusion of the BRD candidate in the experimental net is the only factor causing a difference in catch from that of the control net. Therefore, it is imperative that the fishing efficiency of the two nets be as similar as possible prior to starting the certification tests. Catch data from no more than 20 tuning tows should be collected on nets that will be used as control and experimental trawls to determine if there is a between-net or between-side (port vs. starboard) difference in fishing efficiency (bias). Any net/side bias will be reflected as differing catch rates of shrimp and red snapper between two nets that were towed simultaneously. During the tuning tows, these nets should be equipped with identical approved hard TEDs, without the BRD candidate being installed. Using this information, the applicant should identify and minimize the causes for any net/side bias, to the extent practicable, by making appropriate trawl gear adjustments. Form D–1 from Appendix D should be used to record the net/side bias data collected from these tows. These data will enable the RA to determine if any net/side bias existed in either trawl in assessing the BRD candidate's performance.

If the applicant is testing a soft TED as a BRD, it will be imperative that little or no position or side bias with the trawl nets be demonstrated before the certification trials are initiated. Once any net/side bias is corrected using identical approved hard TEDs in both nets, any alterations in catch rate following the substitution of the soft TED into the experimental net can then be attributed to that TED's influence.

D.2. Retention of Data Collected During Tuning Trials

All data collected during tuning trials and used for minimizing the net/side bias must be documented and submitted to the RA along with the testing data for evaluation. Additional information on tuning shrimp trawls is available from the Harvesting Technology Branch, Mississippi Laboratories, Pascagoula Facility, 3209 Frederic Street, Pascagoula, Mississippi 39568–1207; phone (601) 762–4591.

D.3. Certification Tests

The certification tests must follow the testing protocol where paired identical trawls are towed by a trawler in areas west of Cape San Blas, Florida, where shrimp and juvenile red snapper occur. For tests of BRD candidates that do not encompass testing a hard or soft TED as the BRD candidate, identical approved hard TEDs are required in each trawl and one of the trawls must be equipped with a functioning BRD candidate. To test a hard or soft TED as a BRD candidate, the control net must be equipped with an approved hard TED, and the experimental net must be equipped with the TED that is acting as the BRD candidate.

A minimum sample size of 30 successful tows per test is required. Additional tows may be necessary for sufficient statistical evidence, especially if red snapper catch is highly variable. A gear change (i.e., changing nets, doors, or rigging) during a test constitutes the beginning of a new test. All certification tows must be no less than 2 hours and no more than 8 hours in duration. The applicant may select any tow time within this range. Once a tow time is selected, no tow time during a series of tests may vary by more than 10 percent.

To avoid potential biases associated with trynet catches, the outside trawls on quad-rigged vessels must be used as the control and experimental trawls, and for double-rigged vessels, the use of a trynet is prohibited.

The functioning BRD candidate must be switched every 4–6 tows (approximately every 2 days) between the two trawl nets. This process must be repeated, ensuring that an equal number of successful tows are made with the BRD candidate employed in both the port and starboard nets, until a minimum of 30 successful tows have been completed. For BRDs incorporated in the codend of the net, this process can be facilitated by the use of zippers, or other quick-connection devices, to more easily move the codends between nets; however, simply switching the entire net will not satisfy this requirement because doing so would not resolve net bias. Such quick-connection devices must be attached behind the TED. The TED must not be moved unless the BRD is actually incorporated into the TED portion of the net. Where a hard TED is being tested as a BRD candidate, that portion of the net including the TEDs must be moved, and again, quick-connection devices located in front of the TEDs may be used.

A different procedure must be followed to conduct tests of an approved or experimental soft TED as a BRD candidate. To conduct these tests, the applicant must first demonstrate that little or no side/net bias exists between the two nets to be used in the test (see D.1.). Removing the soft TED from one trawl net and installing it in the other net is not required. For these tests, the control (with a hard TED) and experimental (with the soft TED) nets must be disconnected from the doors and their positions switched from one side of the vessel to the other. The first switch must be made after successfully completing approximately 25 percent of the total number of intended tows. This process must be repeated, at 25 percent intervals, until at least 30 successful tows are completed (i.e., every 7–8 successful tows).

Following each paired tow, the catches from the control and experimental nets must be examined separately. This requires that the catch from each net be kept separate from each other, as well as from the catch taken in other nets fished during that tow. First, the observer must weigh the total catch of each test net (control and experimental nets). If the catch in a net does not fill one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket (ca. 70 pounds) (31.8 kg), but the tow is otherwise considered successful, data must be collected on the entire catch of that net, and recorded as a ''select'' sample (see Appendix E). If the catch in a net exceeds 70 pounds (31.8 kg), a well-mixed sample consisting of one standard 1-bushel [ca. 10 gallon] (30 liters) polyethylene shrimp basket must be taken from the total catch of that net.

Data must be collected on Form E–1 for the following species or general groups found in each of the samples: (1) penaeid shrimp—brown, white and pink shrimp from each sample must be separated by species, counted and weighed; in addition, the weight for those penaeid shrimp species caught in each test net, but that were not included in the sample, must be recorded so that a total shrimp catch for each net (by weight) is documented; (2) crustacea—mantis shrimp, sugar shrimp, seabobs, crabs, lobsters and other similar species—must be weighed as an aggregate; (3) other invertebrates—squid, jellyfish, starfish, sea pansies, shells, and other similar species—must be weighed as an aggregate; (4) each finfish species or species group listed in Appendix E must be weighed and counted; (5) other finfish—including all other fish not listed on the above-referenced form must be weighed as an aggregate; and (6) debris (mud, rocks, and related matter) must be weighed as an aggregate.

''Select'' finfish species (page E–3) (i.e., particular species to be quantified from the total catch and not just the sample) are red snapper, Spanish mackerel, and king mackerel. All individuals of the ''Select'' species from each test net (control and experimental net) must be collected, counted, weighed, and recorded. Lengths for as many as 30 individuals of each select species must be recorded on Form F–1. These data are necessary to robustly determine age-class composition, and specific mortality reductions attributable to each of the age classes.

Applicants must also collect qualitative information, using Form G–1, on the condition (alive or dead) and fate (floated off, swam down, eaten) of the discards whenever possible, and note the presence of any predator species such as sharks, porpoises, and jacks that are observed. The condition and fate of the bycatch is important for determining the fishing mortality and waste associated with this discard.

E. Reports

A report on the BRD candidate test results must be submitted for certification. The report must contain a comprehensive description of the tests, copies of all completed data forms used during the certification trials, and photographs, drawings, and similar material describing the BRD. The captain or owner must sign and submit the cover form (Appendix A). The report must include a description and explanation of any unforeseen deviations from the protocol which occurred during the test. Applicants must provide information on the cost of materials, labor, and installation of the BRD candidate. In addition, any unique or special circumstances of the tests, including special operational characteristics or fishing techniques which enhance the BRD's performance, should be described and documented as appropriate.

F. Certification

The RA will determine whether the required reports and supporting materials are sufficient to evaluate the BRD candidate's efficiency. The RA also will determine whether the applicant adhered to the prescribed testing protocol, and whether the BRD candidate meets the bycatch reduction criterion for juvenile red snapper. In making a decision, the RA may consult with evaluation and oversight personnel.

The RA will determine the effectiveness of the BRD candidate. The statistical protocol in Appendix H provides the methodology that the RA will use to estimate the reduction in bycatch mortality on age-1 juvenile red snapper if the test is conducted during the primary period (July or August). Tests conducted during other parts of the year will, most likely, catch both age 0 and age 1 red snapper. To evaluate the overall reduction in mortality rate of these juvenile age classes attributable to the BRD candidate will require alternative extensive analysis, involving use of the Goodyear (1995) stock assessment model to assign mortality reductions by specific size classes within the age 0 and age 1 red snapper catch.

Following a favorable determination of these criteria, the RA will certify the BRD (with any appropriate conditions as indicated by test results) and publish the certification in the **Federal Register**.

IV. BRDs Not Certified and Resubmission Procedures

The RA will advise the applicant, in writing, if a BRD is not certified. This notification will explain why the BRD was not certified and what the applicant may do to either modify the BRD or the testing procedures to improve the chances of having the BRD certified in the future. If certification was denied because of insufficient information, the RA will explain what information is lacking. The applicant must provide the additional information within 60 days from receipt of such notification; thereafter, the applicant must re-apply. If the RA subsequently certifies the BRD, the RA will announce the certification in the **Federal Register**.

V. Decertification of BRDs

The RA will decertify a BRD whenever it is determined that it no longer satisfies the bycatch reduction criterion for juvenile red snapper. Before determining whether to decertify a BRD, the Council and public will be advised and provided an opportunity to comment on the advisability of any proposed decertification. The RA will consider any comments from the Council and public, and if the RA elects to proceed with decertification of the BRD, the RA will publish proposed and final rules in the **Federal Register** with a comment period of not less than 15 days on the proposed rule.

VI. Interactions With Sea Turtles

The following section is provided for informational purposes. Sea turtles are listed under the Endangered Species Act as either endangered or threatened. The following procedures apply to incidental take of sea turtles under 50 CFR 227.72(e)(1):

''(i) Any specimen so taken must be handled with due care to prevent injury to live specimens, observed for activity, and returned to the water according to the following procedures:

(A) Sea turtles that are dead or actively moving must be released over the stern of the boat. In addition, they must be released only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels.

(B) Resuscitation must be attempted on sea turtles that are comatose or inactive but not dead by:

(1) Placing the turtle on its back (carapace) and pumping its breastplate (plastron) with hand or foot; or (2) Placing the turtle on its breastplate (plastron) and elevating its hindquarter several inches for a period from 1 to 24 hours. The amount of the elevation depends on the size of the turtle; greater elevations are needed for larger turtles. Sea turtles being resuscitated must be shaded and kept wet or moist. Those that revive and become active must be released over the stern of the boat only when trawls are not in use, when the engine gears are in neutral position, and in areas where they are unlikely to be recaptured or injured by vessels. Similarly, sea turtles that fail to move within several hours (up to 24, if possible) must be returned to the water in the same manner.

(ii) Any specimen so taken must not be consumed, sold, landed, off-loaded, transshipped, or kept below deck.''

References

Gulf of Mexico Fishery Management Council, 1997. Amendment 9 to the Fishery Amendment 9 to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico, Including a Final Supplemental Environmental Impact Statement and Regulatory Impact Review and Social Impact Assessment. Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301 North, Suite 1000, Tampa, FL 33619, 153 p.

Goodyear, C. P.; 1995. Red snappers in U.S. waters of the Gulf of Mexico. National Marine Fisheries Service, Southeast Fisheries Science Center, Miami Laboratory, Miami, FL. Laboratory Report, Contribution ι MIA 95/96–05, 171 p.

Hoese, H. Dickson and Richard H. Moore; 1977. Fishes of the Gulf of Mexico, Texas, Louisiana, and Adjacent Waters. Texas A&M University Press. College Station, TX, 327 p.

SAFMC; 1997. Final Bycatch Reduction Device Testing Protocol Manual. South Atlantic Fishery Management Council, 1 Southpark Cir., Ste 306, Charleston, S.C. 29407, 34 p.

Ward, John M., Teofilo Ozuma and Wade Griffen; 1995 Cost and Revenues in the Gulf of Mexico Shrimp Fishery . NOAA Tech. Mem. NMFS–SEFSC–371, 76 p.

Appendix H Statistical Procedures for Analyzing BRD Evaluation Data

NMFS will calculate the reduction in bycatch mortality (F) based on data gathered during the testing. Both age 0 and age 1 red snapper, ranging in length from 10 mm to 200 mm, occur frequently in shrimp trawls. During the July/August (July 1–August 31) period, the most recently spawned year class of fish have not fully recruited to the shrimp grounds; thus the catch is represented by a relatively narrow length range of individuals, all of which are considered to be age 1. The numerical reduction in catch-per-unit-effort (CPUE) of this specific age class is expected to be a good predictor of fishing mortality (F) reduction, although the size composition data will be checked for any particular test. The analysis of the data collected under this testing protocol will be based on a modified paired t-test. Because of the varying age and size composition of the red snapper catch taken at other times of the year, more detailed analyses through use of a stock assessment model (Goodyear 1995) incorporating the size-specific reduction performance of the device and the seasonal progression of F must be conducted to determine if the BRD candidate will meet the bycatch reduction criterion. Based on the time of the year that the test is conducted, NMFS will utilize the appropriate technique to assess the performance of the BRD candidate as a service for the BRD sponsor.

All experimental tows must be conducted in conformance with the requirements of the BRD testing protocol. Data collected from no more than 20 tuning tows of the control and experimental trawls (without the BRD candidate installed) must be included to determine if any net bias exists prior to beginning certification phase testing. To further reduce problems caused by no or low catches, a tow must contain a minimum catch of 5 red snapper in at least one trawl for inclusion in the analysis. Once conducted, the tow and the corresponding collected data become the permanent part of the record and cannot be discarded. Only the successful tows will count toward the minimum required; however, information from other tows, if appropriate, will be used in the analysis.

Statistical Approach for Calculation of Bycatch Mortality (F) Reduction for Devices Tested in July/August

The statistical approach assumes that the BRD to be tested does not achieve the minimum required reduction rate, (R_o). The hypotheses to be tested are as follows:

H_o: BRD does not achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} \leq R_o, \text{ i.e. } (1 - R_o)\,\mu_c - \mu_b \leq 0.$$

H_a: BRD does achieve the minimum required reduction rate,

$$R = \frac{\mu_c - \mu_b}{\mu_c} > R_o, \text{ i.e. } (1 - R_o)\,\mu_c - \mu_b > 0.$$

R denotes the actual reduction rate (unknown), R_o denotes the minimum required reduction rate, μ_c denotes the actual mean CPUE with the control, and μ_b denotes the actual mean CPUE with the BRD.

With any hypothesis testing, there are two risks involved known as type I error (rejection of true H_o) and type II error (acceptance of false H_o). The probabilities of committing these errors are denoted by alpha and beta, respectively. The probabilities are inversely related to each other. As alpha increases, beta decreases and vice versa. An alpha of 10 percent will be used. The two hypotheses are tested using a 'modified' paired t-test.

The CPUE values for the control and BRD trawls for each successful tow is computed first and is used in the following computations:

$$t = \frac{(1 - R_o)\,\bar{x} - \bar{y}}{s_{d0}/\sqrt{n}},$$

Where:

$\bar{x}$ is the observed mean CPUE for the control,

$\bar{y}$ is the observed mean CPUE for the BRD,

s_{d0} is the standard deviation of $d_i = \{(1 - R_o)X_i - Y_i\}$ values,

n is the number of successful tows used in the analysis, and

i = 1,2,...,n.

The H_o will be rejected if $t > t_{alpha,\ n-1}$ where $t_{alpha,\ n-1}$ denotes the (1 − alpha)100th percentile score in the t distribution with (n − 1) degrees of freedom.

A (1 − alpha)100% two-sided confidence interval on R consists of all values of R_o for which H_o: $R = R_o$ (versus H_a $R \neq R_o$) cannot be rejected at the level of significance of alpha. One-sided confidence intervals on R could also be computed appropriately.

Appendix I Qualifications of Observer

An observer:

1. Must have a Bachelor's degree in fisheries biology or closely related field from an accredited college, have at least 6 months experience working with a university, college, state fisheries agency, NMFS, or private research organization such as the Gulf and South Atlantic Fisheries Development Foundation as an observer on a trawler (including research trawlers) in the southeast region, or have successfully completed a training course conducted or approved by the Director of the NMFS Southeast Fisheries Science Center.

2. Must not have a current or prior financial relationship with the entity seeking BRD certification.

In addition, any individual:

1. Applying to serve as an observer must provide the names, addresses, and telephone numbers of at least three references who can attest to the applicant's background, experiences, and professional ability. These references will be contacted; unsatisfactory references may be a basis for disapproval of an applicant as an observer.

2. Wishing to serve as an observer should submit a resume and supporting documents to the Director, Southeast Fisheries Science Center, 75 Virginia Beach Drive, Miami, FL 33149. The Center will use this information to determine which names will to be included on a list of qualified observers. If an applicant is not approved as an observer, the RA will notify the applicant of the disapproval and will provide an explanation for the denial.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 981216308–9180–03; I.D. 052699A]

RIN 0648–AJ67

Atlantic Highly Migratory Species (HMS) Fisheries; Regulatory Adjustments

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS is amending the final consolidated regulations governing the Atlantic HMS fisheries to clarify the applicability of recreational retention limits to persons aboard charter/headboat vessels; to set Atlantic bluefin tuna (BFT) quotas for the period beginning January 1, 1999, and ending May 31, 1999; to clarify the requirements for embarking observers aboard shark gillnet vessels; to reestablish certain enforcement provisions inadvertently edited from the consolidated HMS regulations; to clarify transfer provisions for limited access

permits; to correct the baseline reference point for limited access fishery vessel upgrades; to clarify references to the management unit and jurisdictional areas for species under regulation by the International Commission for the Conservation of Atlantic Tunas (ICCAT); to correct the effective dates of the restriction on length of pelagic longlines; to correct cross references; and to remove the interim provisions that were not intended to remain in effect beyond June 30, 1999.

DATES: Effective July 1, 1999, except that § 635.69(h) will be effective September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Chris Rogers at 301–713–2347, FAX: 301–713–1917.

SUPPLEMENTARY INFORMATION: On May 28, 1999, NMFS published a final rule (64 FR 29090) that implemented the Atlantic Tunas, Swordfish, and Sharks Fishery Management Plan (HMS FMP), and an Amendment to the Atlantic Billfish FMP and that consolidated regulations for Atlantic HMS into one CFR part. The final consolidated rule inadvertently omitted certain provisions of the final HMS FMP and/or previously issued regulations and contained regulatory text that, in some instances, was not consistent with the final HMS FMP. In addition, because the final rule was not to be effective until July 1, 1999, certain interim provisions that pertained to fishing activities occurring in June were made effective on May 24, 1999. However, the amendatory instructions did not indicate that the effectiveness of the interim provisions would lapse as of the effective date of the remainder of the final rule because these provisions duplicate regulatory text that appears elsewhere in 50 CFR part 635. Finally, a supplement to the proposed rule to implement the HMS FMP (64 FR 9298, February 25, 1999) proposed, among other things, BFT quotas for the proposed new fishing year to begin on June 1, 1999, and, as a consequence, BFT quotas for the transition period of January 1, 1999, through May 31, 1999. The final consolidated HMS regulations implemented the new fishing year, and final quota specifications were issued in a separate document (64 FR 29806, June 3, 1999). The quotas for the transition period were inadvertently omitted from the final specifications notice. All these items are rectified by this technical amendment.

Shark Gillnet Observers

Under the terms of the biological opinion issued as a result of an Endangered Species Act, section 7, consultation on the HMS FMP, NMFS required that all shark gillnet vessels carry an observer on all trips in the southeast during the season when right whales are present.

It was intended that the mandatory observer requirement apply only to vessels in the directed shark fishery and not to vessels taking sharks under an incidental catch limited access permit or under the recreational retention limit. The regulatory text was drafted such that the observer requirement was broader than that intended. This technical amendment revises the regulatory text to clarify that observers are required to be embarked on all trips of gillet vessels issued directed shark limited access permits.

Jurisdictional Issues

Regulations managing the Atlantic shark fishery are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and as such are generally applicable with respect to the U.S. exclusive economic zone (EEZ). As some Atlantic sharks in the management unit are harvested from waters under state jurisdiction and by vessels that fish exclusively in state waters, certain of the Federal regulations may not apply to all vessels or to all cases of transfer of sharks to a dealer. Specifically, federally permitted dealers may purchase regulated sharks from non-federally permitted vessels that fish for sharks exclusively in waters under state jurisdiction but may not purchase sharks from federally permitted vessels after a closure of any specific management group even if those sharks were taken shoreward of the EEZ.

Regulations governing the management of Atlantic billfish are issued under the authority of the Magnuson-Stevens Act and, if implementing a recommendation of ICCAT, also under the authority of the Atlantic Tunas Convention Act (ATCA). As such, billfish regulations, generally applicable in the U.S. exclusive economic zone (EEZ), may apply throughout all waters of the convention area or for a particular stock management unit, as defined by ICCAT. As regulated billfish may be harvested from waters under state, U.S. EEZ, or high seas jurisdictions, or by persons or vessels subject to U.S. jurisdiction within the EEZ of another nation bordering the convention area, certain Federal regulations may apply in all areas, depending on the ICCAT recommendation and the species.

In consolidating the HMS regulations under 50 CFR part 635, certain specific references to these jurisdictional issues for sharks and billfish were inadvertently omitted or stated incorrectly. This technical amendment clarifies these

jurisdictional issues and the applicability of Federal regulations for the different species within the U.S. EEZ and the U.S. territorial sea, or on the high seas, or within the EEZ of another nation.

Facilitation of Enforcement

In consolidating the HMS regulations into one CFR part, certain provisions were inadvertently omitted or drafting errors occurred which limit NMFS' ability to enforce the regulations. Specifically, omitted language in the prohibitions on attempting to purchase, sell, trade, or barter HMS contrary to the regulations elsewhere in 50 CFR part 635 is necessary to facilitate enforcement. Also, reports of BFT landed under the Angling category quota must be made through NMFS' automated catch reporting system. A drafting error in the final rule omitted the 24–hour time limit for such catch reporting. To facilitate enforcement, this technical amendment reestablishes the 24–hour requirement. Additionally, a provision for access to position data was inadvertently omitted from the regulations on vessel monitoring systems. For enforcement purposes, NMFS must have unrestricted access to vessel position information. Because VMS units transmit from the vessel to NMFS through a communications service provider that is a third party, access to the data could be at issue. This technical amendment adds the omitted regulatory text and corrects the drafting errors.

Transferability of Tuna Permits

The final consolidated HMS regulations limit transferability of tuna permits to those limited access permits issued to purse seine vessels. As stated in the HMS FMP, however, the limited access program for the Atlantic swordfish and shark fisheries required that limited access also be implemented in the tuna longline fishery so that regulatory discards of swordfish and sharks would not increase in an expanding tuna longline fishery. Further, because the final regulations introduced a limited access system for Atlantic Tunas Longline category permits, and the transfer provisions of the swordfish/shark LAPs require that an Atlantic tunas permit also be obtained, it is necessary to allow the limited access Longline category permits to be transferred from current owners rather than issued on an open-

access basis by NMFS. This Technical amendment corrects the drafting error to make limited access Atlantic Tunas Longline category permits transferable.

Vessel Upgrade Baseline

As limited access permits for shark, swordfish, and tuna longline vessels were issued based on historical records, certain qualifying vessels were no longer owned by current fishery participants but had been replaced with the intent to retain the qualifying catch history. The HMS FMP established the baseline for limited access vessel upgrades as of the date of publication of the final rule (May 28, 1999). Accordingly, this technical amendment clarifies the regulatory text to establish the baseline for upgrade of vessel parameters (length, tonnage, horsepower) to coincide with the vessel owned as of May 28, 1999, in such cases that the limited access qualifying vessel had already been replaced.

Retention Limits for Charter/Headboats

NMFS recognizes that certain vessels operating as charter vessels and headboats by taking anglers fishing for HMS on a fee basis may, on occasion, sell fish taken by those anglers. Additionally, some of these vessels may, when not operating as a charter/headboat, directly engage in commercial fishing operations. As the retention limits applicable to the recreational fisheries for HMS do not generally apply to persons aboard permitted commercial fishing vessels, it is necessary to clarify the circumstances under which persons aboard a charter/headboat vessel are subject to the recreational retention limits.

For BFT, the consolidated regulations at 50 CFR part 635 allow persons aboard a vessel issued an Atlantic tunas permit in the Charter/Headboat category to land BFT either against the Angling category quota or against the General category quota subject to the applicable size limits, daily catch limits, restricted fishing days and closures. The designation of category is determined by the size of the first BFT retained. Such designation is practical for BFT because the quota categories are related to size limits.

A similar designation is not possible for yellowfin tuna (YFT) because all fish above the 27–inch minimum size limit may be landed in either the commercial or recreational fisheries. While the HMS FMP and compliance guide clearly indicated NMFS' intent that the daily catch limit of three YFT per person per day would apply to persons aboard vessels permitted in the Atlantic Tunas Charter/Headboat category, the consolidated regulations at 50 CFR part 635 are not clear. Although the regulations at § 635.22(a) indicate that the YFT retention limit applies to all persons aboard vessels in the recreational fishery, that same section states that the limit does not apply aboard vessels issued a commercial permit. Under § 635.4, the Atlantic Tunas Charter/Headboat category permit is classified as a commercial permit, and fish landed by persons aboard such vessels may be sold to permitted dealers.

The technical amendment revises the regulatory text to clarify that the YFT retention limit applies to persons aboard charter/headboat vessels. While such YFT may be sold to permitted dealers, the number of fish landed cannot exceed three times the number of persons aboard, including captain and crew.

Transition Period BFT Quota

In specifying the 1999 BFT allocations, NMFS considered carryover adjustments from the 1998 fishing year, new provisions for the discard allowance and limitations on school BFT catch, and additional adjustments to accommodate the establishment of the new fishing year proposed to begin on June 1, 1999. NMFS proposed to allocate BFT quota for the transition period (January 1, 1999, through May 31, 1999) based on underharvest in 1998. At the end of 1998, the following subquotas had not been harvested: 1 metric ton (mt) in the General category, 2 mt in the Purse Seine category, 67 mt in the Angling category, and 26 mt in the Incidental (Longline) category. Additionally, 15 mt remained in the Reserve category.

NMFS proposed to use the 1998 underharvest from the Angling and Incidental categories for the transition period, a time period in which only the Angling and Longline fishing categories would be active. Based on public comment, NMFS had determined that no changes to the proposed transition period BFT quota specifications were necessary. However, the final BFT quota specifications published on June 3, 1999 (64 FR 29806) inadvertently omitted the transition period to the new fishing year beginning June 1, 1999. NMFS, therefore, issues final BFT quota specifications for the transition period of January 1, 1999, through May 31, 1999 in this technical amendment to the final rule.

Consistent with the proposed transition period BFT quota specifications, NMFS subdivides the Angling category transition period quota of 79 mt as follows: Large school/small medium bluefin––75 mt, with 16 mt to the northern area and 59 mt to the southern area; and large medium/giant bluefin-–4 mt, allocated entirely to the southern area given the distribution of large BFT during the period. NMFS also subdivides the Longline category transition period quota of 26 mt as follows: 1 mt to longline vessels operating north of 34° N. lat. and 25 mt to longline vessels operating south of 34° N. lat. During the transition period, no BFT quota is allocated to other fishing categories.

Longline Operations

In the final consolidated HMS regulations, the period during which pelagic longlines deployed in the Mid-Atlantic Bight are limited to 24 nautical miles was misspecified. The corrected regulatory text limits the length of longlines for the period beginning August 1, 1999, and ending November 30, 2000. Additionally, the prohibition at § 635.71 (a)(18) regarding movement of longline gear after an entanglement with a protected species is corrected to cross reference paragraph § 635.21(c)(3).

Classification

The Assistant Administrator for Fisheries, under 5 U.S.C. 553(b)(B), finds that providing prior notice and opportunity for public comment on this rule is unnecessary and contrary to the public interest. The rule merely corrects an earlier rule by clarifying regulatory text inconsistent with the final HMS FMP, correcting drafting errors, and reestablishing regulatory provisions that were intended to remain in effect but were inadvertently omitted during the consolidation. These corrections and clarifications are necessary to avoid adverse impacts on fishery participants that would result from inconsistent interpretations of the regulations relative to the HMS FMP and/or the inability of NMFS to enforce regulations due to lack of clarity. For similar reasons, the Assistant Administrator for Fisheries, under 5 U.S.C. 553(d)(3), finds that delaying the effective date of this rule for 30 days is unnecessary and contrary to the public interest.

Because prior notice and opportunity for public comment are not required for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 USC 601 et seq., are inapplicable. This rule is exempt from review under E.O. 12866.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Intergovernmental relations, Penalties, Reporting and

recordkeeping requirements, Statistics, Treaties.

Dated: July 6, 1999.

Penelope D. Dalton,

Assistant Administrator for Fisheries,

National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 635, is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

1. The authority citation for part 635 continues to read as follows:

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

2. In § 635.4, paragraphs (d)(4), (f)(4), (l) and (m) are revised to read as follows:

§ 635.4 Permits and fees.

* * * * *

(d) * * *

(4) A person can obtain an Atlantic Tunas Longline category permit for a vessel only if the vessel has been issued both a limited access permit for shark and a limited access permit for swordfish. NMFS will issue Atlantic Tunas Longline category permits to qualifying vessels in calendar year 1999. Thereafter, such permits may be obtained through transfer from current owners consistent with the provisions under paragraph (l)(2) of this section.

* * * * *

(f) * * *

(4) Unless the owner has been issued a swordfish handgear permit, a limited access permit for swordfish is valid only when the vessel has on board a valid limited access permit for shark and a valid Atlantic Tunas Longline category permit issued for such vessel.

* * * * *

(l) *Transfer*—(1) *General.* A permit issued under this section is not transferable or assignable to another vessel or owner or dealer; it is valid only for the vessel or owner or dealer to whom it is issued. If a person acquires a vessel or dealership and wants to conduct activities for which a permit is required, that person must apply for a permit in accordance with the provisions of paragraph (h) of this section or, if the acquired vessel is permitted in either the shark, swordfish or tuna longline fishery, in accordance with paragraph (l)(2) of this section. If the acquired vessel or dealership is currently permitted, an application must be accompanied by the original permit and by a copy of a signed bill of sale or equivalent acquisition papers.

(2) *Shark, swordfish, and tuna longline LAPs.* (i) Subject to the restrictions on upgrading the harvesting capacity of permitted vessels in paragraph (l)(2)(ii) of this section and to the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section, an owner may transfer a shark or swordfish ILAP or LAP or an Atlantic Tunas Longline category permit to another vessel that he or she owns or to another person. Directed handgear ILAPs and LAPs for swordfish may be transferred to another vessel but only for use with handgear and subject to the upgrading restrictions in paragraph (l)(2)(ii) of this section and the limitations on ownership of permitted vessels in paragraph (l)(2)(iii) of this section. Incidental catch ILAPs and LAPs are not subject to the requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section.

(ii) An owner may upgrade a vessel with a shark, swordfish, or tuna longline limited access permit, or transfer the limited access permit to another vessel, and be eligible to retain or renew a limited access permit only if the upgrade or transfer does not result in an increase in horsepower of more than 20 percent or an increase of more than 10 percent in length overall, gross registered tonnage, or net tonnage from the vessel baseline specifications.

(A) The vessel baseline specifications are the respective

specifications (length overall, gross registered tonnage, net tonnage, horsepower) of the first vessel that was issued an initial limited access permit or, if applicable, of that vessel's replacement owned as of May 28, 1999.

(B) The vessel's horsepower may be increased only once subsequent to the issuance of a limited access permit, whether through refitting, replacement, or transfer. Such an increase may not exceed 20 percent of the horsepower of the vessel's baseline specifications, as applicable.

(C) The vessel's length overall, gross registered tonnage, and net tonnage may be increased only once subsequent to the issuance of a limited access permit, whether through refitting, replacement, or transfer. Any increase in any of these three specifications of vessel size may not exceed 10 percent of the vessel's baseline specifications, as applicable. If any of these three specifications is increased, any increase in the other two must be performed at the same time. This type of upgrade may be done separately from an engine horsepower upgrade.

(iii) No person or entity may own or control more than 5 percent of the vessels for which swordfish directed, shark directed or tuna longline limited access permits have been issued.

(iv) In order to transfer a swordfish, shark or tuna longline limited access permit to a replacement vessel, the owner of the vessel issued the limited access permit must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit to another vessel, subject to requirements specified in paragraph (l)(2)(ii) of this section, if applicable. The owner must return the current valid limited access permit to NMFS with a complete application for a limited access permit, as specified in paragraph (h) of this section, for the replacement vessel. Copies of both vessels' U.S. Coast Guard documentation or state registration must accompany the application.

(v) For swordfish, shark, and tuna longline limited access permit transfers to a different person, the transferee must submit a request to NMFS, at an address designated by NMFS, to transfer the original limited access permit(s), subject to requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s) and the bill of sale for the permit(s). A person must include copies of both vessels' U.S. Coast Guard documentation or state registration for limited access permit transfers involving vessels.

(vi) For limited access permit transfers in conjunction with the sale of the permitted vessel, the transferee of the vessel and limited access permit(s) issued to that vessel must submit a request to NMFS, at an address designated by NMFS, to transfer the limited access permit(s), subject to requirements specified in paragraphs (l)(2)(ii) and (l)(2)(iii) of this section, if applicable. The following must accompany the completed application: The original limited access permit(s) with signatures of both parties to the transaction on the back of the permit(s), the bill of sale for the limited access permit(s) and the vessel, and a copy of the vessel's U.S. Coast Guard documentation or state registration.

(vii) The owner of a vessel issued a limited access permit(s) who sells the permitted vessel but retains the limited access permit(s) must notify NMFS within 30 days after the sale of the change in application information in accordance with paragraph (i) of this section. If the owner wishes to transfer the limited access permit(s) to a replacement vessel, he/she must apply

according to the procedures in paragraph (l)(2)(iv) of this section.

(viii) As specified in paragraph (f)(4) of this section, a directed or incidental ILAP or LAP for swordfish, a directed or an incidental catch ILAP or LAP for shark, and an Atlantic Tunas commercial category permit are required to retain swordfish. Accordingly, a LAP for swordfish obtained by transfer without

either a directed or incidental catch shark LAP or an Atlantic tunas commercial category permit will not entitle an owner or operator to use a vessel to fish in the swordfish fishery.

(ix) As specified in paragraph (d)(4) of this section, a directed or incidental ILAP or LAP for swordfish, a directed or an incidental catch ILAP or LAP for shark, and an Atlantic Tunas Longline category permit are required to retain Atlantic tunas taken by pelagic longline gear. Accordingly, an Atlantic Tunas Longline category permit obtained by transfer without either a directed or incidental catch swordfish or shark LAP will not entitle an owner or operator to use the permitted vessel to fish in the Atlantic tunas fishery with pelagic longline gear.

(m) *Renewal*—(1) *General.* Persons must apply annually for a vessel or dealer permit for Atlantic tunas, sharks, and swordfish, and HMS Charter/Headboats. Persons must apply annually for an Atlantic tunas or HMS Charter/headboat vessel permit. A renewal application must be submitted to NMFS, at an address designated by NMFS, at least 30 days before a permit's expiration to avoid a lapse of permitted status. NMFS will renew a permit provided that the specific requirements for the requested permit are met, including those described in § 635.4 (l)(2), all reports required under the Magnuson-Stevens Act and ATCA have been submitted, including those described in § 635.5, and the applicant is not subject to a permit sanction or denial under paragraph (a)(6) of this section.

(2) *Shark, swordfish, and tuna longline LAPs.* As of June 1, 2000, the owner of a vessel of the United States that fishes for, possesses, lands or sells shark or swordfish from the management unit, or takes or possesses such shark or swordfish as incidental catch or that fishes for Atlantic tunas with longline gear must have the applicable limited access permit(s) issued pursuant to the requirements in § 635.4, paragraphs (e) and (f). However, any ILAP that expires on June 30, 2000, is valid through that date. Only valid limited access permit holders in the preceding year are eligible for renewal of a limited access permit(s). Limited access permits that have been transferred according to the procedures of paragraph (l) of this section are not eligible for renewal by the transferor.

3. In 635.5, the first sentence of paragraph (c) is revised to read as follows:

§ 635.5 Recordkeeping and reporting.

* * * * *

(c) *Anglers.* The owner of a vessel permitted in the Atlantic tunas Angling or Atlantic tunas or HMS Charter/Headboat category must report all BFT landed under the Angling category quota to NMFS through the automated catch reporting system by calling 1-888-USA-TUNA within 24 hours of the landing. * * *

* * * * *

4. In § 635.7, the last sentence of paragraph (d) is revised to read as follows:

§ 635.7 At-sea observer coverage.

* * * * *

(d) * * * Notwithstanding the above procedures for assignment or waiver, at no time shall a person aboard a vessel issued a directed shark ILAP or LAP under § 635.4 fish for Atlantic sharks with a gillnet or possess sharks on board a vessel issued a directed shark ILAP or LAP with a gillnet on board unless a NMFS-approved observer is aboard the vessel.

* * * * *

5. In § 635.20, the first sentence of paragraph (e)(1) and paragraph (e)(2) are revised to read as follows:

§ 635.20 Size limits.

* * * * *

(e) *Sharks.* (1) No person shall take, retain, or possess in the Atlantic EEZ any species classified as a ridgeback LCS shark, taken from its management unit that is less than 54 inches (137 cm), fork length, or, if the head and fins have been removed, 30 inches (76 cm) as a straight line from the first dorsal fin ray to the precaudal pit * * *

(2) All sharks landed under the recreational retention limits specified at § 635.22(c) must have the head, tail, and fins attached and be at least 54 inches (137 cm), FL, except that the minimum size limit does not apply for Atlantic sharpnose sharks.

* * * * *

6. In § 635.21, paragraph (c)(1), the first two sentences of (d)(1), and paragraphs (d)(2)(ii) and (d)(3)(i) are revised to read as follows:

§ 635.21 Gear operation and deployment restrictions.

* * * * *

(c) * * *

(1) From August 1, 1999, through November 30, 2000, no person may deploy a pelagic longline that is more than 24 nautical miles (44.5 km) in length in the Mid-Atlantic Bight.

* * * * *

(d) *Authorized gear* —(1) *Atlantic tunas.* A person that retains or possesses an Atlantic bluefin tuna may not have on board a vessel or use on board the vessel any gear other than that authorized for the category for which the Atlantic tunas or HMS permit has been issued for such vessel. When fishing for Atlantic tunas other than BFT, fishing gear authorized for any Atlantic Tunas permit category may be used, except that purse seine gear may be used only on board vessels permitted in the Purse Seine category and pelagic longline gear may be used only on board vessels issued an Atlantic Tunas Longline category tuna permit as well as ILAPs or LAPs for both swordfish and sharks. * * *

* * * * *

(2) * * *

(ii) Persons may possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ only if it is harvested by rod and reel. Regardless of how taken, persons may not possess or take a sailfish shoreward of the outer boundary of the Atlantic EEZ on board a vessel using or having on board a pelagic longline.

(3) *Sharks.* (i) No person may possess a shark in the EEZ if the shark was taken from its management unit by any gear other than handgear, longline or gillnet.

* * * * *

7. In § 635.22, paragraphs (a) and (b) are revised to read as follows:

§ 635.22 Recreational retention limits.

(a) *General.* Recreational retention limits apply to a longbill spearfish taken or possessed shoreward of the outer boundary of the Atlantic EEZ, to a shark taken from or possessed in the Atlantic EEZ, and to a yellowfin tuna taken from or possessed in the Atlantic Ocean. The operator of a vessel for which a retention limit applies is responsible for the vessel retention limit and the cumulative retention limit based on the number of persons aboard. Federal recreational retention limits may not be combined with any recreational retention limit applicable in state waters. The recreational retention limit for sharks applies to a person who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under § 635.4 for Atlantic sharks. The recreational retention limit for yellowfin tuna applies to a person

who fishes in any manner, except to a person aboard a vessel who has been issued a vessel permit under § 635.4 for Atlantic tunas in any category other than Angling or Charter/Headboat.

(b) *Billfish*. No longbill spearfish from the management unit may be possessed shoreward of the outer boundary of the EEZ.

* * * * *

§ 635.25 [Removed on Reserved]

8. Section 635.25 is removed and reserved.

9. In § 635.28, paragraph (b)(3) is revised to read as follows:

§ 635.28 Closures.

* * * * *

(b) * * *

(3) When the fishery for a shark species group is closed, a fishing vessel issued a shark ILAP or LAP pursuant to § 635.4 may not possess or sell a shark of that species group, and a permitted shark dealer may not purchase or receive a shark of that species group from a vessel issued a shark ILAP or LAP, except that a permitted shark dealer or processor may possess sharks that were harvested, off-loaded, and sold, traded, or bartered, prior to the effective date of the closure and were held in storage.

* * * * *

10. In § 635.69, paragraph (h) is added to read as follows:

§ 635.69 Vessel monitoring systems.

* * * * *

(h) *Access*. As a condition to obtaining a limited access permit for Atlantic swordfish, sharks or tunas, all vessel owners or operators using pelagic longline gear subject to the VMS provisions of this section must allow NMFS, the USCG, and their authorized officers and designees access to the vessel's position data obtained from the VMS at the time of or after its transmission to the vendor or receiver, as the case may be.

11. In § 635.71, paragraphs (a)(3), (a)(4) and (a)(18) are revised to read as follows:

§ 635.71 Prohibitions.

* * * * *

(a) * * *

(3) Purchase, receive, or transfer or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic HMS landed by owners of vessels not permitted to do so under § 635.4, or purchase, receive, or transfer, or attempt to purchase, receive, or transfer, for commercial purposes, any Atlantic HMS without the appropriate valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

(4) Sell or transfer or attempt to sell or transfer an Atlantic tuna, shark, or swordfish other than to a dealer that has a valid dealer permit issued under § 635.4, except that this does not apply to a shark harvested from a vessel that has not been issued a permit under this part and that fishes exclusively within the waters under the jurisdiction of any state.

* * * * *

(18) Fail to retrieve fishing gear and move after an interaction with a marine mammal or sea turtle, as specified in § 635.21(c)(3).

* * * * *

[FR Doc. 99–17597 Filed 7–8–99; 2:25 pm]

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Proposed Rules

Federal Register
Vol. 64, No. 133
Tuesday, July 13, 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 ENERGY

Office of Energy Efficiency and Renewable Energy

10 CFR Part 430

[Docket No. EE–RM–93–801]

RIN 1904–AB03

Energy Conservation Program for Consumer Products: Amendment to the Definition of ''Electric Refrigerator''

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

ACTION: Notice of proposed rulemaking and opportunity for public comment.

SUMMARY: The Department of Energy (DOE or Department) is proposing to amend the definition of Electric refrigerator in its energy conservation program regulations to include a maximum temperature of the fresh food storage compartment, and to exclude certain appliances whose physical configuration makes them unsuitable for general storage of perishable foods.

DATES: DOE will consider all written comments received by August 12, 1999.

ADDRESSES: Mail comments concerning this proposed rule to Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121.

FOR FURTHER INFORMATION CONTACT: Michael G. Raymond, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Forrestal Building, Mail Station EE–43, 1000 Independence Avenue, SW, Washington, DC 20585–0121, (202) 586–9611 or electronically at michael.raymond@ee.doe.gov.; Eugene Margolis, Esq., U.S. Department of Energy, Office of General Counsel, Forrestal Building, Mail Station GC–72, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–9526.

SUPPLEMENTARY INFORMATION:

I. Background and Introduction

The Department has received requests from several manufacturers of wine coolers, including Danby Products, Ltd. and the Witt Company, requesting exemptions from the refrigerator energy efficiency standards for their wine coolers. These products are configured with special storage racks for wine bottles and do not attain as low a storage temperature as a standard refrigerator. These characteristics make them unsuitable for general long-term storage of perishable foods. Wine coolers also have glass front doors which makes them less energy efficient than standard refrigerators. The Department proposes to amend the definition of ''electric refrigerator'' at 10 CFR 430.2 to exclude such appliances from coverage. Sales of these products are small and excluding them from coverage would not have any significant impacts.

DOE proposes to exclude wine coolers by including an upper temperature limit in the definition of electric refrigerator. The refrigerator definition contains the phrase ''designed for the refrigerated storage of food at temperatures above 32 °F.'' Clearly, any temperature above 32 °F would not be suitable for the refrigerated storage of food. What is lacking in the definition is a temperature range suitable for food storage for a reasonable length of time. The ''American National Standard—Household Refrigerators/Household Freezers,'' ANSI/AHAM HRF–1–1988, Section 7.6.5.1, ''Recommended Level of Performance'' states: ''It is recommended that in the fresh food compartment of household refrigerators, an average temperature within the range of 34 °F and 41 °F be attainable between the coldest and warmest settings of the controls * * *.'' Also, from the same paragraph, ''Refrigerator-freezer design and development engineers believe 41 °F to be a very practical but not absolute upper limit.''

Accordingly, the Department proposes to change the definition of a refrigerator to include the 41 °F upper limit, and to exclude refrigerators containing special storage racks only. By the proposed definition, appliances which, at the coldest setting of the controls, could not attain a fresh food compartment temperature below 41 °F, and contain only special-purpose storage racks, would not be considered a refrigerator, and therefore, not a covered product.

II. Opportunity for Public Comment

A. Participation in Rulemaking

Interested persons are invited to participate in this proposed rulemaking by submitting written data, views, or comments with respect to the subject set forth in this notice. Whenever applicable, full supporting rationale, data, and detailed analyses should also be submitted.

B. Written Comment Procedures

Written comments (10 copies) should be identified on the outside of the envelope, and on the comments themselves, with the designation: ''Refrigerator Definition'' and must be received by the date specified at the beginning of this notice. In the event any person wishing to submit a written comment cannot provide 10 copies, alternative arrangements may be made in advance by calling Michael Raymond at (202) 586–9611.

All comments received on or before the date specified at the beginning of this notice and other relevant information will be considered by DOE before final action is taken on the proposed rule. All comments submitted will be available for examination in the Freedom of Information Reading Room, Forrestal Building, Room 1E–190, 1000 Independence Ave., SW, Washington, DC 20585–0121, telephone (202) 586–3142, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Pursuant to the provisions of 10 CFR 1004.11, any person submitting information or data that is believed to be confidential, and which may be exempt by law from public disclosure, should submit one complete copy, as well as two copies from which the information claimed to be confidential has been deleted. The DOE will make its own determination of any such claim.

C. Public Hearing

In DOE's view, today's proposed rulemaking does not involve any significant issues of law or fact that would warrant holding a public hearing. Moreover, the companies requesting these changes have not requested such a hearing, and the opportunity to file written comments should suffice for other members of the public who want

DOE to consider their views. For these reasons, DOE has not provided for a public hearing in this notice. Nevertheless, if members of the public request the opportunity to make oral comments and can identify issues that would justify scheduling a public hearing, DOE will reconsider its position on holding such a hearing.

III. Regulatory and Procedural Requirements

A. Review Under the National Environmental Policy Act of 1969

The Department has reviewed this rule under the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. § 4321 *et seq.*, the regulations of the Council on Environmental Quality, 40 CFR parts 1500–1508, the Department's regulations for compliance with NEPA, 10 CFR Part 1021, and the Secretarial Policy on the National Environmental Policy Act (June 1994). The Department classified this proposed rule as having no environmental effect.

B. Review Under Executive Order 12866, ''Regulatory Planning and Review.''

The Department has reviewed this regulatory action under Executive Order 12866, ''Regulatory Planning and Review,'' October 4, 1993. The Department concluded that this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs. Therefore, the Department will take no further action in today's proposed rule with respect to Executive Order 12866.

C. Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601, requires the preparation of an initial regulatory flexibility analysis for every rule which, by law, the agency must propose for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory flexibility analysis examines the impact of the rule on small entities and considers alternative ways of reducing negative impacts. Today's proposed rule simply redefines the term ''electric refrigerator'' to exclude wine coolers. This change to the definition was requested by small manufacturers of wine coolers for their benefit. No negative impact on any small manufacturer is foreseen.

D. Review Under Executive Order 12612, ''Federalism''

Executive Order 12612, ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that agencies review regulations, rules, legislation, and any other policy actions for any substantial direct effect on States, on the relationship between the National Government and States, or in the distribution of power and responsibilities among various levels of government. If there are substantial effects, then the Executive Order requires preparation of a Federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. The proposed rule published today is a change to the definition of the term ''electric refrigerator'' and would not regulate the States. Accordingly, the Department has determined that preparation of a Federalism assessment is unnecessary.

E. Review Under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights''

The Department has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights,'' 52 FR 8859 (March 18, 1988), that this regulation would not result in any takings which might require compensation under the Fifth Amendment to the United States Constitution.

F. Review Under the Paperwork Reduction Act

Today's notice of proposed rulemaking would have no paperwork impacts.

G. Review Under Executive Order 12988, ''Civil Justice Reform''

With respect to the review of existing regulations and the promulgation of new regulations, Section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by Section 3(a), Section 3(b) of the Executive Order specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provide a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of the Executive Order requires agencies to review regulations in light of applicable standards Section 3(a) and Section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. The Department reviewed today's proposed rule under the standards of Section 3 of the Executive Order and determined that, to the extent permitted by law, it meets the requirements of those standards.

H. Review Under Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Department prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by state, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. The budgetary impact statement must include: (i) identification of the Federal law under which the rule is promulgated; (ii) a qualitative and quantitative assessment of anticipated costs and benefits of the Federal mandate and an analysis of the extent to which such costs to state, local, and tribal governments may be paid with Federal financial assistance; (iii) if feasible, estimates of the future compliance costs and of any disproportionate budgetary effects the mandate has on particular regions, communities, non-Federal units of government, or sectors of the economy; (iv) if feasible, estimates of the effect on the national economy; and (v) a description of the Department's prior consultation with elected representatives of state, local, and tribal governments and a summary and evaluation of the comments and concerns presented. The Department has determined that the action proposed today does not include a Federal mandate that may result in estimated costs of $100 million or more to state, local or to tribal governments in the aggregate or to the private sector. Therefore, the requirements of Sections 203 and 204 of the Unfunded Mandates Act do not apply to this action.

I. Review Under the Public Law: 105–277 (FY 1999 Appropriations Act)

A provision under the Public Law: 105–277 (FY 1999 Appropriations Act, Page 547 of the Conference Report, H. R.

4328) requires that agencies assess the impact of proposed actions on family well-being before implementing policies and regulation. Agencies must assess such an action with respect to whether—(1) it strengthens or erodes the stability or safety of the family and, particularly, the marital commitment, (2) it strengthens or erodes the authority and rights of parents in the education, nurture, and supervision of their children, (3) it helps the family perform its functions, or substitutes governmental activity for the function, (4) it increases or decreases disposable family income or poverty of families and children, (5) its benefits justify the financial impact on the family, (6) it can be carried out by State or local government or by the family, (7) it establishes an implicit or explicit policy concerning the relationship between the behavior and personal responsibility of youth, and the norms of society. Additionally, agency heads must submit a written certification to the Director of the Office of Management and Budget and to Congress that the policy or regulation has been so assessed and they must provide an adequate rationale for the implementation of each policy or regulation that may negatively affect family well-being.

The Department has determined that the action proposed today, which amends the definition of the term ''electric refrigerator,'' does not have any significant potential negative impact on the family well-being. Therefore, the requirements of the above provisions under Public Law 105–277 do not apply to this action.

List of Subjects in 10 CFR Part 430

Administrative practice and procedure, Energy conservation, Household appliances.

Issued in Washington, DC, on June 7, 1999.

Dan W. Reicher,

Assistant Secretary, Energy Efficiency and Renewable Energy.

For the reasons set forth in the preamble, Part 430 of Chapter II of Title 10, Code of Federal Regulations, is proposed to be amended as set forth below.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

1. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

2. Section 430.2 is amended by revising the definition of ''Electric refrigerator'' to read as follows:

§ 430.2 Definitions.

* * * * *

Electric refrigerator means a cabinet designed for the refrigerated storage of food at temperatures above 32 °F and below 41 °F, storage racks configured for general refrigerated food storage, and having a source of refrigeration requiring single phase, alternating current electric energy input only. An electric refrigerator may include a compartment for the freezing and storage of food at temperatures below 32 °F, but does not provide a separate low temperature compartment designed for the freezing and storage of food at temperatures below 8 °F.

* * * * *

[FR Doc. 99–17657 Filed 7–12–99; 8:45 am]

BILLING CODE 6450–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 229

[Regulation CC; Docket No. R–1031]

Availability of Funds and Collection of Checks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Advance notice of proposed rulemaking; withdrawal.

SUMMARY: In December 1998, the Board issued an advance notice of proposed rulemaking requesting comment on the potential benefits and drawbacks of a modification to its Regulation CC that would shorten the maximum hold for many nonlocal checks. This modification would shorten the availability schedule for nonlocal checks from five to four business days, except that a depositary bank could retain a five-day availability schedule for subcategories of nonlocal checks for which it certifies that it does not receive a sufficient proportion of returned checks within four business days. This proposal was one of several possible alternatives for defining subcategories of nonlocal checks that would be subject to a shortened availability schedule. The Board has concluded that return times for nonlocal checks do not support a reduced availability schedule for nonlocal checks in the aggregate at this time. The Board has also determined that the costs and potential risks would outweigh the likely benefits of establishing subcategories of nonlocal checks for availability purposes at this time. Therefore, the Board has decided not to propose any specific regulatory changes at this time to reduce the nonlocal check availability schedule.

FOR FURTHER INFORMATION CONTACT: Jack K. Walton II, Manager, Check Payments Section (202/452–2660) or Michele Braun, Project Leader (202/452–2819), Division of Reserve Bank Operations and Payment Systems; Stephanie Martin, Managing Senior Counsel (202–452–3198), Legal Division. For the hearing impaired *only,* contact Diane Jenkins, Telecommunications Device for the Deaf (TDD) (202/452–3544).

SUPPLEMENTARY INFORMATION:

Background

As a result of concerns about some banks' practice of delaying funds availability by placing holds on the proceeds of checks deposited into customers' transaction accounts, Congress passed the Expedited Funds Availability Act (EFAA) in 1987.[1] The EFAA specifies maximum time limits on the holds that banks may place on funds deposited into transaction accounts.

The EFAA funds availability schedules attempt to balance banks' concerns about managing their risk with consumers' concerns about the availability of their funds. Congress recognized that banks would be exposed to risks if they were required to make funds from a check available before they had a reasonable opportunity to learn that the check was returned unpaid. To balance depositors' interest in receiving prompt access to their funds with banks' ability to manage their risks, the EFAA directed the Board to consider improvements to the check processing system that would speed the collection and return of checks.[2] In addition, the EFAA required the Board to reduce the statutory funds availability schedules to as short a time as possible and equal to the period achievable under the improved check clearing system for a depositary bank to reasonably expect to learn of the nonpayment of most items for each category of checks.[3]

The Board's Regulation CC (12 CFR part 229), which implements the EFAA, includes maximum availability schedules for funds deposited into transaction accounts as well as provisions designed to accelerate the check return system. The regulation's availability schedules incorporate several provisions in the EFAA where Congress deemed that, in certain cases, a longer time was necessary to provide a reasonable amount of time for a

[1] 12 U.S.C. 4001–4010. As used in this notice and in Regulation CC, the term *bank* includes commercial banks, savings institutions, and credit unions. *Depositary bank* refers to the bank of first deposit (see 12 CFR 229.2(e) and (o)).

[2] 12 U.S.C. 4008(b) and (c).

[3] 12 U.S.C. 4002(d)(1).

depositary bank to learn of a returned check before having to make the funds from that check available for withdrawal. For example, the schedules provide for a one-day schedule extension for checks deposited in Alaska, Hawaii, Puerto Rico, and the Virgin Islands that are payable by a bank located in another state or territory.[4] Similarly, the EFAA provides a one-day extension for making certain funds available for withdrawal by cash or similar means.[5]

The availability schedules in the EFAA and Regulation CC apply to three broad categories of checks. Certain ''low-risk'' checks drawn or guaranteed by credit-worthy institutions, such as cashier's checks, teller's checks, certified checks, and government checks, generally must be made available for withdrawal on the next business day following the banking day of deposit. Local checks (checks payable by banks located in the same check processing region as the depositary bank) generally must be made available for withdrawal within two business days. Nonlocal checks (checks payable by banks located in different check processing regions than the depositary bank) generally must be made available for withdrawal within five business days.[6]

Pursuant to the EFAA's direction to reduce the statutory schedules when banks can reasonably learn of the return of most items in a category of checks within a faster time, the Board adopted Appendix B of Regulation CC. Appendix B requires depositary banks within certain check processing regions to make certain nonlocal checks available within a faster time period than that required by the EFAA. Current appendix B requires depositary banks in the Utica, Nashville, and Kansas City check processing regions to make selected nonlocal checks available for withdrawal within three, rather than five, business days.[7] The Board formulated these reduced schedules in 1988 through a relatively informal process in which each Federal Reserve Bank check processing office estimated which nonlocal checks that were deposited in banks in its region could be collected and returned faster than the prescribed EFAA maximum hold period. These estimates were based on the Reserve Bank's knowledge of geographic proximity between certain banks or robust transportation networks and projected improvements in return times that would result from requirements intended to speed the return of unpaid checks.

1998 Proposal

After a decade of experience with the post-Regulation CC check collection and return system, the Board undertook a study of whether a more rigorous approach to reducing nonlocal check schedules would be appropriate and what the relative costs and benefits of such an approach would be. For guidance on the conditions under which it would be appropriate to reduce the availability schedules, the Board looked to the 1987 Conference Report on the EFAA.[8]

The Conference Report tied availability schedules to banks' ability to reasonably expect to learn of the nonpayment of a significant number of checks. The Report suggested that if improvements in the check clearing system make it possible for two-thirds of the items in a category of checks to meet this test in a shorter period of time, then the Board must shorten the schedules accordingly.[9] The Report also recognized that geographic proximity or transportation arrangements between check processing regions would permit the Federal Reserve to provide shorter times than the general schedule for nonlocal checks would require. The Report noted that shorter times would be possible for checks transported between such nearby territories as New York City and Jericho, Long Island, and for checks transported between banks in cities with Federal Reserve check processing offices, such as banks in Boston and San Francisco.[10]

In considering whether nonlocal checks overall met the Conference Report's ''two-thirds'' test, the Board drew on data from four surveys conducted by the Reserve Banks between 1990 and 1997. In general, the more recent surveys showed that over 80 percent of nonlocal unpaid checks were returned to the depositary bank within five business days after the day of deposit, and 60 to 65 percent of unpaid nonlocal checks were returned within four business days. (The surveys are discussed in more detail below.)

In addition to examining nonlocal checks as a single broad category, the Board also began investigating whether it would be appropriate to define subcategories for various types of nonlocal checks and specify maximum availability schedules for these subcategories. One means of establishing subcategories of nonlocal checks would be for the Board to make subcategory determinations by regulation. These determinations would require a trade-off between precision in subcategory definition and the practical limitations of the data collection needed to support the categorization. Identifying a large number of subcategories of nonlocal checks should increase the likelihood that the checks are accurately categorized based on when they are returned. The greater accuracy afforded by a large number of subcategories would lower the risk that funds from a particular check would have to be made available by the depositary bank before it would normally be returned. Similarly, a higher degree of accuracy would increase the probability that customers would receive faster availability for those checks for which the depositary bank learns of the return before making funds available for withdrawal. Thus, a large number of subcategories of nonlocal checks should provide a better balance, as sought by Congress, between banks' needs to manage their fraud-loss risk and their customers' interests in having as early access to their funds as possible.

The Board explored alternative approaches for defining subcategories of nonlocal checks that should receive earlier availability. These approaches ranged from categorizing the almost 2,000 possible pairs of check processing regions to a more aggregated approach that would group nonlocal checks into only three categories nationwide based on the availability zone (city, RCPC, or country) of the paying bank.[11] Each

[4] 12 U.S.C. 4002(d)(2); 12 CFR 229.12(e).

[5] Under the ''cash-withdrawal rule,'' the depositary bank may extend the holds on local and nonlocal checks for purposes of making funds available for withdrawal by cash or similar means. The depositary bank may extend the hold until 5:00 p.m. on the normal availability day for the first $400 of the deposit and until the following business day for the remainder of the deposit. *See*, 12 U.S.C. 4002(b)(3); 12 CFR 229.12(d).

[6] Under Regulation CC's temporary availability schedule, which was in effect from September 1, 1988, through August 31, 1990, funds deposited by most local checks had to be made available for withdrawal within three business days, and nonlocal checks had to be made available for withdrawal within seven business days. Other than the change from the temporary to the current permanent schedule, the EFAA's local and nonlocal check availability schedules have not been modified since the EFAA was enacted. During this period, the Federal Reserve has consolidated several of its check processing regions, listed in Regulation CC's appendix A, which has resulted in some checks being reclassified from nonlocal to local. Thus, the availability that must be accorded to some deposits has improved.

[7] A more extensive set of reduced schedules for nonlocal checks was in effect during the temporary schedule period from September 1, 1988, to August 31, 1990.

[8] H.R. Conf. Rep. No. 100–261 (1987).

[9] *Id.* at 179.

[10] *Id.*

[11] In general, nonlocal checks payable by banks located closest to Federal Reserve check processing

Continued

approach recognized the roles of geographic proximity and transportation arrangements in the check clearing and return cycle. It was not clear, however, what would be the most reasonable and cost-effective way to identify those subcategories of nonlocal checks that should receive earlier availability. Collecting data to support a valid analysis of return cycles for nonlocal checks becomes increasingly expensive and, in some cases, impractical as the number of subcategories increases.

The Board requested comment on an alternative approach for establishing nonlocal check subcategories. Specifically, the Board considered a self-certification system under which the general nonlocal check availability schedule would be reduced to four business days, and depositary banks could conduct their own surveys, if they believed it would be cost-effective to do so, to determine the subcategories of nonlocal checks that would be subject to five-day availability schedules. This approach would match the bank's actual return experience with availability schedules more precisely than any approach that relies on data that the Reserve Banks could collect. Permitting a bank to certify that it qualifies to use five-day availability schedules for some subcategories of nonlocal checks could give it the flexibility to weigh (1) the costs of collecting data with which to certify that it should be permitted to hold certain subcategories of nonlocal checks for five days, (2) the fraud risk associated with its hold policy, and (3) the customer benefits of that policy.

The Board noted, however, the difficulty of obtaining a sufficient sample to validate several of the available options for defining such subcategories of nonlocal checks. If a bank determined that the administrative cost associated with demonstrating that certain subcategories of nonlocal checks should be subject to five-day availability and the resulting increased complexity of its availability schedules outweighs the incremental fraud protection, then it could adopt a four-day or shorter schedule for all of its nonlocal check deposits.

The Board requested comment on this self-certification approach in an advance notice of proposed rulemaking, issued in December 1998.[12] The notice noted that the Board was also considering other methods for defining categories of nonlocal checks that might reasonably meet the congressional mandate.

Summary of Comments

General Comments

The Board received one hundred twenty-five comment letters in response to the December 1998 advance notice of proposed rulemaking. The following table shows the number of comments by the category of commenter:

Category of commenter	Number of responses
Banks and bank holding companies	99
Clearinghouses and associations representing banks	21
Check processors	1
Federal Reserve Banks	4
Total	125

One hundred sixteen commenters opposed shortening nonlocal hold periods. One commenter stated that it would support any reduction in the hold period as a move to improve the image of banks in general. The eight other commenters did not address the length of the nonlocal availability schedule, but did comment on specific questions posed by the Board about implementing the proposed self-certification process.

Eighty-two commenters cited increased risk of fraud loss as their reason for opposing any proposal to shorten nonlocal hold periods. Many commenters also stated that banks frequently maintain availability policies that make funds available sooner than required by Regulation CC.[13] These commenters stated that although their banks generally make funds available earlier than required, on a case-by-case basis they withhold funds for the maximum permissible period. Several of these commenters further stated that the checks for which they use case-by-case holds are the ones with greatest risk for loss, so that shortening the hold period by even one day could increase the risk of loss dramatically. Other banks stated that they use the maximum permissible hold period and that shortening the permitted hold period would expose them to a potentially significant increase in check fraud losses.

Eighteen commenters also stated that shortening nonlocal holds by one day would provide little benefit to consumers, either because banks already make most funds available more quickly than required or because banks that use four-or five-day holds may release funds early if the customer so requests and the banks can verify payment by contacting the paying bank. Thus, these commenters argued, shortening the nonlocal hold period by one day would not benefit many depositors.

Reasonable Time To Learn of Nonpayment

As noted above, the Board included in its notice data regarding return times for nonlocal checks from four surveys. In 1996, the Board's comprehensive survey of check-fraud losses at banks asked respondents to indicate the proportion of returned checks that they typically received on each business day following the initial deposit of a check (1996 bank survey). In conjunction with that check-fraud study, Federal Reserve staff also collected detailed data from a sample of checks processed during one week through the Federal Reserve Banks (1996 Reserve Bank survey).[14] In 1997, Federal Reserve staff repeated the Reserve Bank survey for six weeks and thereby increased the number of nonlocal returned checks sampled compared with the prior survey (1997 Reserve Bank survey).[15] The results of the 1997 survey were generally consistent with those of the 1996 survey. For historical comparison, the Board also reviewed a survey of checks returned through the Reserve Banks conducted shortly after the implementation of Regulation CC (1990 Reserve Bank survey).[16] The table below summarizes the average nonlocal return

offices are returned fastest. Nonlocal checks payable by banks located further away require somewhat more time. The locations are organized roughly in concentric circles. City checks are payable by banks located relatively close to a Federal Reserve office, RCPC checks are payable by banks located somewhat further from a Federal Reserve office, and country checks are payable by banks even more geographically remote. Only eight of forty-four check processing regions have country availability zones.

[12] 63 FR 69027, December 15, 1998.

[13] These statements are consistent with findings reported in studies conducted by the Board and the American Bankers Association. In these studies, 70 and 86 percent of responding banks, respectively, reported that they do not hold nonlocal checks for the full period permitted under Regulation CC. Board of Governors of the Federal Reserve System, *Report to the Congress on Funds Availability Schedules and Check Fraud at Depository Institutions* (Board of Governors, 1996), p. 36, and American Bankers Association, *ABA 1998 Check Fraud Survey Report*, (1998), p. 19.

[14] Board of Governors of the Federal Reserve System, *Report to the Congress on Funds Availability Schedules and Check Fraud at Depository Institutions* (Board of Governors, 1996).

[15] The 1997 survey was designed to provide a sufficient number of checks to estimate the proportion of nonlocal checks returned within four and five days nationwide. The sample was not intended to provide statistically valid results between each possible pairing of check processing regions throughout the country. (63 FR 69027, December 15, 1998).

[16] Board of Governors of the Federal Reserve System, *The 1990 Report to Congress Under the Expedited Funds Availability Act* (Board of Governors, 1990).

cycles observed in the 1990, 1996, and 1997 surveys.

CUMULATIVE PERCENTAGE OF NONLOCAL CHECKS RETURNED WITHIN NUMBER OF BUSINESS DAYS

	1997 Reserve Bank survey [1]	1996 Reserve Bank survey [1]	1996 bank survey	1990 Reserve Bank survey	Percent improvement 1990–97
3 business days	27.8	33.3	32.0	21.0	32.4
4 business days	59.9	64.1	64.9	47.0	27.5
5 business days	82.8	83.3	84.3	73.0	13.4
Number of nonlocal checks sampled	31,646	5,707	[2] 773	NA	NA

[1] Excludes outlier observations defined as nonlocal checks that exceed 15 business days. For example, the 1997 survey data exclude 1.6 percent of nonlocal checks sampled.
[2] Reflects the number of commercial banks, savings institutions, and credit unions sampled.
Source: Board of Governors of the Federal Reserve System. See text notes 17, 18, and 19 for sources of data.

Twenty-nine commenters stated that, in the aggregate, the return periods reported in the Board's notice indicated that banks did not yet receive two-thirds of their returns within four business days. Fifteen commenters stated that the average return cycle was shorter in 1996 than in 1997 and requested that the Board defer shortening the maximum hold periods until the data showed that return times for nonlocal checks, in the aggregate, clearly exceeded at least the two-thirds threshold.

The way in which the Board presented the data in the 1998 notice suggested that a nonlocal check that was returned to the depositary bank on the fifth business day after the day of deposit afforded the depositary bank a reasonable time in which to learn that the check was returned before making funds available for withdrawal on that day. Similarly, the notice could be read as assuming that if a nonlocal check is returned on the fourth business day after deposit, it may be appropriate to reduce the availability schedule applicable to that check to four business days.

Several commenters, including the American Bankers Association, argued that all banks need the ability to hold funds for one day beyond the day on which they receive returned checks. These commenters noted that Regulation CC requires that funds be made available at the start of the business day on which the depositor must have access to funds pursuant to the schedules, but unpaid checks typically are not delivered until mid-day. As a result, the depositor might be permitted to withdraw cash several hours before the bank knows that the check was being returned.[17] Therefore, they argued, banks should be able to hold checks for one day beyond the day they can ''reasonably expect to learn of the nonpayment of most items.'' Under this theory, nonlocal schedules should not be reduced to four business days unless two-thirds of nonlocal checks can be returned to the depositary bank by the third business day after the banking day of deposit. The American Bankers Association further argued that the extra day permitted for cash withdrawals does not ameliorate this problem because the attendant requirement that cash and check withdrawals be tracked separately is not operationally feasible for most banks.

In addition, seven commenters argued that the two-thirds threshold suggested by the legislative history was inadequate and that receiving as many as one-third of returned checks back after the maximum permissible hold period would expose banks to more risk than they considered acceptable. One commenter cited the statutory language that requires shorter schedules where the depositary bank can reasonably expect to learn of the nonpayment of ''most'' items and argued that, as interpreted by several courts in other contexts, ''most'' means an amount more significant that two-thirds, and the Conference Report language should not be considered controlling.

Twenty-four commenters provided data on their return experiences. Some commenters provided explicit surveys of their return items, while others asserted that some items took six or more days to be returned and, therefore, they opposed reducing the permissible hold period. These banks also noted the difficulty they had collecting representative data and explained that this was an expensive, labor-intensive, manual process.

Several smaller institutions pointed out that they use one or more intermediaries to process and collect checks, which tends to add at least one day to the collection process, and that they would be particularly disadvantaged by shortened hold periods for nonlocal checks. The National Association of Federal Credit Unions stated that shorter nonlocal hold periods would have a disproportionately negative effect on credit unions because credit unions are less likely than commercial banks to receive returned checks within four business days.

Subcategories of Nonlocal Checks

In general, the commenters stated that there were difficulties associated with an availability policy that includes subcategories of checks. Seven commenters stated that creating subcategories of checks within the categories of next-day, local, and nonlocal checks would greatly increase the complexity of the regulation, the cost of implementation, and the difficulty of adequately disclosing banks' availability policies to consumers. These commenters also stated that they could not reliably collect data on check return patterns beyond the existing categories of checks.

Some of these commenters further stated that the EFAA established the check categories and does not require the Board to further subdivide those categories. The American Bankers Association stated that the most obvious meaning of ''category of checks'' in the EFAA is provided by the statute (that is, next-day, local, and nonlocal checks), on which the statutory funds availability schedules are based.

Many commenters stated that it would be important to disclose availability policies to depositors thoroughly. The American Bankers Association stated, however, that creating a more complex, changeable system would confuse consumers when one of the main purposes of the statute was to inform consumers. Most commenters expressed similar views,

[17] 12 CFR 229.19(b). Specifically, funds must be made available for withdrawal by the later of 9:00 a.m. (local time of the depositary bank) or the time the depositary bank's teller facilities (including ATMs) are available for customer-account withdrawals.

stating that existing availability schedules were complicated to explain to depositors and that policies that differentiate among categories of nonlocal checks would be more confusing.

Forty-two respondents stated that administering holds for subcategories, implementing the proposed self-certification process, making any change to availability schedules, and training clerical staff on current hold and disclosure policies would be excessively costly. Fifty-two commenters stated that Regulation CC was already very complex and that training staff to properly administer the regulation presented a continuing problem. These commenters argued against any changes that might increase the cost or complexity of implementing or explaining the Regulation's provisions.

Thirty-four commenters commented on the proposed self-certification procedure. Generally, commenters indicated that banks would be unlikely to use the self-certification option because of its complexity and implementation cost, and that they would simply use shorter hold periods or shorter case-by-case holds despite the potentially increased risk.

Conclusions

Reasonable Time to Learn of Nonpayment.

Although the EFAA requires the Board to reduce availability schedules based on improvements in the check collection process, the EFAA states that such reductions should be made when depositary banks can reasonably expect to learn of the nonpayment of most items subject to the reduced schedules. Other provisions of the EFAA, such as the extended schedules allowed for cash withdrawal purposes and for certain checks deposited outside the continental U.S., indicate that Congress meant to protect depositary banks from undue risk that might accompany the EFAA's maximum availability schedules.[18] Thus, the EFAA attempts to balance the interests of depositors in receiving prompt availability of funds against the risks to depositary banks of making funds available before learning that checks have not been paid.

Although the discussion of the survey data in the Board's December 1998 notice was based on the premise that a depositary bank should be able to make funds available from a check on the day it would normally receive the return of that check, the Board has reconsidered that reasoning. The Board believes that the depositary bank can reasonably expect to learn of the nonpayment of most items only if it learns of the returned checks in time to take action before funds are required to be available for withdrawal. Generally, banks receive returned checks around midday. Banks require time to process the unpaid checks and post entries to depositors' accounts. Under the EFAA, $400 in cash must be made available not later than 5:00 p.m. on the day that funds are to be made available for other purposes. While banks are permitted to delay by one more day the withdrawal of additional amounts by cash or similar means, it is costly and perhaps operationally not feasible for banks to treat cash and check withdrawals differently. Accordingly, banks appear to make funds available for withdrawal by cash at the opening of business on the same day on which they make funds available for other purposes. If the schedule is shortened so that the depositary bank is required to make funds available at the opening of business on the day that it receives the returned check, it may need to make funds available several hours prior to receipt of the check and before it is able to post the returned check to the depositor's account. Accordingly, the Board has reconsidered the time frame within which the ''two-thirds'' test is relevant. The Board believes that, before availability schedules are reduced for a category (or subcategory) of checks, a depositary bank should be able to learn of the return of most checks in that category in time to prevent depositors from withdrawing funds from the checks. The data from the surveys shows that, on an aggregate basis for nonlocal checks, the proportion of nonlocal checks returned to banks within three business days was well below the two-thirds envisioned by Congress. In addition, although the proportion of nonlocal checks returned within four business days after deposit was close to two-thirds, it remained slightly below that threshold. The Board has concluded, therefore, that it would not be appropriate to reduce the general availability schedule for nonlocal checks five to four days at this time. This determination does not foreclose the possibility that improvements in the check return system or in posting systems might lead to a shortening of the general availability schedule in the future.

Subcategories of Nonlocal Checks

After reviewing the comments on the difficulties of implementing differing availability schedules for subcategories of nonlocal checks, the Board has determined that the costs and difficulties of establishing such subcategories, in addition to those already specified in appendix B of Regulation CC, would outweigh the likely benefits. As stated by the commenters, creation of subcategories of nonlocal checks would increase depositary bank costs significantly, particularly in the area of employee training and operations changes. These costs would increase regardless of whether the subcategories were established by regulation or by a self-certification process, although depositary banks would bear additional costs under the latter process.[19] In addition, the commenters expressed concern that increasing the complexity of the availability schedules would also increase confusion for depositors and bank employees. The Board also notes that most banks do not appear to impose the maximum permissible hold periods, thus reducing the apparent potential benefits to depositors of reducing the nonlocal hold period.

Furthermore, it would be difficult to determine specific categories of nonlocal checks that should be subject to a shortened availability schedule. While Reserve Bank estimates based on geographic proximity or robust transportation networks formed the basis for including specific categories of checks in appendix B, the basis for determining additional categories of nonlocal checks subject to shortened availability schedules in a comprehensive way would be more complex. Optimally, statistical sampling of data from returned checks would provide a valid estimate of the number of returned checks with reasonable confidence intervals around the estimates. Collecting such an optimum sample of returned nonlocal checks, however, is not simple. First, because most checks are local, the sample size

[18] The Act also permits depositary banks to extend holds under certain exception situations, such as when a deposit is over $5,000 or when a bank has reasonable cause to doubt the collectibility of a check. These exception holds are not based on the amount of time it takes to collect and return the particular check, indicating that Congress may have presumed that, in the normal course of events, a significant number of checks would not be returned in time to provide the depositary bank with protection within the regular availability schedules, making these exception holds necessary.

[19] Moreover, as some commenters stated, it is not clear that the EFAA requires reduced schedules for subcategories of checks. Although the EFAA does not define ''categories of checks,'' some commenters argued that the Board should rely on the categories of checks delineated in the EFAA and that the EFAA does not direct the Board to define additional check categories. The 1987 Conference Report, however, provided an example using subcategories of nonlocal checks.

would have to be very large to obtain a sufficient number of nonlocal checks. Second, as the number of subcategories of nonlocal checks increases, the number of checks that need to be sampled increases as well. It may be virtually impossible to collect a sufficient number of checks between certain regions of the country owing to the limited number of checks returned between them. Further, collecting the data is a costly and time-consuming process. The information on returned checks needed for a survey must be collected manually from the back of checks and is often overprinted, lightly printed, and otherwise difficult to read. Data collection is further complicated by processing schedules. Returned checks become available to be sampled during peak processing periods in the middle of the night when bank staff have very limited time to collect the required data without slowing the return of those checks to the depositary bank.

Accordingly, the Board has decided not to establish different maximum availability schedules for additional subcategories of nonlocal checks. Although the Board has decided not to propose any specific regulatory changes at this time to reduce the nonlocal check availability schedule, the Board will continue to monitor the time periods needed to return unpaid nonlocal checks and may consider further action if return times improve significantly.

By order of the Board of Governors of the Federal Reserve System, July 7, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–17679 Filed 7–12–99; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–10]

Proposed Establishment of Class D Airspace; Tupelo, MS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to establish Class D airspace at Tupelo, MS. The City of Tupelo, Mississippi Airport Authority is installing a control tower at the Tupelo Municipal—C.D. Lemons Airport. Class D surface area airspace is required when the control tower is open to accommodate current Standard Instrument Approach Procedures (SIAP) and for Instrument Flight Rules (IFR) operations at the airport. This would establish Class D airspace extending upward from the surface to and including 2,800 feet MSL within a 4.1-mile radius of the Tupelo Municipal—C.D. Lemons Airport. Control tower hours of operation are scheduled for 0600–2200, daily.

DATES: Comments must be received on or before August 12, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–10, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

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, aeronautical, 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–ASO–10.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified 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 the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with 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 Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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 D airspace at Tupelo, MS. The City of Tupelo, Mississippi Airport Authority is installing a control tower at the Tupelo Municipal—C.D. Lemons Airport. Class D surface area airspace is required when the control tower is open to accommodate current SIAP and for IFR operations at the airport. Class D airspace designations for airspace areas extending upward from the surface are published in Paragraph 5000 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 D 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. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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—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 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 5000 Class D Airspace.

* * * * *

ASO MS D Tupelo, MS [New]

Tupelo Municipal—C.D. Lemons Airport, MS (Lat. 34°16′00″N, long. 88°46′11″W)

That airspace extending upward from the surface to an including 2,800 feet MSL within a 4.1-mile radius of Tupelo Municipal—C.D. Lemons Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Issued in College Park, Georgia, on June 28, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–17759 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AEA–AA–11]

Proposed Amendment to Class E Airspace; Moundsville, WV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend the Class E airspace area at Moundsville, WV. The development of a Standard Instrument Approach Procedure (SIAP) based on the Global Positioning System (GPS) at Marshall County Airport has made this proposal necessary. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at the airport.

DATES: Comments must be received on or before August 12, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace Branch, AEA–520, Docket No. 99–AEA–11, 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, New York 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–11.'' 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 procedures.

The Proposal

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Class E airspace area at Moundsville, WV. A GPS RWY–24 SIAP has been developed for Marshall County Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at the airport. 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 that 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 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 proposed 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 WV E4 Moundsville, WV [Revised]

Marshall County Airport, Moundsville, WV
GRP
(Lat. 39°52′52″N, long. 80°44′08″W.)

That airspace extending upward from 700 feet above the surface within a 6.2 mile radius of Marshall County Airport, and within 2 miles each side of the 051° bearing from the Marshall County Airport, extending from the 6.2 mile radius of the airport to 12 miles northeast of the airport.

* * * * *

Issued in Jamaica, New York, on June 28, 1999.

Franklin D. Hatfield,

Manager, Air Traffic Division, Eastern Region.

[FR Doc. 99–17755 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–41]

Proposed Modification of Class E Airspace; Cable Union, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class E airspace at Cable Union, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 34 has been developed for Cable Union Airport. Controlled airspace extending upward from 700 to 1,200 feet above ground level (AGL) is needed to contain aircraft executing the approach. This action proposes to decrease the radius of the existing controlled airspace and redefine a portion of the existing controlled airspace using an additional navigation facility for this airport.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–41, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Annette Davis, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

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, aeronautical, 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–AGL–41.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified 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, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availabiliy of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW, Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's 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 14 CFR part 71 to modify Class E airspace at Cable Union, WI, to accommodate aircraft executing the proposed GPS Rwy 34 SIAP at Cable Union Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1,200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraphs 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amemdment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Cable Union, WI [Revised]

Cable Union Airport, WI
(Lat. 46°11′39″N., long. 91°14′47″W.)
Hayward VOR/DME
(Lat. 46°01′08″N., long. 91°26′47″W.)
Seeley NDB
(Lat. 46°06′37″N., long. 91°23′02″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Cable Union Airport, and within 3.0 miles each side of the Hayward VOR/DME 038° radial extending from the 6.4-mile radius to 10.0 miles southwest of the airport, and within 1.8 miles each side of the Seeley NDB 228° bearing extending from the 6.4-mile radius to 7.6 miles southwest of the airport, excluding that airspace within the Hayward, WI, Class E airspace area.

* * * * *

Issued in Des Plaines, Illinois on June 28, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–17756 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AGL–40]

Proposed Modification of Class E Airspace; Hayward, WI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to modify Class E airspace at Hayward, WI. A Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (Rwy) 02, and a GPS SIAP to Rwy 20, have been developed for Sawyer County Airport. Controlled airspace extending upward from 700 to 1200 feet above ground level (AGL) is needed to contain aircraft executing the approaches. This action proposes to increase the radius of the existing controlled airspace for this airport.

DATES: Comments must be received on or before August 30, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, AGL–7, Rules Docket No. 99–AGL–40, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket may be examined in the Office of the Assistant Chief Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois. An informal docket may also be examined during normal business hours at the Air Traffic Division, Airspace Branch, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois.

FOR FURTHER INFORMATION CONTACT: Annette Davis, Air Traffic Division, Airspace Branch, AGL–520, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (847) 294–7568.

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, aeronautical, 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–AGL–40.'' The postcard will be date/time stamped and returned to the commenter. All communications received on or before the specified 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, FAA, Great Lakes Region, Office of the Assistant Chief Counsel, 2300 East Devon Avenue, Des Plaines, Illinois, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a cop of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to 14 CFR part 71 to modify Class E airspace at Hayward, WI, to accommodate aircraft executing the proposed GPS Rwy 02 SIAP and GPS Rwy 20 SIAP at Sawyer County Airport by modifying the existing controlled airspace. Controlled airspace extending upward from 700 to 1200 feet AGL is needed to contain aircraft executing the approaches. The area would be depicted on appropriate aeronautical charts. Class E airspace designations for airspace areas extending upward from 700 feet or more above the surface of the earth 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 will only affect air traffic procedures and air navigation, it is certified that this proposed rule 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 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 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 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AGL WI E5 Hayward, WI [Revised]

Hayward, Sawyer County Airport, WI
(Lat. 46° 01′ 33″ N., long. 91° 26′ 39″ W.)
Hayward VOR/DME
(Lat. 46° 01′ 08″ N., long. 91° 26′ 47″ W.)

That airspace extending upward from 700 feet above the surface within an 6.5-mile radius of the Sawyer County Airport, and within 3.7 miles each side of the Hayward VOR/DME 205° radial extending from the 6.5-mile radius to 9.4 miles southwest of the VOR/DME, and within 2.5 miles each side of the Hayward VOR/DME 022° radial extending from the 6.5-mile radius to 7.9 miles northeast of the VOR/DME.

* * * * *

Issued in Des Plaines, Illinois on June 28, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–17757 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ASO–11]

Proposed Amendment of Class E Airspace; Fort Rucker, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes to amend Class E airspace at Fort Rucker, AL. A Global Positioning System (GPS) Runway (RWY) 22 Standard Instrument Approach Procedure (SIAP) has been developed for Florala Municipal Airport. As a result, additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Florala Municipal Airport.

DATES: Comments must be received on or before August 12, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 99–ASO–11, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5627.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Manager, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5627.

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 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, aeronautical, 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–ASO–11.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified 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 the comments received. All comments submitted will be available for examination in the Office of the Regional Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with 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 Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. 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 amend Class E airspace at Fort Rucker, AL. A GPS RWY 22 SIAP has been developed for Florala Municipal Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Florala Municipal Airport. 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. It, therefore, (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

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—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 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 6005 Class E Airspace Areas Extending Upward from 700 feet or More Above the Surface of the Earth.

* * * * *

ASO AL E5 Fort Rucker, AL [Revised]

Fort Rucker, Cairns AAF, AL
(Lat. 31°16′37″N, long. 85°42′36″W)
Andalusia—Opp Airport, Andalusia, AL
(Lat. 31°18′32″N, long. 86°23′38″W)
Florala Municipal Airport, AL
(Lat. 31°02′38″N, long. 86°18′37″W)

That airspace extending upward from 700 feet or more above the surface within the area bounded by a line beginning at lat. 31°38′01″N, long. 86°23′30″W, to lat. 31°45′01″N, long. 85°38′00″W; to lat. 31°17′01″N, long. 85°26′00″W; to lat. 31°04′01″N, long. 85°52′00″W; to lat. 31°03′02″N, long. 86°11′04″W, to and clockwise along the arc of a 6.5-mile radius circle of Florala Municipal Airport to lat. 31°02′14″N, long. 86°26′10″W; to the point of beginning and within a 7-mile radius of Andalusia—Opp Airport.

* * * * *

Issued in College Park, Georgia, on June 29, 1999.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 99–17758 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Subchapter O, Parts 330 and 385

[Docket No. RM99–5–000]

Regulations under the Outer Continental Shelf Lands Act Governing the Movement of Natural Gas on Facilities on the Outer Continental Shelf; Notice of Proposed Rulemaking

June 30, 1999.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Commission is proposing to exercise its authority under the Outer Continental Shelf Lands Act (OCSLA) to ensure that natural gas is transported on an open and nondiscriminatory basis through pipeline facilities located on the Outer Continental Shelf (OCS). To achieve this, the Commission is considering requiring OCS gas transportation service providers to make available information regarding their affiliations and the conditions under which service is rendered. Making this information available will assist the Commission and interested persons in determining whether OCS gas transportation services conform with the open access and nondiscrimination mandates of the OCSLA. This will enable shippers who believe they are subject to anticompetitive practices to bring their concerns to the Commission. The Commission believes this proposed regulatory regime is a key step to developing a uniformly-applied, light-handed regulatory standard equally applicable to all OCS gas service providers.

DATES: Comments on the Notice of Proposed Rulemaking are due August 27, 1999. Comments should be filed with the Office of the Secretary and should refer to Docket No. RM99–5–000.

ADDRESSES: File comments with the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Marc Poole, Office of Pipeline Regulation, 888 First Street, NE, Washington, DC 20426, (202) 208–0482.

Gordon Wagner, Office of the General Counsel, 888 First Street, NE, Washington, DC 20426, (202) 219–0122.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, NE, Room 2A, Washington, DC 20426.

The Commission Issuance Posting System (CIPS) provides access to the texts of formal documents issued by the Commission from November 14, 1994, to the present. CIPS can be accessed via Internet through FERC's Home Page (http://www.ferc.fed.us) using the CIPS Link or the Energy Information Online icon. Documents will be available on CIPS in ASCII and WordPerfect 6.1 or 8.0. User assistance is available at 202–208–2474 or by e-mail to cipsmaster@ferc.fed.us.

This document is also available through the Commission's Records and Information Management System (RIMS), an electronic storage and retrieval system of documents submitted to and issued by the Commission after November 16, 1981. Documents from November 1995 to the present can be viewed and printed. RIMS is available in the Public Reference Room or remotely via Internet through FERC's Home page using the RIMS link or the Energy Information Online icon. User assistance is available at 202–208–2222, or by e-mail to rimsmaster@ferc.fed.us.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, RVJ International, Inc. RVJ International, Inc. is located in the Public Reference Room at 888 First Street, NE, Washington, DC 20426.

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I. Introduction

The Commission is proposing to exercise its authority under the Outer Continental Shelf Lands Act (OCSLA) [1] to ensure that natural gas is transported on an open and nondiscriminatory basis through pipeline facilities located on the Outer Continental Shelf (OCS).[2] To achieve this, the Commission is considering requiring OCS gas transportation service providers to make available information regarding their affiliations and the conditions under which service is rendered. Making this information available will assist the Commission and interested persons in determining whether OCS gas transportation services conform with the open access and nondiscrimination mandates of the OCSLA. This will enable shippers who believe they are subject to anticompetitive practices to bring their concerns to the Commission. The Commission believes this proposed regulatory regime is a key step to developing a uniformly-applied, light-handed regulatory standard equally applicable to all OCS gas service providers.

[1] 43 U.S.C. 1301–1356 (1988).

[2] The OCS is defined as ''all submerged lands lying seaward and outside of the area of lands beneath navigable waters . . . and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.'' 43 U.S.C. 1331(a). *See also* 43 U.S.C. 1301(a)(1), defining ''lands beneath navigable waters'' as ''all lands within the boundaries of each of the respective States.'' Thus, the federal OCS does not include offshore areas that are within state boundaries.

II. Background

A. The Increasing Importance of OCS Gas Supplies

The OCS is the nation's most promising source of stable energy supplies, both currently and for the foreseeable future. Already, the OCS, mainly the Gulf of Mexico, is one of the nation's most important natural gas supply areas. The Gulf area currently accounts for approximately 26.2 percent of U.S. annual natural gas marketed production [3] and is becoming increasingly important to the energy security of the United States. Gas production from the Gulf of Mexico in 1997 was 5.24 trillion cubic feet (Tcf).[4] The relative importance of the Gulf's gas production to the U.S. grew very rapidly from only 1–2 percent of production in the mid-1950s. Estimates of the Gulf resources are large and the current production levels of 5 Tcf can be maintained or increased for years. As of 1997, proven natural gas reserves in the Gulf of Mexico totaled 27.9 Tcf [5] with estimated resources up to 155 Tcf. The Department of Energy forecasts that offshore production will rise to 6.81 Tcf in 2010 and 7.83 Tcf in 2020. The rapid development of new offshore production and transmission technologies over the past several years has spawned a dynamic expansion of exploration, development, production, construction, and transmission activities throughout the Gulf area. In 1997, 84 percent of new field discoveries were in the federal OCS Gulf of Mexico, along with 56 percent of new reservoir discoveries in old fields.[6]

Clearly, the increasing OCS gas resource development is driving pipeline development. Since 1990, the gas industry has installed approximately 4,000 miles of new pipe in the Gulf. Stated otherwise, over 30 percent of the active offshore pipelines have been constructed over the past nine years. Already, 1,512 miles of new pipe have been planned and recent estimates predict that another 7,400 miles of pipe will be needed in the region over the next 15 years.

B. Federal Regulatory Responsibilities

Under the federal scheme, the responsibility for the various aspects of OCS pipeline regulation resides in several agencies. The Minerals Management Service (MMS) of the U.S. Department of the Interior has the responsibility to award permits to pipelines that transport gas and other products across the OCS. The approval process covers design, fabrication, and installation plans, as well as the granting of rights-of-way for the pipeline and accessory structures. Although section 5(e) of the OCSLA grants ''right-of-way'' responsibility to the MMS, it also requires consultation with the Secretary of Transportation to assure environmental protection and safety. Section 5(e) of the OCSLA further states that pipelines with approved permits must be operated in accordance with competitive principles.

Section 5(e) of the OCSLA also requires that gas (and oil) be transported without discrimination, pursuant to standards established by the Commission. Specifically, section 5(e) requires pipelines to ''transport or purchase without discrimination'' OCS gas ''in such proportionate amounts'' as the Commission (in consultation with the Secretary of Energy) determines to be reasonable. Section 5(f)(1) of the OCSLA states that a pipeline transporting gas on or across the OCS shall adhere to certain competitive principles, which include the requirement that ''[t]he pipeline must provide open and nondiscriminatory access to both owner and nonowner shippers.'' Sections 5(e) and (f) are to be read together, with the more recently adopted section 5(f) as a ''reaffirmation and strengthening of subsection 5(e).'' [7]

To assure offshore pipelines adhere to competitive principles, section 5(f)(3) of the OCSLA requires the Commission (and the Secretary of Energy) to consult with the Attorney General on specific conditions to be included in any permit, license, easement, right-of-way or grant of authority on the OCS.[8]

C. The Commission's OCS Regulatory Activity

The Commission currently exercises authority over offshore gas service providers under the NGA, the OCSLA, and the Natural Gas Policy Act (NGPA).[9] This Notice of Proposed Rulemaking

[3] Annual Energy Review 1997, Energy Information Administration.

[4] Annual Energy Review 1997, Energy Information Administration, at 12.

[5] U.S. Crude Oil, Natural Gas, and Natural Gas Liquids Reserves 1997 Annual, Energy Information Administration, at 28.

[6] *Id.*, at 30.

[7] *See* the Joint Explanatory Statement of the Committee of Conference, discussing 1978 amendments to the OCSLA. H.R. Conf. Rep. 1474, 95th Cong., 2d Sess. 37, *reprinted in* 1978 U.S. Code Cong. & Admin. News 1674, 1687.

[8] Section 5(f)(3) adds that in preparing requested views, the Attorney General shall consult with the Federal Trade Commission.

[9] Offshore, the NGPA is of relatively little significance, since the only facilities to which it alone applies are intrastate facilities in state waters. Intrastate facilities that extend seaward beyond the reach of state waters are subject to the OCSLA; interstate facilities located in state waters are subject to the NGA.

(NOPR) requests comments on whether these multiple, overlapping regulatory regimes complement one another or may be a cause of inefficient competitive inequities. The Commission expects that a single set of limited reporting requirements, uniformly applied to all OCS gas service providers covered under this proposal, will eliminate any distortions in the offshore marketplace due to competitors' compliance with different regulatory regimes. We also expect the simplicity and certainty afforded by a single set of reporting requirements to encourage continued investment in the development of OCS resources.

When the NGA was passed in 1938, offshore production was negligible, and as a result, that statute and the regulatory regime developed to enforce it made no effort to distinguish between the different characteristics of gas operations onshore and offshore.[10] As gas companies began to extend their onshore lines into shallow waters, the Commission was able to effectively apply its NGA regulatory scheme to these facilities near shore. However, as production areas were developed farther from shore, and as pipelines were constructed to access these increasingly remote locations, the validity of the Commission's means for identifying the primary function of offshore facilities was called into question.[11]

To determine whether a specific facility was engaged in interstate transmission, and thus subject to the NGA, or was performing primarily production or gathering, and thus exempt from the NGA pursuant to section 1(b), the Commission applied a test based on several physical characteristics.[12] Because this test grew out of the physical characteristics of gas operations onshore, the Commission modified its application to suit the different nature of gas operations offshore.[13]

The OCSLA was passed in 1953 to promote and provide federal oversight of the exploration, development, and production of OCS minerals. Section 5(f) of the statute specifies that competitive principles are to govern OCS pipeline operations. The Commission determined that adherence to NGA open access provisions would satisfy OCSLA nondiscrimination requirements.[14]

The increasing importance and level of OCS activity in recent years has generated a concomitant increase in the importance of the Commission's responsibility under the OCSLA to ensure a competitive market for gas pipeline services on the OCS. Over the past several years, the Commission has been concerned with and attentive to its regulatory authority over activities on the OCS.

In separate Notices of Inquiry in 1995[15] and 1998,[16] the Commission sought comments on the most suitable means to regulate OCS activities. Both Notices of Inquiry asked whether the Commission might act under the OCSLA to regulate offshore pipeline facilities—either in conjunction with or absent the exercise of any concurrent NGA jurisdiction—without impeding or distorting offshore development or production. In developing the regulations proposed in this docket, we have taken into account those portions of the comments that address our OCSLA authority.[17]

In 1988, the Commission acted under the OCSLA to require adherence to the section 5 principles of open and nondiscriminatory transportation by issuing an NGA section 7 blanket transportation certificate to every offshore NGA-jurisdictional pipeline.[18] Pursuant to Subpart G of the Commission's regulations, blanket certificate holders transport gas on an open access basis subject to a rate schedule on file with the Commission. The Commission stated its belief ''that the condition of nondiscriminatory access (open access) placed on the [blanket] transportation program established in Order Nos. 436 and 500 will satisfy in substantial measure, the nondiscriminatory access requirements in section 5 of the OCSLA.''[19] At that time, although affirming ''that all pipelines on the OCS have a duty to provide open and nondiscriminatory access to transportation services,''[20] the Commission did not require NGA-exempt OCS pipelines to act to meet this mandate, stating:

If problems do arise with respect to either the movement of OCS gas (1) through state waters, or (2) through gathering or producer-owned facilities on the OCS, the Commission possesses ample ancillary authority under the OCSLA to ensure that the statutory requirements of the OCSLA are not thwarted.[21]

Until recently, we have not encountered circumstances prompting us to act under the OCSLA to remedy anticompetitive behavior. However, lately we have been presented with allegations of offshore discrimination for which the NGA regulatory regime appears either inapplicable[22] or

[10] Less than one half of one percent of the offshore facilities today were in place prior to 1960.

[11] *EP Operating Co.* v. *FERC,* 876 F. 2d 48 (5th Cir. 1989).

[12] The ''primary function'' test was articulated in Farmland Industries, Inc. (Farmland), 23 FERC ¶ 61,063 (1983), which took into consideration the following factors as relevant: (1) The length and diameter of the pipeline, (2) the extension of the facility beyond the central point in the field, (3) the pipelines' geographic configuration, (4) the location of compressors and processing plants, (5) the location of wells along all or part of the facility, and (6) the operating pressure of the line. The primary function test has been found by the Commission to be applicable to both onshore and offshore facilities, as modified as applied to offshore facilities in Amerada Hess Corporation, 52 FERC ¶ 61,268 (1990). The criteria set out in Farmland were not intended to be all inclusive. The Commission has also considered nonphysical criteria such as the intended purpose, location, and operation of the facility, the general business activity of the owner of the facility, and whether the jurisdictional determination is consistent with the objectives of the NGA and the Natural Gas Policy Act of 1978.

[13] Amerada Hess Corporation, 52 FERC ¶ 61,268 (1990). The Commission's application of its primary function test to gas operations offshore was challenged in *Sea Robin Pipeline Company* v. *FERC (Sea Robin),* 127 F.3d 365 (5th Cir. 1997), *reh'g denied,* (February 2, 1998); the court vacated and remanded a Commission decision involving the exercise of its NGA jurisdiction over an OCS pipeline system. In an order on remand in Docket No. CP95–168–002, the Commission clarifies the application of its modified primary function test for offshore facilities. This NOPR is not intended to address issues specific to Sea Robin.

[14] *See* Interpretation of, and Regulations Under, Section 5 of the OCSLA Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on the OCS, Order No. 509, 53 Fed. Reg. 50,925 (December 19, 1988), FERC Stats. & Regs. ¶ 30,842 (1988), *order on reh'g,* Order No. 509–A, 54 FR 8,301 (February 28, 1989), FERC Stats. & Regs. ¶ 30,848 (1989).

[15] The 1995 Notice of Inquiry led to a 1996 Policy Statement that established a presumption that facilities located in deep water of 200 meters or more were engaged in production or gathering. Gas Pipeline Facilities and Services on the Outer Continental Shelf—Issues Related to the Commission's Jurisdiction Under the Natural Gas Act and the Outer Continental Shelf Lands Act, 74 FERC 61,222 (1996), *reh'g dismissed,* 75 FERC ¶ 61,291 (1996).

[16] Alternative Methods for Regulating Natural Gas Pipeline Facilities and Services on the Outer Continental Shelf, 83 FERC ¶ 61,235 (1998).

[17] The Notices of Inquiry also sought responses regarding the scope of the Commission's NGA authority offshore, and the 1998 Notice of Inquiry was informed by the 1997 decision in Sea Robin.

[18] *See* Interpretation of, and Regulations Under, Section 5 of the OCSLA Governing Transportation of Natural Gas by Interstate Natural Gas Pipelines on the OCS, Order No. 509, 53 FR 50,925 (December 19, 1988), FERC Stats. & Regs. ¶ 30,842 (1988), *order on reh'g,* Order No. 509–A, 54 FR 8,301 (February 28, 1989), FERC Stats. & Regs. ¶ 30,848 (1989).

[19] Order No. 491 at 61,031; *see also* Order No. 509 at 31,274.

[20] Order No. 509 at 31,289.

[21] *Id.* at 31,280. On rehearing, in response to concerns that this placed offshore gathering facilities not regulated under the NGA beyond the reach of the OCSLA provisions, the Commission stated that if it ''receives complaints regarding gathering facilities it will, on a case-specific basis, use its ancillary authority, its authority under sections 4 and 5 of the NGA, and its authority under section 5 of the OCSLA, as appropriate under the circumstances presented.'' Order No. 509–A, at 31,333.

[22] For example, in *Murphy Exploration & Production Company,* 81 FERC ¶ 61,148 (1997), the

inadequate.[23] Such allegations, and a review of offshore regulation in general, persuades us that the best way to ensure adherence to the nondiscriminatory provisions of the OCSLA is to adopt an even-handed approach whereby OCS gas service providers covered under the proposed rule will be held to a single, uniform reporting standard.

Making information available pursuant to the regulations proposed herein will allow the Commission and interested persons to monitor the activities of OCS gas service providers and identify potential violations of the OCSLA and, we anticipate, of the NGA as well. Whereas all OCS gas service providers are subject to the OCSLA, only a subset thereof are also subject to the NGA.[24] The competitive inequities that this can cause could be mitigated if OCS operators would be subject to identical, light-handed regulations under the proposed inform-and-enforce regime. We expect disclosure to serve as a means to enable market discipline to displace part of the Commission's role in overseeing OCS operations.

D. The Proposed Regulations

The Commission has completed a review of its policy governing offshore natural gas facilities and services, informed by the comments submitted in response to the 1998 Notice of Inquiry. We conclude that the key issue for shippers using OCS facilities is the assurance of open access and nondiscriminatory conditions of service, including nondiscriminatory rates. Accordingly, to ensure that these competitive characteristics will exist on all facilities used to move gas on or across the federal OCS, the Commission believes it is necessary to institute a single set of regulatory requirements under the OCSLA that are equally applicable to NGA-jurisdictional and NGA-exempt offshore gas service providers. Thus, all OCS gas service providers will be subject to the same OCSLA regulatory regime and, unless exempt under proposed section 330.3(a), make available the information specified in proposed sections 330.2(a) and (b).

The Commission anticipates that the proposed reporting requirements will result in lighter-handed oversight than under the NGA while offering even-handed treatment for all market participants. The approach the Commission proposes balances the OCS gas service providers' interest in light-handed regulation with OCS shippers' interest in ensuring they are not subject to discriminatory practices. This should encourage competitive options for offshore producers and onshore purchasers of natural gas.

III. Discussion

A. Purpose

Sections 5(e) and (f) of the OCSLA state that offshore gas pipelines must transport or purchase OCS gas without discrimination and provide open and nondiscriminatory access to both owner and nonowner shippers. The Commission is proposing to require OCS gas service providers to make certain information available to assist the Commission and interested persons in monitoring compliance with these OCSLA mandates.

Currently, offshore pipeline companies subject to the Commission's NGA jurisdiction must, among other requirements, make information available to assist the Commission and interested persons in assessing whether the pipeline companies are providing open and nondiscriminatory access.[25] However, there are no similar reporting requirements applicable to offshore pipelines that are not regulated under the NGA. The proposed OCSLA reporting requirements will apply to both NGA-jurisdictional and NGA-exempt OCS pipelines. Because the proposed OCSLA reporting requirements are less rigorous than those in place under the NGA, to the extent an OCS gas service provider is subject to the NGA, it should be able to fulfill the proposed OCSLA reporting requirements, in large part or in full, by referencing information already on file with the Commission pursuant to present NGA regulations.

The proposed regulations are intended to enable a shipper—or the Commission or any other interested person—to compare the terms and rates under which offshore gas service providers offer service to shippers. If a shipper believes it has been subject to discrimination or has been unjustifiably denied access by a gas service provider, it may seek redress through a number of means, including use of the Commission's Enforcement Hotline,[26] alternative dispute resolution (ADR) processes,[27] or by filing a complaint.[28]

The Commission is requesting comments on the proposed regulations, including the practicality of the proposed reporting requirements as a means to prevent, monitor, and remedy anticompetitive practices by OCS gas service providers. In addition, the Commission requests comments on the extent to which NGA and NGPA obligations may be met by relying on OCS competitors' adherence to the proposed OCSLA reporting requirements.

B. Scope of Proposed Regulations

1. Reporting Requirements

The reporting requirements are contained in proposed sections 330.2(a) and (b). Proposed section 330.2(a) states that an OCS gas service provider must identify itself, the facilities it operates, and its affiliates. Proposed section 330.2(b) states that a gas service provider must submit copies of all current customer contracts or, alternatively, the OCS gas service provider must instead submit a statement of its conditions of service with a detailed description of rates charged and if rates are not uniform, the gas service provider must list each of its

Commission was faced with a case of alleged rate discrimination on an offshore gathering line. In response, the Commission stated that because NGA jurisdiction does not extend to facilities used for gathering and production, it would act to remedy discrimination on the NGA-exempt line, if necessary, under its authority under the OCSLA. Commission action on this order is pending. A similar approach was employed in Bonito Pipe Line Company, 61 FERC ¶ 61,050 (1992), wherein the Commission found OCS oil facilities were exempt from the Commission's authority under the Interstate Commerce Act but were subject to the OCSLA. After determining that a refusal to provide new service contravened the OCSLA section 5 open access requirement, the Commission acted pursuant to the OCSLA to order an existing OCS oil line to provide the requested service. This decision was affirmed in *Shell Oil Company* v. *FERC,* 47 F.3d 1186, 1200 (D.C. Cir. 1995), in which the court ''accept[ed] the Commission's determination that it had authority to order an interconnection with an existing pipeline with excess capacity where the interconnection is necessary to the Commission's enforcement of the open access requirements of the OCSLA.''

[23] For example, Sea Robin's February 26, 1999 proposal in Docket No. RP99–238–000 to revise its tariff in order to charge certain discounted rates was protested, not as being inconsistent with the NGA, but on the grounds that such discounting could lead to different rates for similarly situated shippers in contravention of the OCSLA nondiscrimination provisions. *See* Burlington Resources Oil & Gas' March 10, 1999 Protest.

[24] As indicated in note 9, we expect there are very few facilities subject exclusively to the OCSLA and the NGPA.

[25] In addition to information made available in support of an NGA certificate application, NGA-regulated pipelines are required to file periodic publicly available reports, for example, the Major Natural Gas Pipeline Annual Report, Form No. 2, 18 CFR 260.1; Non-Major Pipeline Annual Report, Form No. 2a, 18 CFR 260.2; Quarterly Statement on Monthly Data, Form No. 11, 18 CFR 260.3; Index of Customers Report, 18 CFR 284.106(c) and 18 CFR 284.223(b); or the Discount Rate Report, 18 CFR 284.7(c)(6).

[26] 18 CFR Part 1b.

[27] 18 CFR 385.604–06.

[28] 18 CFR 385.206. The Commission's procedures for responding to allegations of improper action or inaction were revised and expanded in the recently issued Complaint Procedures, Final Rule, 64 FR 17,087 (April 8, 1999), FERC Stat. & Regs. ¶ 31,071 (1999), 86 FERC ¶ 61,324 (1999), *reh'g pending.*

customers, the services provided, and the rates applicable thereto.

One area of the Commission's concern is the potential for discrimination between the affiliates and non-affiliates of a gas service provider. Identifying service provider and shipper affiliations [29] should permit interested persons to judge whether a gas service provider is treating an affiliate more favorably than a non-affiliate and to weigh whether such treatment amounts to discrimination or a denial of access.

The reporting requirements of proposed sections 330.2(a) and (b) are met by filing the specified information with the Commission. However, such information is of use only as long as it remains accurate, since interested persons cannot meaningfully compare and consider conditions of service unless they reflect current conditions. Thus, proposed section 330.3(d) states that an OCS gas service provider that files information pursuant to proposed sections 330.2(a) and (b) must refile in the event that there are changes to the information initially filed. To ensure information on file remains up to date, proposed section 330.3(d) directs an OCS gas service provider to submit a description of changes in its affiliates, customers, rates, or terms and conditions of service within 15 days of the date the change occurs. An OCS gas service provider that has fulfilled the proposed reporting requirements need not subsequently submit any further information for as long as its status remains unchanged.

As to the initial filing, we direct all affected OCS gas service providers to submit the information described in proposed sections 330.2(a) and (b) within 60 days of the issuance date of the final rule in this proceeding.

The proposed regulations would amend Rule 2011 of the Commission's Rules of Practice and Procedure to allow all filings made pursuant to the proposed sections 330.2(a) and (b) to be via electronic media.

2. Circumstances Under Which the Proposed Regulations Will Not Apply

As discussed below, the proposed regulations will exempt certain types of facilities, based on their location, and certain gas service providers, based on the nature of the service performed. The Commission is considering whether it would be more appropriate to omit this latter exemption and apply the proposed reporting requirements to OCS gas service providers universally, without regard to the type of service offered or shippers served. Our aim is to strike a balance between, on the one hand, instituting a reporting regime broad enough to ensure that shippers are able to identify potential discrimination and, on the other hand, narrowing the applicability of this reporting regime to exclude circumstances where the prospects of finding discrimination are remote. However, given the limited use to date of the OCSLA to define, prevent, and remedy discrimination, and given that where there is no information available on conditions of service there is no way to discover potential discrimination, we are concerned that instituting exemptions for certain gas service providers might compromise the efficient development and transportation of offshore gas supplies. Therefore, the Commission is requesting comments on whether it would be prudent to issue a final rule without the exclusions contained in sections (b) and (c) below.

a. *Feeder Lines.* Section 5(f)(2) of the OCSLA states that the Commission may exempt ''any pipeline or class of pipelines which feeds into a facility where oil and gas are first collected or a facility where oil and gas are first separated, dehydrated, or otherwise processed'' from the requirements of open and nondiscriminatory access. The Commission is exercising its authority to do so, as provided in proposed section 330.3(a)(2).

b. *Pipelines Dedicated to Service for a Single Shipper.* Where an OCS gas service provider carries gas exclusively for a single shipper, either itself or another party, there is no possibility for multiple shippers to be subject to different, potentially discriminatory conditions of service. In such circumstances, we see no reason to require the gas service provider to make information concerning its terms and rates available for public inspection; indeed, where the gas service provider is carrying gas only for itself, there may be no rates or terms and conditions of service as such. Thus, proposed section 330.3(a)(1) states that the reporting requirements regarding affiliates and terms and conditions of service would not apply in such circumstances. Such circumstances would be present where a single OCS gas producer owns and operates a pipeline to carry its own gas from a producing field to shore or to an interconnection with another offshore pipeline. As long as the OCS producer serves only itself or a single other party, we see no cause to be concerned about anticompetitive practices.

If a gas service provider offers new service to a second shipper, this gives rise to the prospect of similarly situated shippers on the same pipeline being subject to different and potentially discriminatory conditions of service. Pursuant to proposed section 330.3(c), the reporting requirements would then apply.

A request for new service from a second shipper may also give rise to the possibility for similarly situated shippers to be served under different and potentially discriminatory terms or rates. If the gas service provider accepts the request to serve a second shipper, then as noted above, this offer to serve triggers the obligation to comply with the reporting requirements under proposed section 330.3(c).

If the gas service provider denies service on the grounds that it is physically unable to transport the requested volumes, and the party denied service complains, the Commission will first address and assess the rationale for denying service, without triggering the reporting requirements. If the Commission deems the denial justifiable—*e.g.*, if the receipt of additional volumes could cause gas from producing wells to be shut in contrary to the OCSLA section 5(e) admonishment concerning conservation or the prevention of waste, or if the content of the proposed gas stream would be incompatible with the characteristics of gas volumes currently flowing—then, as described in proposed section 330.3(a)(1), the reporting requirements would not apply, and the gas service provider may continue to serve its single customer. However, if the gas service provider's claim that it is physically unable to serve another customer is found to be unwarranted and rejected by the Commission, or if the gas service provider denies access on some other basis, then the prospective shipper may pursue its claim respecting the denial of service, and the gas service provider's response must include the information specified in the proposed reporting requirements.

c. *Other Self-Owned Pipelines.* In general, we do not believe allegations of anticompetitive conduct will arise unless a gas service provider is carrying gas for more than one shipper, hence the preceding reporting exemption for single-shipper pipelines. We also believe there are certain circumstances where a pipeline carrying gas for multiple parties has no incentive to discriminate. Where a pipeline is used exclusively to transport gas to shore or to an interconnection with another gas service provider's facilities, and the same parties jointly own all interests in

[29] For purposes of applying the proposed regulations, the Commission herein adopts the definitions of ''affiliate'' and ''control'' as defined in sections 161.2(a) and (b) respectively of the Commission's regulations.

the pipeline and the gas carried by that pipeline, we see no need to require disclosure of the conditions of service on that pipeline. The Commission views this as the equivalent of the above example of an OCS producer that owns and operates a pipeline to carry its own gas production. Presumably, each of the several parties holding ownership interests in the gas produced, and the pipeline over which that gas is carried, is fully informed regarding the conditions of service on its own pipeline. Therefore, in such situations, the proposed reporting requirements will not apply.

This exemption will cease if one of the existing shippers alleges denial of access or discrimination. Further, this exemption will end if the OCS gas service provider operating the pipeline offers service to any person that does not hold an ownership interest in both the pipeline and the gas produced from the field served by the pipeline. Finally, this exemption will end if the gas service provider rejects a service request submitted by a person that has no ownership interest, unless the Commission determines the requested service was denied due to a physical inability to accept the proposed additional volumes. If the Commission finds that physical access is possible or if the reason for refusing service is based on other grounds, then the OCS gas service provider would have to comply with the proposed reporting requirements.

3. Enforcement of the Proposed Regulations

The proposed reporting requirements will provide the Commission and interested persons with information on OCS gas service providers' affiliates and conditions of service as a means to examine and identify discriminatory practices. Although we expect to monitor compliance with the proposed reporting requirements, we do not expect to scrutinize each submission with the aim of identifying and challenging every aspect of a gas service provider's operations that could conceivably lead to an OCSLA-barred act. Instead, we anticipate the proposed regulations will result in a shipper-initiated, complaint-driven enforcement process.

This approach differs from NGA regulation, under which natural gas companies must obtain Commission authorization prior to initiating, altering, or abandoning facilities or services. In contrast, under the proposed OCSLA regulation, gas service providers will not be required to obtain Commission approval prior to acting. In this sense, regulation under the OCSLA will be lighter-handed; compliance will consist of describing affiliations and operations. While the proposed OCSLA regulations will impose a new reporting requirement on certain OCS gas service providers that do not currently file any information with the Commission, the proposed regulations impose no new constraints on these gas service providers' actions. Information made available pursuant to the proposed reporting requirements should aid our efforts to enforce the current OCSLA nondiscrimination provisions.

Actions that shippers or others believe constitute discrimination under the OCSLA should be described in a complaint to the Commission.[30] Where a denial of access is alleged, the gas service provider will respond with an explanation of whether and why service was denied. The Commission will review the response and may instruct the gas service provider to submit the information specified in proposed sections 330.2(a) and (b) if it has not previously done so. Where the gas service provider's response contains information previously unavailable to the complaining shipper, the shipper may cite this as cause to request that it be allowed to supplement its initial filing.

IV. Environmental Analysis

Commission regulations describe the circumstances where preparation of an environmental assessment or an environmental impact statement will be required.[31] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment.[32] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural, or that does not substantially change the effect of legislation or regulations being amended.[33]

This proposed rule is procedural in nature. It directs certain offshore gas service providers to make certain information publicly available. Thus, no environmental assessment or environmental impact statement is necessary for the requirements proposed in the rule.

V. Regulatory Flexibility Certification

The Regulatory Flexibility Act of 1980 (RFA)[34] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The Commission is not required to make such analyses if a rule would not have such an effect.[35]

The Commission does not believe that this rule would have a significant economic impact on small entities. Most entities that will be required under the proposed rule to file for the first time do not fall within the RFA's definition of small entity.[36] Further, many of the entities that will be required to meet the new reporting requirements are currently regulated under the NGA and as such have already submitted information to the Commission that largely fulfills the proposed new requirements. To the extent information submitted pursuant to NGA regulations duplicates that required under the proposed OCSLA regulations, NGA-regulated gas companies may satisfy the proposed OCSLA reporting requirements by referencing that already-filed information. Hence, this new rule should have little impact on these companies. Further, NGA-regulated gas companies with offshore facilities are generally too large to fall within the RFA definition of a small entity. Similarly, we anticipate that the non-NGA gas service providers that file for the first time will, for the most part, fall outside of the RFA definition of a small entity. With respect to small entities, the effort involved to comply with the proposed reporting requirements should be minimal. Therefore, the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis is required.

VI. Information Collection Requirements

The following collection of information contained in this proposed rule (proposed new Subchapter O) is being submitted to the Office of Management and Budget (OMB) for

[30] The recent Complaint Procedures Final Rule provides for different processing paths that the Commission may use to resolve issues raised in complaints. ''These complaint resolution paths are (1) alternative dispute resolution, (2) decision on the pleadings by the Commission, and (3) hearing before an ALJ.'' Order No. 602, 64 FR 17,087 (April 8, 1999), FERC Stat. & Regs. ¶ 31,071 at 30,764 (1999), 86 FERC ¶ 61,324 (1999), *reh'g pending.*

[31] Regulations Implementing National Environmental Policy Act, 52 FR 47,897 (Dec. 17, 1987), codified at 18 CFR Part 380.

[32] 18 CFR 380.4(a)(2)(ii).

[33] 18 CFR 380.4.

[34] 5 U.S.C. 601–612 (1988).

[35] 5 USC 605(b) (1988).

[36] 5 U.S.C. 601(3) (1988), citing to section 3 of the Small Business Act, 15 USC 632 (1988). Section 3 of the Small Business Act defines a ''small business concern'' as a business which is independently owned and operated and which is not dominant in its field of operations.

review under Section 3507(d) of the Paperwork Reduction Act of 1995.[37] The Commission proposes to identify the information required as FERC-545 for OCSLA-jurisdictional gas service providers. Currently, NGA-jurisdictional companies file with the Commission most or all the information that will be required by this NOPR under Subchapters E, G, and I. Thus, the reporting burden imposed on NGA-jurisdictional companies will be minimal or merely ministerial, as they can comply with the proposed rules in large part or in full by submitting a statement describing the extent to which the information required by this OCSLA NOPR is already on file pursuant to existing NGA regulations.

The proposed regulations impose new reporting requirements on OCS gas service providers that offer service to multiple non-owner shippers, requiring them to make an initial submission of specific information—information which should be readily available in the ordinary course of business—and then make timely filings if there are any changes in the initially submitted information. To the extent the status of a gas service provider's affiliations, customers, and conditions of service remain the same, there is no need to file again. To the extent that a gas service provider is currently subject to the NGA's reporting requirements, the proposed OCSLA reporting requirements should call for little or no additional information. The proposed regulations would not apply to service provided by means of facilities located upstream of a point where gas is first collected, separated, dehydrated, or otherwise processed.

Considering the complex nature of the offshore operating environment, we cannot state with assurance the exact number of entities that will be subject to the proposed regulations. Consequently, we request parties submitting comments to clarify whether and to what extent the proposed requirements might apply to offshore operations. In addition, we seek comments on the Commission's need for this information, whether the information will have practical utility, the accuracy of the provided burden estimates, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing respondents' burden, including the use of automated information techniques. The burden estimates for complying with this proposed rule are as follows:

Public Reporting Burden: Estimated Annual Burden.

Data collection	Number of respondents	Number of responses	Hours per response	Total annual hours
FERC–545	70	2	8	1,120

Total Annual Hours for Collection

(Reporting + Record Keeping, (if appropriate)) = *1,120*

For NGA-jurisdictional gas companies, the current annual reporting burden for FERC–545 is 58,201 hours. Over the next year, the total annual burden under the proposed OCSLA reporting requirements is estimated to be 1,120 hours. Based on the Commission's experience with processing filings by NGA-regulated pipelines for the fiscal year 1996–1997, it is estimated that about 140 filings per year will be made with an average burden of 8 hours per response. The burden under the proposed OCSLA regulations would minimally increase current burden levels for pipelines already subject to the NGA.

During the first year after the proposed rules become effective, most of the burden will consist of an initial, one-time compliance filing. In subsequent years, most of the burden will consist of minor filings updating the initial filing.

Information Collection Costs: The Commission seeks comments on the costs to comply with these requirements. It has projected the average annualized cost per respondent to be the following:

Annualized Capital/Startup Costs	0.
Annualized Costs (Operations and Maintenance)	$56,000 ($50 per hour).
Total Annualized Costs	$56,000.

The OMB regulations require OMB to approve certain information collection requirements imposed by agency rule.[38] Accordingly, pursuant to OMB regulations, the Commission is providing notice of its proposed information collection to OMB.

Title: FERC–545, Gas Pipeline Rates: Rate Change (Non-Formal).

Action: Proposed Data Collection.

OMB Control No.: 1902–0154. The respondent shall not be penalized for failure to respond to this collection of information unless the collection of information displays a valid OMB control number.

Respondents: Business or other for-profit, including small businesses.

Frequency of Responses: Initial, one-time filing; updated if status changes.

Necessity of the Information: The proposed rule implements the Commission's authority under the OCSLA to assure open and nondiscriminatory access for gas moving on or across the OCS by collecting certain information concerning OCS gas service providers' affiliations and conditions of service. Without this information, neither the Commission nor a prospective or existing shipper will be able to determine whether the existing or proposed conditions of service discriminate or deny access. Implementation of these data requirements will help the Commission carry out its responsibilities under the OCSLA and coincide with the current competitive regulatory environment which the Commission fostered under Order No. 636.

Internal Review: The Commission has assured itself, by means of its internal review, that there is specific, objective support for the burden estimates associated with the proposed reporting requirements. The Commission's staff will use the data in the OCS gas service providers' filings to determine whether their operations are consistent with the nondiscriminatory, open access provisions of the OCSLA. These requirements conform to the Commission's plan for efficient information collection, communication, and management within the natural gas industry.

[37] 44 U.S.C. 3507(d) (1988).

[38] 5 CFR 1320.11.

Interested persons may obtain information on the reporting requirements by contacting the following: Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, [Attention: Michael Miller, Office of the Chief Information Officer, Phone: (202) 208–1415, fax: (202) 208–2425, e-mail: michael.p.miller@ferc.fed.us].

For submitting comments concerning the collection of information and the associated burden estimate, please send your comments to the contact listed above and to the Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. [Attention: Desk Officer for the Federal Energy Regulatory Commission, phone: (202) 395–3087, fax: (202) 395–7285].

VII. Comment Procedure

The Commission invites interested persons to submit written comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss.

The original and 14 copies of such comments must be recieved by the Commission before 5 p.m., August 27, 1999. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, and should refer to Docket No. RM99–5–000.

In addition to filing paper copies, the Commission encourages the filing of comments either on computer diskette or via Internet E-Mail. Comments may be filed in the following formats: WordPerfect 8.0 or below, MS Word Office 97 or lower version, or ASCII format.

For diskette filing, include the following information on the diskette label: Docket No. RM99–5–000; the name of the filing entity; the software and version used to create the file, and the name and telephone number of the contact person. Attach the comment to the E-Mail in one of the formats specified above. The Commission will send an automatic acknowledgment to the sender's E-Mail address upon receipt. Questions on electronic filing should be directed to Brooks Carter at 202–501–8145, E-Mail address brooks.carter@ferc.fed.us.

Commenters should take note that, until the Commission amends its rules and regulations, the paper copy of the filing remains the official copy of the document submitted. Therefore, any discrepancies between the paper filing and the electronic filing or the diskette will be resolved by reference to the paper filing.

All written comments will be placed in the Commission's public files and will be available for inspection in the Commission's Public Reference Room at 888 First Street, NE, Washington, DC 20426, during regular business hours. Additionally, comments may be viewed, printed, or downloaded remotely via the Internet through FERC's Homepage using the RIMS or CIPS links. RIMS contains all comments but only those comments submitted in electronic format are available on CIPS. User assistance is available at 202–208–2222, or by E-Mail to rimsmaster@ferc.fed.us.

List of Subjects

18 CFR Part 330

Reporting and recordkeeping requirements.

18 CFR Part 385

Administrative practice and procedure, Electric utilities, Penalties, Pipelines, Reporting and recordkeeping requirements.

By direction of the Commission.

Commissioners Bailey and Hébert dissented with separate statements attached.

David P. Boergers,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Chapter 1, Title 18, of the Code of Federal Regulations, as set forth below.

1. A new Subchapter O, including part 330 is added to read as follows:

SUBCHAPTER O—REGULATIONS UNDER THE OUTER CONTINENTAL SHELF LANDS ACT (OCSLA)

PART 330—CONDITIONS OF SERVICE REPORTING REQUIREMENTS

Sec.
330.1 Definitions.
330.2 Reporting requirements.
330.3 Applicability of reporting requirements.

Authority: 43 U.S.C. 1334.

§ 330.1 Definitions.

(a) Outer Continental Shelf (OCS) has the same meaning as found in section 2(a) of the OCSLA (43 U.S.C. 1331(a)); and

(b) Gas Service Provider means any entity that operates a facility located on the OCS that is used to move natural gas on or across the OCS.

(c) Affiliate has the same meaning as found in 18 CFR 161.2(a).

(d) Control has the same meaning as found in 18 CFR 161.2(b).

§ 330.2 Reporting requirements.

(a) Gas Service Providers must file with the Commission a declaration of affiliation consisting of:

(1) The date of the filing;

(2) The name and address of the Gas Service Provider;

(3) The name and address of a contact person;

(4) The title, name, and address of the Gas Service Provider's officers if a corporation or general partners if a partnership;

(5) A description and map of the facilities operated by the Gas Service Provider, denoting the facilities' location, length, and size; and

(6) For all entities affiliated with the Gas Service Provider: the names and state of incorporation of all corporations, partnerships, business trusts, and similar organizations that directly or indirectly hold control over the Gas Service Provider, and, the names and state of incorporation of all corporations, partnerships, business trusts, and similar organizations directly or indirectly controlled by the Gas Service Provider (where the Gas Service Provider holds control jointly with other interest holders, so state and name the other interest holders).

(b) Gas Service Providers must file with the Commission its conditions of service consisting of:

(1) Copies of all current Gas Service Provider and customer contracts for gas shipments or, alternatively;

(2) A statement of the Gas Service Provider's rules, regulations, and conditions of service that includes:

(i) The rate between each pair of receipt and delivery points available under the Gas Service Provider's contracts, if point-to-point rates are charged;

(ii) The rate per unit per mile, if mileage-based rates are charged;

(iii) Any other rate employed by the Gas Service Provider, with a detailed description of how such rate is derived, identifying customers and the rate charged to each customer;

(iv) Any adjustments made by the Gas Service Provider to the rates charged based on gas volumes shipped, the terms and conditions of service, or other criteria, identifying customers and the rate adjustment applicable to each customer.

§ 330.3 Applicability of Reporting Requirements.

(a) The § 330.2 (a) and (b) reporting requirements do not apply with respect to:

(1) A Gas Service Provider that serves exclusively a single entity (either itself or one other party), until such time as

the Gas Service Provider offers to serve a second shipper, or the Commission determines that the Gas Service Provider's denial of a request for service is unjustified, and the shipper denied service contests the denial;

(2) A Gas Service Provider that serves exclusively shippers with ownership interests in both the pipeline operated by the Gas Service Provider and the gas produced from the field connected to the pipeline, until such time as the Gas Service Provider offers to serve a non-owner shipper, or the Commission determines that the Gas Service Provider's denial of a request for service is unjustified, and the shipper denied service contests the denial; and

(3) Services rendered over facilities that feed into a facility where natural gas is first collected, separated, dehydrated, or otherwise processed.

(b) A Gas Service Provider that makes no filing pursuant to § 330.3(a)(1) must comply with the specified reporting requirements within 15 days of offering to serve a new shipper or when required by the Commission.

(c) A Gas Service Provider subject to these reporting requirements that alters its affiliates, customers, rates, or terms and conditions of service must file with the Commission a description of the change within 15 days of the effective date of such alteration.

PART 385—RULES OF PRACTICE AND PROCEDURE

2. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717z, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352; 49 U.S.C. 60502; 49 App. U.S.C. 1–85.

3. In § 385.2011, new paragraph (b)(6) is added to read as follows:

§ 385.2011 Procedures for filing on electronic media (Rule 2011).

* * * * *

(b) * * *

(6) Material submitted electronically pursuant to § 330.2 of this chapter.

Note: The following appendix to the preamble will not appear in the Code of Federal Regulations.

Appendix to the Preamble

Bailey, Commissioner, *dissenting.*

I respectfully dissent from the issuance of this rulemaking proposal. As noted in my dissent in the *Sea Robin* remand proceeding (also decided today), my views reflect the evolution of my thinking about OCS issues over the last several years.

The jurisdictional status of existing OCS pipelines reflects conflicting applications of the primary function test. This situation was aggravated by the implementation of the 1996 OCS Policy Statement, when it became apparent that lines declared to be gathering only a few years earlier would be found jurisdictional if decided under the new policy.

Attempts to define gathering versus transmission on the OCS continue to be driven by concerns for the need to retain FERC/NGA rate jurisdiction as a backstop in case a complaint arises. But, as I have stated on other occasions, I do not think we have that right if the function of a line can be viewed as gathering under a common sense analysis. Without a statutory definition of gathering, I find the analysis set forth in *EP Operating Company* v. *FERC,* 876 F. 2d 46 (Fifth Cir. 1989) to be controlling. In the end, I remain convinced that the movement of gas across the OCS is most often a collection process.

I appreciate that these proposed OCSLA regulations are a first step in preparing for what is an expected increase in the number of lines found to be gathering under the reformulated primary function test outlined in today's *Sea Robin* remand order. And I respect the effort to create what is meant to be a light-handed regulatory approach. I believe, however, that the proposal is not necessary, and I am concerned that it raises new OCS issues without resolving the already difficult ones presented to us.

I would prefer to accept that, under the *EP Operating* analysis, much of the activity on the OCS is gathering. I would likewise prefer to continue the current practice of relying on the antidiscrimination provisions of the OCSLA if, and when, complaints are filed by shippers on OCS gathering lines. I do not find any compelling evidence that we need to expand our OCSLA regulatory regime by promulgating these rules. The Commission has acknowledged quite clearly its jurisdiction pursuant to this statute and specifically emphasized in the 1996 Policy Statement that it would respond promptly to complaints filed thereunder. We receive very few such complaints.

In sum, I see no reason to endorse a proposal that will create, at least initially, a dual scheme of regulation for certain pipelines on the OCS. And I am uncomfortable embarking on a course that may invite new legal challenges to our regulation of the offshore, without resolving the confusion underlying our attempts to apply the existing primary function test.

Vicky A. Bailey,

Commissioner.

Hebert, Commissioner, *dissenting.*

In this proposed rulemaking the Commission is developing a series of regulations to enhance its ability to ensure that the competitive principles governing pipeline operation on the Outer Continental Shelf (OCS) are met. As I understand it, the Commission in response to the precepts of Section 5(e) of the Outer Continental Shelf Lands Act (OCSLA)[1] which requires that pipelines must provide open and nondiscriminatory access to both owner and nonowner shippers, has proposed these regulations to ensure that the Commission has the authority to address any allegations of discriminatory treatment on the OCS or concerns about open access.

While I fully support the competitive principles on the OCS, and I recognize the importance of these principles, I am not comfortable with how the majority has chosen in this document to address OCSLA regulation. Specifically, the NOPR intends to require OCS gas transportation service providers to file with the Commission information regarding the conditions under which they render service on the OCS and indicating their affiliates. While the provision of this information will obviously not be burdensome to service providers currently subject to NGA jurisdiction, the NOPR's requirement also goes to a population that is currently not subject to NGA jurisdiction.

The indications from this NOPR are that once filed, the information used to support Commission OCSLA jurisdiction will be used only as part of a light-handed, complaint driven regulatory process. Under normal circumstances I would find a proposal to replace NGA jurisdiction with light-handed complaint driven regulation as appropriate, but in this situation, the pairing of lighter regulation for NGA companies with regulation for currently non-jurisdictional companies is unacceptable. Yes, the regulatory scheme would be light-handed but when compared to no regulation, it can only be seen as heavy-handed. (REGULATORY GAP).

My uncomfortableness with extending Commission jurisdiction in this proposal is not a failure to uphold the competitive principles of the OCS. Instead, I believe that the OCSLA provides the Commission with the necessary authority to act to address issues of discrimination and open access through its own provisions, even though that authority has heretofore lain dormant. As opposed to subjecting the Commission's jurisdiction under the OCSLA to the vagaries of future and inevitable court challenges which a NOPR of this design would involve, the Commission should act with confidence on any complaints that are brought before it under the OCSLA. The Commission has recently refined and expedited its complaint process which is a workable vehicle for bringing these issues to the Commission in a timely manner. Additionally, as has been noted by Commissioner Bailey on this matter, if the OCSLA did ultimately fail to remedy a showing of discriminatory rates, a legislative solution could be pursued. I also take guidance from the Circuit Court's statement that the ''need for regulation cannot alone create authority to regulate.''[2]

While I can understand the interest some may have in ensuring full comprehension of the extent of the Commission's powers under the OCSLA, I think the more appropriate course of action would be to be receptive and responsive to filed complaints, with the confidence of assured jurisdiction, as opposed to the exploration through a proposed rulemaking of the very same property.

My belief that the Commission can remedy violations of the competitive principles of the

[1] 43 U.S.C. 1334(f) (1988).

[2] 127 F.3d at 371.

OCS as well as my concern that the extension of jurisdiction, light-handed as it may be, to currently non-jurisdictional OCS companies prevents me from providing the instant NOPR with my support. Accordingly, I dissent from the issuance of this proposed rulemaking.

Respectfully,

Curt Hébert, Jr.,

Commissioner.

[FR Doc. 99–17251 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 301

[REG–113909–98]

RIN 1545–AW63

Withdrawal of Guidance Under Subpart F Relating to Partnerships and Branches and Issuance of New Guidance Under Subpart F Relating to Certain Hybrid Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Withdrawal; Notice of proposed rulemaking; and notice of public hearing.

SUMMARY: This document withdraws the notice of proposed rulemaking and notice of proposed rulemaking by cross-reference to temporary regulations that was published in the **Federal Register** on March 26, 1998, providing guidance under subpart F relating to partnerships and branches. This document contains new proposed regulations relating to the treatment under subpart F of certain transactions involving hybrid branches. These regulations are necessary to provide guidance on transactions relating to such entities. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written comments, and outlines of oral comments to be discussed at the public hearing scheduled for December 1, 1999, must be received by November 10, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–113909–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–113909–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/prod/tax__regs/regslist.html. The public hearing will be held in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Valerie Mark, (202) 622–3840; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

On March 23, 1998 (63 FR 14669, March 26, 1998), the IRS issued proposed regulations (REG–104537–97) relating to the treatment under subpart F of certain partnership and hybrid branch transactions. The provisions of the proposed regulations relating to hybrid branch transactions were also issued as temporary regulations (TD 8767) (63 FR 14613, March 26, 1998). Certain members of Congress and taxpayers raised concerns about the proposed and temporary regulations relating to hybrid branch transactions. On June 19, 1998, the Treasury announced in Notice 98–35 (1998–27 I.R.B. 35) that the temporary regulations would be removed and that the proposed regulations relating to hybrid transactions would be re-proposed with new dates of applicability to give Congress the opportunity to consider in greater depth the issues raised by hybrid transactions.

As provided in Notice 98–35, these proposed regulations substantially restate the regulations relating to hybrid transactions issued in March of 1998. These proposed regulations, however, contain certain clarifications requested by taxpayers. Further, as described in greater detail below, unlike the effective date rules announced in Notice 98–35, these regulations are proposed to be effective only for payments made in taxable years commencing after the date that is five years after the date of finalization of these regulations. The permanent grandfather relief described in Notice 98–35 remains unchanged.

These proposed regulations represent the IRS and Treasury's views of how current law should be enforced. Treasury is currently undertaking a comprehensive study of subpart F. These proposed regulations will not control the results of the study. For example, an objective analysis of the policies and goals of subpart F may lead to the conclusion that subpart F should be significantly restructured.

To the extent, however, that Congress does not restructure subpart F in a manner that would alter the rules enforced by these regulations, Treasury and the IRS believe that these regulations will be necessary to preserve the integrity of the current statutory scheme. The use of hybrid arrangements, which is greatly facilitated by the ''check-the-box'' entity classification regulations (§§ 301.7701–1 through 301.7701–3), would otherwise give rise to the following inconsistency: if sales income is shifted from one CFC to a related CFC in a different jurisdiction, subpart F income may arise; if sales income is shifted from one CFC to its branch in a different jurisdiction, subpart F income may arise; if income is shifted through interest payments from one CFC to a related CFC in a different jurisdiction, subpart F income may arise; however, if income is shifted through interest payments from one CFC to its hybrid branch in a different jurisdiction, subpart F income will not arise. This final result does not seem an appropriate policy outcome within the framework of current subpart F, and is almost certainly inconsistent with the Congressional intent underlying the rules being interpreted here.

Treasury anticipates that taxpayers will comment both on the appropriateness of these proposed regulations under current law, and on the contents of its subpart F study, including any conclusions that the study might draw about potential changes to subpart F. To allow proper time to consider all these issues, Treasury and the IRS have significantly modified and liberalized the effective date rules set forth in Notice 98–35. New regulations regarding the treatment of a controlled foreign corporation's distributive share of partnership income will be proposed at a later date.

Explanation of Provisions

I. In General

In these proposed regulations, Treasury and the IRS set forth a framework for dealing with issues arising under subpart F (sections 951 through 964) that relate to the use of certain entities that are regarded as fiscally transparent for purposes of U.S. tax law.

II. Hybrid Branches

Treasury and the IRS understand that certain taxpayers are using arrangements involving hybrid branches

to circumvent the purposes of subpart F. These arrangements generally involve the use of deductible payments to reduce the taxable income of a CFC under foreign law, thereby reducing that CFC's foreign tax and, also under foreign law, the corresponding creation in another entity of low-taxed, passive income of the type to which subpart F was intended to apply. Because of the structure of these arrangements, however, taxpayers take the position that this income is not taxed under subpart F. Treasury and the IRS have concluded that use of these hybrid branch arrangements is contrary to the policies and rules of subpart F.

Under these proposed regulations, hybrid branch payments, as defined in the regulations, between a CFC and its hybrid branch, or between hybrid branches of the CFC may give rise to subpart F income. When certain conditions are present, the non-subpart F income of the CFC, in the amount of the hybrid branch payment, is recharacterized as subpart F income of the CFC. Those conditions include that: the hybrid branch payment reduces the foreign tax of the payor; the hybrid branch payment would have been foreign personal holding company income if made between separate CFCs; and there is a disparity between the effective rate of tax on the payment in the hands of the payee and the hypothetical rate of tax that would have applied if the payment had been taxed in the hands of the payor.

The proposed regulations would make clear that the CFC and the hybrid branch, or the hybrid branches, are treated as separate corporations only to recharacterize non-subpart F income as subpart F income in the amount of the hybrid branch payment, and to apply the tax disparity rule of § 1.954–9(a)(5)(iv). For all other purposes (e.g., for purposes of the earnings and profits limitation of section 952), a CFC and its hybrid branch, or hybrid branches, would not be treated as separate corporations.

The proposed regulations would provide that the amount recharacterized as subpart F income is the gross amount of the hybrid branch payment limited by the amount of the CFC's earnings and profits attributable to non-subpart F income. This amount is the excess of current earnings and profits over subpart F income, determined after the application of the rules of sections 954(b) and 952(c) and before the application of these proposed regulations. To the extent that the full amount required to be recharacterized under this provision cannot be recharacterized because it exceeds earnings and profits attributable to non-subpart F income, there is no requirement to carry such amounts back or forward to another year.

The proposed regulations would provide that, under certain circumstances, the recharacterization rules will also apply to a CFC's proportionate share of any hybrid branch payment made between a partnership in which the CFC is a partner and a hybrid branch of the partnership, or between hybrid branches of such a partnership. When the partnership is treated as fiscally transparent by the CFC's taxing jurisdiction, the recharacterization rules are applied by treating the hybrid branch payment as if it had been made directly between the CFC and the hybrid branch, or as though the hybrid branches of the partnership had been hybrid branches of the CFC, as applicable. If the partnership is treated as a separate entity by the CFC's taxing jurisdiction, the recharacterization rules are applied to the partnership as if it were a CFC.

The proposed regulations would provide that income will not be recharacterized unless there is a disparity between the effective rate at which the hybrid branch payment is taxed to the payee and a hypothetical tax rate that measures the tax savings to the payor from the deductible payment. This provision is similar to the rule in § 1.954–3(b), and adopts the same percentage tests as contained in that provision. The regulations also provide a special high tax exception applicable to the hybrid branch payment that is similar to the one contained in section 954(b)(4).

For purposes of determining the amount of taxes deemed paid under section 960, the amount of non-subpart F income recharacterized as subpart F income is treated as attributable to income in separate foreign tax credit baskets in proportion to the ratio of non-subpart F income in each basket to the total amount of non-subpart F income of the CFC for the taxable year.

III. Related Provisions

These proposed regulations would provide rules, contained in § 1.954–1(c)(1)(i)(B), to prevent expenses, including related person interest expense that would normally be allocable under section 954(b)(5) to subpart F income of a CFC, from being allocated to a payment from which the expense arises. The allocation limit applies: (i) to the extent such payment is included in the subpart F income of the CFC; (ii) if the expense arises from any payment between the CFC and a hybrid partnership in which the CFC is a partner; and (iii) if the payment reduces foreign tax and there is a significant disparity in tax rates between the payor and payee jurisdictions.

These proposed regulations also would address the application of the related person exceptions to the foreign personal holding company income rules in the context of partnership distributive shares and transactions involving hybrid branches. Under section 954(c)(3), foreign personal holding company income does not include certain interest, dividends, rents and royalties received from related corporations. These exceptions apply, in the case of interest and dividends, when the related corporate payor is organized in the country in which the CFC is organized and uses a substantial part of its assets in a trade or business in that country and, in the case of rents and royalties, when the rent or royalty payment is made for the use or privilege of using property within the CFC's country of incorporation.

Under these proposed regulations, if the partnership receives an item of income that reduces the foreign income tax of the payor, the related person exceptions of section 954(c)(3) would apply to exclude the income from the foreign personal holding company income of the CFC partner only where: the exception would have applied if the CFC earned the income directly (testing relatedness and country of incorporation at the CFC partner level); and either the partnership is organized and operates in the CFC's country of incorporation, the partnership is treated as fiscally transparent in the CFC's countries of incorporation and operation, or there is no significant disparity between the effective rate of tax imposed on the income and the rate of tax that would be imposed on the income if earned directly by the CFC partner.

In addition, these proposed regulations contain rules that would apply the related person exceptions to certain payments involving hybrid branches. These rules would apply to payments by a CFC to a hybrid branch of a related CFC. Under these rules, the related person exceptions would apply to exclude the payments from the foreign personal holding company income of the recipient CFC only if the payment would have qualified for the exception if the hybrid branch had been a separate CFC incorporated in the jurisdiction in which the payment is subject to tax (other than a withholding tax).

IV. Request for Comments

Comments on policy issues that relate to subpart F and deferral, generally, including comments on legislative modifications to the current rules, and comments solicited on the broad policy issues mentioned in Notice 98–35, can be submitted in response to the study mentioned above. Treasury and the IRS invite comments on the appropriateness of these regulations under the current subpart F rules.

Proposed Effective Date

These proposed regulations will not be finalized before July 1, 2000. It is proposed that, when finalized, these regulations would be effective only for payments made in taxable years of a controlled foreign corporation commencing after the date that is five years after the date of finalization of these regulations. These regulations would not, however, apply to any payments made under hybrid arrangements entered into before June 19, 1998. This exception is permanent so long as the arrangement is not substantially modified on or after June 19, 1998. An illustrative list of events that would and would not constitute ''substantial modification'' of an arrangement is included in these regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It has also been determined that section 553(b) of the Administrative Procedures Act (5 U.S.C. chapter 5) does not apply to these regulations, and, because the regulation does not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f) of the Internal Revenue Code, this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Request for Comments

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury specifically request comments on the clarity of these proposed regulations and how they may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for December 1, 1999, at 10 a.m., in room 2615, Internal Revenue Building, 1111 Constitution Avenue NW., Washington DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing.

Persons that wish to present oral comments at the hearing must submit written comments and an outline of topics to be discussed and time to be devoted to each topic (signed original and eight (8) copies) by November 10, 1999.

A period of 10 minutes will be allotted to each person for making comments.

An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information: The principal author of these regulations is Valerie Mark, of the Office of the Associate Chief Counsel (International). Other personnel from the IRS and Treasury Department also participated in the development of these regulations.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Withdrawal of Notice of Proposed Rulemaking and Proposed Amendments to the Regulations

Accordingly, under the authority of 26 U.S.C. 7805, the notice of proposed rulemaking amending 26 CFR parts 1 and 301 that was published in the **Federal Register** on March 26, 1998, 63 FR 14669 (REG–104537–97), is withdrawn. In addition, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for 26 CFR part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. In § 1.904–5, paragraph (k)(1) is revised to read as follows:

§ 1.904–5 Look-through rules as applied to controlled foreign corporations and other entities.

* * * * *

(k) *Ordering rules*—(1) *In general.* Income received or accrued by a related person to which the look-through rules apply is characterized before amounts included from, or paid or distributed by, that person and received or accrued by a related person. For purposes of determining the character of income received or accrued by a person from a related person if the payor or another related person also receives or accrues income from the recipient and the look-through rules apply to the income in all cases, the rules of paragraph (k)(2) of this section apply. Notwithstanding any other provision of this section, the principles of § 1.954–1(c)(1)(i) will apply to any expense subject to § 1.954–1(c)(1)(i).

* * * * *

Par. 3. Section 1.954–0 (b) is amended as follows:

1. The entry for § 1.954–1(c)(1)(i) is revised.
2. Entries for § 1.954–1(c)(1)(i)(A) through (c)(1)(i)(E) are added.
3. An entry for § 1.954–2(a)(5) is added.
4. An entry for § 1.954–2(a)(6) is added.

The revision and additions read as follows:

§ 954–0 Introduction.

* * * * *

(b) * * *

Section 1.954–1 Foreign Base Company Income

* * * * *

(c) * * *

(1) * * *

(i) Deductions.

(A) Deductions against gross foreign base company income.

(B) Special rule for deductible payments to certain non-fiscally transparent entities.

(C) Limitations.

(D) Example.

(E) Effective date.

* * * * *

Section 1.954–2 Foreign Personal Holding Company Income

(a) * * *

(5) Special rules applicable to distributive share of partnership income.

(i) Application of related person exceptions where payment reduces foreign tax of payor.

(ii) Certain other exceptions applicable to foreign personal holding company income. [Reserved]

(iii) Effective date.

(6) Special rules applicable to exceptions from foreign personal holding company income treatment in circumstances involving hybrid branches.

(i) In general.

(ii) Exception where no tax reduction or tax disparity.

(iii) Effective date.

* * * * *

Par. 4. Section 1.954–1 is amended as follows:

1. Paragraphs (c)(1)(i) heading and introductory text and (c)(1)(i)(A) through (c)(1)(i)(D) are redesignated as paragraphs (c)(1)(i)(A) heading and introductory text and (c)(1)(i)(A)(*1*) through (c)(1)(i)(A)(*4*), respectively.

2. A heading for paragraph (c)(1)(i) is added.

3. Paragraphs (c)(1)(i)(B) through (c)(1))(i)(E) are added.

The additions read as follows:

§ 1.954–1 Foreign base company income.

* * * * *

(c) * * *

(1) * * *

(i) *Deductions*—(A) *Deductions against gross foreign base company income.* * * *

(B) *Special rule for deductible payments to certain non-fiscally transparent entities.* Notwithstanding any other provision of this section, except as provided in paragraph (c)(1)(i)(C) of this section, an expense (including a distributive share of any expense) that would otherwise be allocable under section 954(b)(5) against the subpart F income of a controlled foreign corporation shall not be allocated against subpart F income of the controlled foreign corporation resulting from the payment giving rise to the expense if—

(*1*) Such expense arises from a payment between the controlled foreign corporation and a partnership in which the controlled foreign corporation is a partner and the partnership is not regarded as fiscally transparent, as defined in § 1.954–9(a)(7), by any country in which the controlled foreign corporation does business or has substantial assets; and

(*2*) The payment from which the expense arises would have reduced foreign tax, under § 1.954–9(a)(3), and would have fallen within the tax disparity rule of § 1.954–9(a)(5)(iv), if those provisions had been applicable to the payment.

(C) *Limitations.* Paragraph (c)(1)(i)(B) of this section shall not apply to the extent that the controlled foreign corporation partner has no income against which to allocate the expense, other than its distributive share of a payment described in paragraph (c)(1)(i)(B) of this section. Similarly, to the extent an expense described in paragraph (c)(1)(i)(B) of this section exceeds the controlled foreign corporation partner's distributive share of the payment from which the expense arises, such excess amount of the expense may reduce subpart F income (other than such payment) to which it is properly allocable or apportionable under section 954(b)(5).

(D) *Example.* The following example illustrates the application of paragraphs (c)(1)(i)(B) and (C) of this section:

Example. CFC, a controlled foreign corporation in Country A, is a 70 percent partner in partnership P, located in Country B. Country A's tax laws do not classify P as a fiscally transparent entity. The rate of tax in country B is 15 percent of the tax rate in country A. P loans $100 to CFC at a market rate of interest. In year 1, CFC pays P $10 of interest on the loan. The interest payment would have caused the recharacterization rules of § 1.954–9 to apply if the payment were made between the entities described in § 1.954–9(a)(2). CFC's distributive share of P's interest income is $7, which is foreign personal holding company income to CFC under section 954(c). Under paragraph (c)(1)(i)(B) of this section, $7 of the $10 interest expense may not be allocated against any of CFC's subpart F income. However, to the extent the remaining $3 of interest expense is properly allocable to subpart F income of CFC other than its distributive share of P's interest income, this expense may offset such other subpart F income.

(E) *Effective date.* Paragraph (c)(1)(i)(B), (C) and (D) of this section shall be applicable for all payments made or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the **Federal Register**], under hybrid arrangements, unless such payments are made pursuant to an arrangement that would qualify for permanent relief under § 1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

* * * * *

Par. 5. In § 1.954–2, paragraphs (a)(5) and (a)(6) are added to read as follows:

§ 1.954–2 Foreign personal holding company income.

(a) * * *

(5) *Special rules applicable to distributive share of partnership income*—(i) *Application of related person exceptions where payment reduces foreign tax of payor.* If a partnership receives an item of income that reduced the foreign income tax of the payor (determined under the principles of § 1.954–9(a)(3)), to determine the extent to which a controlled foreign corporation's distributive share of such item of income is foreign personal holding company income, the exceptions contained in section 954(c)(3) shall apply only if—

(A)(*1*) Any such exception would have applied to exclude the income from foreign personal holding company income if the controlled foreign corporation had earned the income directly (determined by testing, with reference to such controlled foreign corporation, whether an entity is a related person, within the meaning of section 954(d)(3), or is organized under the laws of, or uses property in, the foreign country in which the controlled foreign corporation is created or organized); and

(*2*) The distributive share of such income is not in respect of a payment made by the controlled foreign corporation to the partnership; and

(B)(*1*) The partnership is created or organized, and uses a substantial part of its assets in a trade or business in the country under the laws of which the controlled foreign corporation is created or organized (determined under the principles of paragraph (b)(4) of this section);

(*2*) The partnership is regarded as fiscally transparent, as defined in § 1.954–9(a)(7), by all countries under the laws of which the controlled foreign corporation is created or organized or has substantial assets; or

(*3*) The income is taxed in the year when earned at an effective rate of tax (determined under the principles of § 1.954–1(d)(2)) that is not less than 90 percent of, and not more than five percentage points less than, the effective rate of tax that would have applied to such income under the laws of the country in which the controlled foreign corporation is created or organized if such income were earned directly by the controlled foreign corporation partner from local sources.

(ii) *Certain other exceptions applicable to foreign personal holding company income.* [Reserved].

(iii) *Effective date.* Paragraph (a)(5)(i) of this section shall apply to all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the **Federal Register**], under hybrid arrangements, unless such payments are made pursuant to an arrangement which would qualify for permanent relief under § 1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

(6) *Special rules applicable to exceptions from foreign personal holding company income treatment in circumstances involving hybrid branches*—(i) *In general.* In the case of a payment between a controlled foreign corporation (or its hybrid branch, as

defined in § 1.954–9(a)(6)) and the hybrid branch of a related controlled foreign corporation, the exceptions contained in section 954(c)(3) shall apply only if the payment would have qualified for the exception if the payor were a separate controlled foreign corporation created or organized in the jurisdiction where foreign tax is reduced and the payee were a separate controlled foreign corporation created or organized under the laws of the jurisdiction in which the payment is subject to tax (other than a withholding tax).

(ii) *Exception where no tax reduction or tax disparity.* Paragraph (a)(6)(i) of this section shall not apply unless the payment would have reduced foreign tax, under § 1.954–9(a)(3), and fallen within the tax disparity rule of § 1.954–9(a)(5)(iv) if those provisions had been applicable to the payment.

(iii) *Effective date.* The rules of this section shall apply to all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the **Federal Register**], under hybrid arrangements, unless such payments are made pursuant to an arrangement which would qualify for permanent relief under § 1.954–9(c)(2) if made between a controlled foreign corporation and its hybrid branch, in which case the relief afforded under that section shall also be afforded under this section.

Par. 6. Section 1.954–9 is added to read as follows:

§ 1.954–9 Hybrid branches.

(a) *Subpart F income arising from certain payments involving hybrid branches—(1) Payment causing foreign tax reduction gives rise to additional subpart F income.* The non-subpart F income of a controlled foreign corporation will be recharacterized as subpart F income, to the extent provided in paragraph (a)(5) of this section, if—

(i) A hybrid branch payment, as defined in paragraph (a)(6) of this section, is made between the entities described in paragraph (a)(2) of this section;

(ii) The hybrid branch payment reduces foreign tax, as determined under paragraph (a)(3) of this section; and

(iii) The hybrid branch payment is treated as falling within a category of foreign personal holding company income under the rules of paragraph (a)(4) of this section.

(2) *Hybrid branch payment between certain entities—(i) In general.* Paragraph (a)(1) of this section shall apply to hybrid branch payments between—

(A) A controlled foreign corporation and its hybrid branch;

(B) Hybrid branches of a controlled foreign corporation;

(C) A partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships) and a hybrid branch of the partnership; or

(D) Hybrid branches of a partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships).

(ii) *Hybrid branch payment involving partnership—(A) Fiscally transparent partnership.* To the extent of the controlled foreign corporation's proportionate share of a hybrid branch payment, the rules of paragraphs (a)(3), (4) and (5) of this section shall be applied by treating the hybrid branch payment between the partnership and the hybrid branch as if it were made directly between the controlled foreign corporation and the hybrid branch, or as if the hybrid branches of the partnership were hybrid branches of the controlled foreign corporation, if the hybrid branch payment is made between—

(*1*) A fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other fiscally transparent partnerships) and the partnership's hybrid branch; or

(*2*) Hybrid branches of a fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other fiscally transparent partnerships).

(B) *Non-fiscally transparent partnership.* To the extent of the controlled foreign corporation's proportionate share of a hybrid branch payment, the rules of paragraphs (a)(3) and (4) and (a)(5)(iv) of this section shall be applied to the non-fiscally transparent partnership as if it were the controlled foreign corporation, if the hybrid branch payment is made between—

(*1*) A non-fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships) and the partnership's hybrid branch; or

(*2*) Hybrid branches of a non-fiscally transparent partnership in which a controlled foreign corporation is a partner (either directly or through one or more branches or other partnerships).

(C) *Examples.* The following examples illustrate the application of this paragraph (a)(2)(ii):

Example 1. CFC, a controlled foreign corporation in Country A, is a 90 percent partner in partnership P, which is treated as fiscally transparent under the laws of Country A. P has a hybrid branch, BR, in Country B. P makes an interest payment of $100 to BR. Under Country A law, CFC's 90 percent share of the payment reduces CFC's Country A income tax. Under paragraph (a)(2)(ii)(A) of this section, the recharacterization rules of this section are applied by treating the payment as if made by CFC to BR. Ninety dollars of CFC's non-subpart F income, to the extent available, and subject to the earnings and profits and tax rate limitations of paragraph (a)(5) of this section, is recharacterized as subpart F income.

Example 2. CFC, a controlled foreign corporation in Country A, is a 90 percent partner in partnership P, which is treated as fiscally transparent under the laws of Country A. P has two branches in Country B, BR1 and BR2. BR1 is treated as fiscally transparent under the laws of Country A. BR2 is a hybrid branch. BR1 makes an interest payment of $100 to BR2. Under paragraph (a)(2)(ii)(A) of this section, the payment by BR1, the fiscally transparent branch, is treated as a payment by P, and the deemed payment by P, a fiscally transparent partnership, is treated as made by CFC. Under Country A law, CFC's 90 percent share of BR1's payment reduces CFC's Country A income tax. Ninety dollars of CFC's non-subpart F income, to the extent available, and subject to the earnings and profits and tax rate limitations of paragraph (a)(5) of this section, is recharacterized as subpart F income.

(3) *Application when payment reduces foreign tax.* For purposes of paragraph (a)(1) of this section, a hybrid branch payment reduces foreign tax when the foreign tax imposed on the income of the payor, or any person that is a related person with respect to the payor (as determined under the principles of section 954(d)(3)), is less than the foreign tax that would have been imposed on such income had the hybrid branch payment not been made, or the hybrid branch payment creates or increases a loss or deficit or other tax attribute which may be carried back or forward to reduce the foreign income tax of the payor or any owner in another year (determined by taking into account any refund of such tax made to the payor, payee or any other person).

(4) *Hybrid branch payment that is included within a category of foreign personal holding company income*—(i) *In general.* For purposes of paragraph (a)(1) of this section, whether the hybrid branch payment is treated as income included within a category of foreign personal holding company income is determined by treating a hybrid branch

that is either the payor or recipient of the hybrid branch payment as a separate wholly-owned subsidiary corporation of the controlled foreign corporation that is incorporated in the jurisdiction under the laws of which such hybrid branch is created, organized for foreign law purposes, or has substantial assets. Thus, the hybrid branch payment will be treated as included within a category of foreign personal holding company income if, taking into account any specific exceptions for that category, the payment would be included within a category of foreign personal holding company income if the branch or branches were treated as separately incorporated for U.S. tax purposes.

(ii) *Extent to which controlled foreign corporation and hybrid branches treated as separate entities.* For purposes of this section, other than the determination under paragraph (a)(4)(i) of this section, a controlled foreign corporation and its hybrid branch, a partnership and its hybrid branch, or hybrid branches shall not be treated as separate entities. Thus, for example, if a controlled foreign corporation, including all of its hybrid branches, has an overall deficit in earnings and profits to which section 952(c) applies, the limitation of such section on the amount includible in the subpart F income of such corporation will apply. Similarly, for purposes of applying the de minimis and full inclusion rules of section 954(b)(3), a controlled foreign corporation and its hybrid branch, or hybrid branches shall not be treated as separate corporations. Further, a hybrid branch payment that would reduce foreign personal holding company income under section 954(b)(5) if made between two separate entities will not create an expense if made between a controlled foreign corporation and its hybrid branch, a partnership and its hybrid branch, or hybrid branches.

(5) *Recharacterization of income attributable to current earnings and profits as subpart F income*—(i) *General rule.* Non-subpart F income of a controlled foreign corporation in an amount equal to the excess of earnings and profits of the controlled foreign corporation for the taxable year over subpart F income, as defined in section 952(a), will be recharacterized as subpart F income under paragraph (a)(1) of this section only to the extent provided under paragraphs (a)(5)(ii) through (vi) of this section.

(ii) *Subpart F income.* For purposes of determining the excess of current earnings and profits over subpart F income under paragraph (a)(1) of this section, the amount of subpart F income is determined before the application of the rules of this section but after the application of the rules of sections 952(c) and 954(b). Further, such amount is determined by treating the controlled foreign corporation and all of its hybrid branches as a single corporation.

(iii) *Recharacterization limited to gross amount of hybrid branch payment*—(A) *In general.* The amount recharacterized as subpart F income under paragraph (a)(1) of this section is limited to the amount of the hybrid branch payment.

(B) *Exception for duplicative payments.* [Reserved].

(iv) *Tax disparity rule*—(A) *In general.* Paragraph (a)(1) of this section will apply only if the hybrid branch payment falls within the tax disparity rule. The hybrid branch payment falls within the tax disparity rule if it is taxed in the year when earned at an effective rate of tax that is less than 90 percent of, and at least 5 percentage points less than, the hypothetical effective rate of tax imposed on the hybrid branch payment, as determined under paragraph (a)(5)(iv)(B) of this section.

(B) *Hypothetical effective rate of tax*—(*1*) *In general.* The hypothetical effective rate of tax imposed on the hybrid branch payment is—

(*i*) For the taxable year of the payor in which the hybrid branch payment is made, the amount of income taxes that would have been paid or accrued by the payor if the hybrid branch payment had not been made, less the amount of income taxes paid or accrued by the payor; divided by

(*ii*) The amount of the hybrid branch payment.

(*2*) *Hypothetical effective rate of tax when hybrid branch payment causes or increases loss or deficit.* If the hybrid branch payment causes or increases a loss or deficit of the payor for foreign tax purposes, and such loss or deficit can be carried forward or back, the hypothetical effective rate of tax imposed on the hybrid branch payment is the effective rate of tax that would be imposed on the taxable income of the payor for the year in which the payment is made if the payor's taxable income were equal to the amount of the hybrid branch payment.

(C) *Examples.* The application of this paragraph (a)(5)(iv) is illustrated by the following examples:

Example 1. In 2006, CFC organized in Country A had net income of $60 from manufacturing for Country A tax purposes. It also had a branch (BR) in Country B. BR is a hybrid entity under paragraph (a)(1) of this section. CFC made a payment of $40 to BR, which was a hybrid branch payment under paragraph (a)(6) of this section, and was treated by CFC as a deductible payment for Country A tax purposes. CFC paid $30 of Country A taxes in 2006. It would have paid $50 of Country A taxes without the deductible payment. Country A did not impose any withholding tax on the $40 payment to BR. Country B also did not impose a tax on the $40 received by BR. Therefore, the effective rate of tax on that payment is 0%. Furthermore, the hypothetical effective rate of tax on the $40 hybrid branch payment is 50% ($50–$30/$40). The effective rate of tax (0%) is less than 90% of, and more than 5 percentage points less than, this hypothetical rate of tax of 50%. As a result, the $40 hybrid branch payment falls within the tax disparity rule of this paragraph (a)(5)(iv).

Example 2. Assume the same facts as in *Example 1,* except that CFC has a loss of $100 for the year for Country A tax purposes. Under Country A law, CFC can carry the loss forward for use in subsequent years. CFC paid no Country A taxes in 2006. The rate of tax in Country A is graduated from 20% to 50%. If the $40 hybrid branch payment were the only item of taxable income of CFC, Country A would have imposed tax at an effective rate of 30%. The effective rate of tax (0%) is less than 90% of, and more than 5 percentage points less than, the hypothetical effective rate of tax (30%) imposed on the hybrid branch payment. As a result, the $40 hybrid branch payment falls within the tax disparity rule of this paragraph (a)(5)(iv).

Example 3. Assume the same facts as in *Example 1,* except that Country B imposes tax on the $40 hybrid payment to BR at an effective rate of 50%. The effective rate of 50% is equal to the hypothetical effective rate of tax. As a result, the hybrid branch payment does not fall within the tax disparity rule of this paragraph (a)(5)(iv) and, thus, the recharacterization rules of paragraph (a)(1) of this section do not apply. See also the special high tax exception of paragraph (a)(5)(v) of this section.

(v) *Special high tax exception*—(A) *In general.* Paragraph (a)(1) of this section shall not apply if the non-subpart F income that would be recharacterized as subpart F income under this section was subject to foreign income taxes imposed by a foreign country or countries at an effective rate that is greater than 90 percent of the maximum rate of tax specified in section 11 for the taxable year of the controlled foreign corporation.

(B) *Effective rate of tax.* The effective rate of tax imposed on the non-subpart F income that would be recharacterized as subpart F income under this section is determined under the principles of § 1.954–1(d)(2) and (3). See paragraph (b) of this section for the application of section 960 to amounts recharacterized as subpart F income under this section.

(vi) *No carryback or carryforward of amounts in excess of current year earnings and profits limitation.* To the extent that some or all of the amount required to be recharacterized under this section is not recharacterized as

subpart F income because the hybrid branch payment exceeds the amount that can be recharacterized, as determined under paragraph (a)(5)(i) of this section, this excess shall not be carried back or forward to another year.

(6) *Definitions for this section.* For purposes of this section:

(i) *Arrangement* shall mean any agreement to pay interest, rents, royalties or similar amounts. It shall also include the declaration and payment of a dividend (but not an agreement or undertaking to pay future, unspecified dividends). An arrangement shall not, however, include the mere formation or acquisition (or similar event) of a hybrid branch that is intended to become a party to an arrangement.

(ii) *Entity* means any person that is treated by the United States or any jurisdiction as other than an individual.

(iii) *Hybrid branch* means an entity that—

(A) Is disregarded as an entity separate from its owner for federal tax purposes and is owned (including ownership through branches) by either a controlled foreign corporation or a partnership in which a controlled foreign corporation is a partner (either directly or indirectly through one or more branches or partnerships);

(B) Is treated as fiscally transparent by the United States; and

(C) Is treated as non-fiscally transparent by the country in which the payor entity, any owner of a fiscally-transparent payor entity, the controlled foreign corporation, or any intermediary partnership is created, organized or has substantial assets.

(iv) *Hybrid branch payment* means the gross amount of any payment (including any accrual) which, under the tax laws of any foreign jurisdiction to which the payor is subject, is regarded as a payment between two separate entities but which, under U.S. income tax principles, is not income to the recipient because it is between two parts of a single entity.

(7) *Fiscally transparent and non-fiscally transparent.* For purposes of this section an entity shall be treated as fiscally transparent with respect to an interest holder of the entity, if such interest holder is required, under the laws of any jurisdiction to which it is subject, to take into account separately, on a current basis, such interest holder's share of all items which, if separately taken into account by such interest holder, would result in an income tax liability for the interest holder in such jurisdiction different from that which would result if the interest holder did not take the share of such items into account separately. A non-fiscally transparent entity is an entity that is not fiscally transparent under this paragraph (a)(7).

(b) *Application of section 960.* For purposes of determining the amount of taxes deemed paid under section 960, the amount of non-subpart F income recharacterized as subpart F income under this section shall be treated as attributable to income in separate categories, as defined in § 1.904–5(a)(1), in proportion to the ratio of non-subpart F income in each such category to the total amount of non-subpart F income of the controlled foreign corporation for the taxable year.

(c) *Effective dates*—(1) *In general.* This section shall be applicable for all amounts paid or accrued in taxable years commencing after [date that is 5 years after publication of the final regulations in the **Federal Register**], under hybrid arrangements, except as otherwise provided.

(2) *Permanent Relief*—(i) *In general.* This section shall not apply to any payments made under hybrid arrangements entered into before June 19, 1998. This exception shall be permanent so long as the arrangement is not substantially modified, within the meaning of paragraph (c)(2)(ii) of this section, on or after June 19, 1998.

(ii) *Substantial modification*—(A) *In general.* Substantial modification of a hybrid arrangement includes—

(*1*) The expansion of the hybrid arrangement (other than de minimis expansion);

(*2*) A more than 50% change in the U.S. ownership (direct or indirect) of any entity that is a party to the hybrid arrangement, other than—

(*i*) A transfer of ownership of such party within a controlled group determined under section 1563(a), without regard to section 1563(a)(4); or

(*ii*) A change in ownership of the entire controlled group (determined under section 1563(a), without regard to section 1563(a)(4)) of which such party is a member;

(*3*) Any measure taken by a party to the arrangement (or any related party) that materially increases the tax benefit of the hybrid arrangement, regardless of whether such measure alters the legal relationship between the parties to the arrangement. For example, in the case of a hybrid branch payment determined with reference to a percentage of sales, a growth in the amount of the hybrid branch payment (and, thus, the tax benefit) caused by a growth of sales will not, in general, be a substantial modification. However, in the case of a significant sales growth resulting from a transfer of assets by a related party, that transfer would be a measure which materially increased the benefit of the arrangement, and that arrangement would be deemed to have been substantially modified.

(B) *Transactions not treated as substantial modification.* Substantial modification of a hybrid arrangement does not include—

(*1*) The daily reissuance of a demand loan by operation of law;

(*2*) The renewal of a loan, license or rental agreement on the same terms and conditions if—

(*i*) The renewal occurs pursuant to the terms of the agreement and without more than a de minimis amount of action of any party thereto;

(*ii*) As contemplated by the original agreement, the same parties agree to renew the agreement without modification; or

(*iii*) The renewal occurs solely by reason of a subsequent drawdown under a grandfathered master credit facility agreement;

(*3*) The renewal of a loan, license, or rental agreement by the same parties on terms which do not increase the tax benefit of the arrangement (other than a de minimis increase);

(*4*) The making of payments under a license agreement in respect of copyrights or patents (or know-how associated with such copyrights or patents), not in existence at the time the agreement was entered into, but only where the development of such property was anticipated by the agreement, and such property is substantially derived from (or otherwise incorporates substantial features of) copyrights and patents (or know-how associated with such copyrights or patents) in existence at the time of, and covered under, the original agreement;

(*5*) A final transfer pricing adjustment made by the taxation authorities of the jurisdiction in which the tax reduction occurs, so long as such adjustment would not have been a substantial valuation misstatement (as defined in section 6662(e)(1)(B)) if the adjustment had been made by the Internal Revenue Service; or

(*6*) A de minimis periodic adjustment by the parties to the arrangement made annually (or more frequently) to conform the payments to the requirements of section 482.

Charles O. Rossotti,

Commissioner of Internal Revenue.

[FR Doc. 99–17367 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[WV016–6010b; FRL–6372–2]

Approval and Promulgation of Air Quality Implementation Plans; West Virginia; Approval of Revisions to Coal Preparation Plants and Coal Handling Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of West Virginia for the purpose of establishing new permitting, monitoring, reporting and testing requirements for coal preparation plants and coal handling operations state wide. The revision also provides for additional emission limits on facilities located in the Follansbee PM10 nonattainment area. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A more detailed description of the state submittal and EPA's evaluation are included in a Technical Support Document (TSD) prepared in support of this rulemaking action. A copy of the TSD is available, upon request, from the EPA Regional Office listed in the **ADDRESSES** section of this document. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by August 12, 1999.

ADDRESSES: Written comments should be addressed to Ms. Makeba A. Morris, Chief, Technical Assessment Branch, Mailcode 3AP22, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and the West Virginia Department of Environmental Protection, Office of Air Quality, 1558 Washington Street, East, Charleston, West Virginia 25311.

FOR FURTHER INFORMATION CONTACT: Ruth E. Knapp, (215) 814–2191, at the EPA Region III address above, or by e-mail at knapp.ruth@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: For further information on the revisions to West Virginia regulation 45CSR5, please see the information provided in the direct final action, with the same title, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: June 29, 1999.

Thomas Voltaggio,

Acting Regional Administrator, Region III.

[FR Doc. 99–17627 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 63

[FRL–6376–6]

National Emission Standards for Hazardous Air Pollutants: Halogenated Solvent Cleaning

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the national emission standard for hazardous air pollutants (NESHAP) for halogenated solvent cleaning by: permanently exempting nonmajor (or ''area'') batch cold solvent cleaning machines that use halogenated solvent from the Federal operating permit program; and deferring Federal operating permit requirements until December 9, 1999 for all other nonmajor halogenated solvent cleaning machines. EPA is proposing these revisions to treat these sources under our Federal Operating Permits Program in the same way we allow them to be treated by State operating permit programs adopted under title V of the Clean Air Act. State programs are already allowed to exempt/defer such sources from their requirements for title V operating permits. Absent revisions to the NESHAP, sources located in areas that do not have State title V permit programs (such as Indian country) could be subject to more burdensome requirements than may apply to sources located elsewhere. The proposed revisions would reduce an undue regulatory burden on industry as well as on EPA's Regional Offices.

In the ''Rules and Regulations'' section of the **Federal Register**, EPA is amending the NESHAP for halogenated solvent cleaning as a direct final rule without prior proposal because EPA view's this as a noncontroversial revision and anticipate no adverse comment. EPA has explained the reasons for this action in the preamble to the direct final rule. If no adverse comment is received, EPA will not take further action on this proposed rule. If EPA receives adverse comment, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

DATES: Written comments must be received by August 12, 1999.

ADDRESSES: *Comments.* If you have comments on this action, you may submit them in writing (in duplicate, if possible) to Docket No. A–92–39 at the following address: Air and Radiation Docket and Information Center (MC–6102), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. EPA requests that you send a separate copy of the comments to the contact person listed below at the same time that you submit comments to the docket.

Docket. Today's proposed rulemaking and other related materials are available for review in the docket. Copies may be obtained by request from the Air Docket by calling (202) 260–7548. This docket is available for public inspection and copying between 8:30 a.m. and 3:30 p.m., Monday through Friday, at EPA's Air Docket, Room M–1500, Waterside Mall, 401 M Street SW, Washington, DC 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: For information about the proposed rule, contact Candace Carraway (telephone 919–541–3189), U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Mail Drop 12, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION: Throughout this document wherever ''we'', ''us'', or ''our'' are used we mean EPA.

Entities Affected By This Action

Entities affected by this action are stationary air sources that are nonmajor halogenated solvent cleaning machines (typically known as ''degreasers'') that are (1) subject to subpart T of 40 CFR part 63, and (2) subject to the Federal

Operating Permits Program rule at 40 CFR part 71. Examples of affected categories and entities are in the following table:

Category	NAICS code	Examples of affected entities
Halogenated Solvent Cleaners	447	Gasoline Stations.
	332	Fabricated Metal Product Manufacturing.
	333	Machinery Manufacturing.
	334	Computer and Electronic Product Manufacturing.
	335	Electrical Equipment, Appliance, and Component Manufacturing.
	336	Transportation Equipment Manufacturing.

This table is not exhaustive. Numerous industries use halogenated solvent cleaners. Other types of entities not listed in the table could also be affected by this action.

Additional Information Available in Direct Final Action

This document concerns proposed revisions to the NESHAP for halogenated solvent cleaners. For further information, including information on the authority, purpose, and rationale for the proposed rule, please see the information provided in the direct final action that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

List of Subjects in 40 CFR Part 63

Environmental protection, Operating permits, Hazardous substances, Air pollution control.

Dated: July 6, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–17629 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 64, No. 133
Tuesday, July 13, 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.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Food Distribution Program: Value of Donated Foods From July 1, 1999 to June 30, 2000

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the value of donated foods or, where applicable, cash in lieu thereof, to be provided in the 2000 school year for each lunch served by schools participating in the National School Lunch Program (NSLP) or by commodity only schools and for each lunch and supper served by institutions participating in the Child and Adult Care Food Program.

EFFECTIVE DATE: July 1, 1999.

FOR FURTHER INFORMATION CONTACT: Heddy Turpin, Acting Chief, Schools and Institutions Branch, Food Distribution Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302 or telephone (703) 305–2644.

SUPPLEMENTARY INFORMATION: These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.550, 10.555, and 10.558 and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V, and final rule related notice published at 48 FR 29114, June 24, 1983.)

This notice imposes no new reporting or recordkeeping provisions that are subject to Office of Management and Budget review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). This action is not a rule as defined by the Regulatory Flexibility Act (5 U.S.C. 601–612) and thus is exempt from the provisions of that Act. This notice has been determined to be exempt under Executive Order 12866.

National Average Minimum Value of Donated Foods for the Period July 1, 1999 through June 30, 2000

This notice implements mandatory provisions of sections 6(c), 14(f) and 17(h)(1) (B) of the National School Lunch Act (the Act) (42 U.S.C. 1755(c), 1762a(f), and 1766(h)(1)(B)). Section 6(c)(1)(A) of the Act establishes the national average value of donated food assistance to be given to States for each lunch served in NSLP at 11.00 cents per meal. Pursuant to section 6(c)(1)(B), this amount is subject to annual adjustments as of July 1 of each year to reflect changes in a three-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year (Price Index). Section 17(h)(1)(B) of the Act provides that the same value of donated foods (or cash in lieu of donated foods) for school lunches shall also be established for lunches and suppers served in the Child and Adult Care Food Program. Notice is hereby given that the national average minimum value of donated foods, or cash in lieu thereof, per lunch under NSLP (7 CFR Part 210) and per lunch and supper under the Child and Adult Care Food Program (7 CFR Part 226) shall be 14.75 cents for the period July 1, 1999 through June 30, 2000.

The Price Index is computed using five major food components in the Bureau of Labor Statistics Producer Price Index (cereal and bakery products; meats, poultry and fish; dairy products; processed fruits and vegetables; and fats and oils). Each component is weighted using the relative weight as determined by the Bureau of Labor Statistics. The value of food assistance is adjusted each July 1 by the annual percentage change in a three-month average value of the Price Index for March, April and May each year. The three-month average of the Price Index increased by 0.19 percent from 129.12 for March, April and May of 1998 to 129.37 for the same three months in 1999. When computed on the basis of unrounded data and rounded to the nearest one-quarter cent, the resulting national average for the period July 1, 1999 through June 30, 2000 will be 14.75 cents per meal. This is the same as the school year 1999 rate.

Section 14(f) of the Act provides that commodity only schools shall be eligible to receive donated foods equal in value to the sum of the national average value of donated foods established under section 6(c) of the Act and the national average payment established under section 4 of the Act (42 U.S.C. 1753). Such schools are eligible to receive up to 5 cents per meal of this value in cash for processing and handling expenses related to the use of such commodities.

Commodity only schools are defined in section 12(d)(2) of the Act (42 U.S.C. 1760(d)(2)) as ''schools that do not participate in the school lunch program under this Act, but which receive commodities made available by the Secretary for use by such schools in nonprofit lunch programs.''

For the 2000 school year, commodity only schools shall be eligible to receive donated food assistance valued at 33.75 cents for each free, reduced price, and paid lunch served. This amount is based on the sum of the section 6(c) level of assistance announced in this notice and the adjusted section 4 minimum national average payment factor for school year 2000. Pub. L. 105–336, The William F. Goodling Child Nutrition Reauthorization Act of 1998, modified the method for rounding free and reduced price rates in section 4 so they are rounded down to the nearest whole cent and are consistent with the methods for rounding for paid meals. Therefore, there is one rate for all meals served. The section 4 factor for commodity only schools does not include the two cents per lunch increase for schools where 60 percent of the lunches served in the school lunch program in the second preceding school year were served free or at reduced prices, because that increase is applicable only to schools participating in the NSLP.

Authority: Sections 6(c)(1)(A) and (B), 14(f) and 17(h)(1) (B) of the National School Lunch Act, as amended (42 U.S.C. 1755(c)(1)(A) and (B), 1762a(f), and 1766(h)(1)(B)).

Dated: July 6, 1999.

Samuel Chambers, Jr.,

Administrator.

[FR Doc. 99–17736 Filed 7–12–99; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–047]

Elemental Sulphur From Canada; Final Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Final Results of Antidumping Duty Administrative Review of Elemental Sulphur from Canada.

SUMMARY: On January 6, 1999, the Department of Commerce (''the Department'') published the preliminary results of its administrative review of the antidumping duty order on elemental sulphur from Canada (64 FR 848) (''*Preliminary Results*''). This period of review (''POR'') is December 1, 1996, through November 30, 1997. We gave interested parties an opportunity to comment on our preliminary results. Based upon our analysis of the comments received, we have changed the results from those presented in the preliminary results of the review, as discussed below. However, the margin remains *de minimis.*

We determine that respondent has not made sales below normal value during the period of review. Thus, we will instruct the U.S. Customs Service to liquidate entries during the POR without regard to antidumping duties.

EFFECTIVE DATE: July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Brandon Farlander or Rick Johnson, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0182 or (202) 482–3818, respectively.

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (''the Act'') by the Uruguay Rounds Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR Part 351 (1998).

SUPPLEMENTARY INFORMATION:

Background

On January 6, 1999, the Department published in the **Federal Register** (64 FR 848) the preliminary results of its administrative review of the antidumping duty order on elemental sulphur from Canada. We gave interested parties an opportunity to comment on our preliminary results. We received written comments on February 5, 1999 from Husky Oil, Ltd. (''Husky''), the only respondent in this review, and on February 24, 1999 from petitioner, Freeport McMoRan Sulphur, Inc. (''Freeport'').

Under section 751(a)(3)(A) of the Act, the Department may extend the deadline for completion of administrative reviews if it determines that it is not practicable to complete the review within the statutory time limit. On March 8, 1999, the Department extended the time limit for the final results in this case. *See Elemental Sulphur from Canada: Extension of Time Limit for Final Results of the Antidumping Duty Administrative Review,* 64 FR 10983. We have now completed the administrative review in accordance with section 751 of the Act.

Scope of the Review

Imports covered by these reviews are shipments of elemental sulphur from Canada. This merchandise is classifiable under Harmonized Tariff Schedule (''HTS'') subheadings 2503.10.00, 2503.90.00, and 2802.00.00. Although the HTS subheadings are provided for convenience and for U.S. Customs purposes, the written description of the scope of this finding remains dispositive.

Fair Value Comparisons

To determine whether sales of subject merchandise from Canada to the United States were made at less than fair value, we compared the Export Price (''EP'') to the Normal Value (''NV''), as described in the ''Export Price'' and ''Normal Value'' sections of the *Preliminary Results.*

Interested Party Comments

Comment 1—Revocation. Husky argues that the Department should reconsider its preliminary decision not to revoke the antidumping duty order in whole or with respect to Husky, based on the unique facts of this case and the U.S. International Trade Commission's (''ITC'') determination ''to revoke the elemental sulphur antidumping duty order on January 1, 2000.''

Husky argues that the Department has the authority to revoke an antidumping duty order if any of the following situations exist: (1) Dumping is no longer occurring and/or dumping is no longer causing injury (citing the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Article 11); (2) ''(p)roducers accounting for substantially all of the production of the domestic like product to which the order (or the part of the order to be revoked) * * * pertains have expressed a lack of interest in the order, in whole or in part'' (citing 19 CFR 351.222(g)(i)); (3) ''(o)ther changed circumstances sufficient to warrant revocation or termination exist'' (citing 19 CFR 351.222(g)(ii)). Husky also contends that the Department has demonstrated its ability to interpret its regulations in a flexible manner by granting revocation based on an exporter's ability to sell at fair value for several years, despite that exporter's failure to file a timely request for revocation (citing *Color Television Receivers From the Republic of Korea: Final Results of Changed Circumstances Antidumping Duty Review,* 63 FR 46759 (September 2, 1998) (''*Color Television Receivers from Korea*'')).

Husky alleges that the Department and petitioner knew that Husky's argument for revocation was partly based on Husky's reliance upon the new intervening year rule at 19 CFR 351.222(d), even though the intervening year Husky relied upon—the 1995/96 review period—would have been reviewed under prior regulatory authority. Husky notes that, in the *Preliminary Results,* the Department determined that the 1995/96 review period cannot be viewed as the second of three consecutive review periods because the new regulations cannot be applied retroactively to cover periods subject to the Department's previously applicable regulations. Husky disputes this conclusion on the grounds that the new regulations, while published on May 19, 1997, were in fact first introduced to the public for comments in February of 1996. Husky argues that, while the new regulations cover reviews requested on or after July 1, 1997, they do not state that the intervening year rule may not apply to reviews conducted under earlier versions of the Department's regulations.

Husky argues that one possible reason why Freeport did not object to Husky's right to request revocation in this review was because the Department had not stated that respondents could not apply the intervening year rule as soon as the final regulations entered into effect. Husky argues that the Department's interpretation of its regulations in the *Preliminary Results* amounts to a finding that the ''intervening year rule did not, in fact, become effective in July 1997 as mandated by the regulations.'' Instead, Husky alleges, the Department's preliminary results decision means that the intervening year rule did not become

effective until July of 1998. Husky argues that the Department ''should enforce the effective date of its regulations and allow Husky's revocation to proceed on the basis that no dumping was found during the 1995/96 intervening year.'' Husky argues that Freeport would not be prejudiced by application of the intervening year rule in this case because Freeport had the opportunity to request a review of the 1995/96 period.

In addition, Husky contends that the Department should grant Husky's request for revocation based on its claims that it did not sell subject merchandise at less than fair value for three consecutive years, that it will not dump in the future, and that the Department verified that Husky is not likely to dump in the future. Further, argues Husky, because of the ITC's sunset determination, there can be at most two more reviews of this order, covering the 1997/98 and 1998/99 review periods. Accordingly, Husky states, the Department need only determine that Husky will not sell at less than fair value in 1999. Husky points to the fact that it has executed a certification stating that it will not dump in the future.

In summary, Husky argues that the Department should immediately terminate the antidumping duty order on sulphur from Canada because: (1) Husky has not sold at less than fair value since 1994; (2) Husky has certified that it will not sell at less than fair value in the future; (3) the ITC has determined that sulphur from Canada is not causing injury to the U.S. sulphur industry; (4) Freeport has been deemed unrepresentative of the U.S. sulphur industry by the ITC; (5) most of the other Canadian sulphur producers have already been revoked from the order; (6) the intervening year rule was designed to eliminate unnecessary reviews, such as the 1997/98 and 1998/99 reviews; and (7) an antidumping order should not exist if dumping is no longer causing injury (citing the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, Article 11).

Petitioner argues that Husky requested revocation based on three consecutive years of no dumping pursuant to 19 CFR 351.222(b). Petitioner notes that ''Husky did not request revocation based on any U.S. producers' lack of interest in the order, other changed circumstances, or any other basis on which the Department could revoke the order.'' Freeport argues that the Department should therefore reject Husky's recent claims for revocation and only consider Husky's revocation request based on section 351.222(b). Also, Freeport argues that to consider Husky's recent revocation claims on some other regulatory basis would ''violate fundamental principles of due process and be prejudicial to petitioner.''

Petitioner notes that section 351.222(b) requires that the foreign producer must have sold subject merchandise at not less than normal value for at least three consecutive years as a first step to be considered for revocation. Petitioner cites the Department's preliminary results in this case and supports the Department's preliminary decision not to apply section 351.222(d) retroactively to review periods governed by prior regulations.

Petitioner contends that Husky's reliance on the proposed new regulations is misplaced, because proposed regulations can and often do change before being finalized. Petitioner argues that just because Husky requested revocation after the new regulations entered into effect ''does not constitute a basis for applying section 351.222(d) of the Department's new regulations to a review period to which the Department's prior regulations apply.'' Petitioner argues that Husky's claim that it was on notice of the rule before the deadline for requesting a review of the 1995/96 review period is in error. Petitioner notes that the final rule was published on May 19, 1997—after the deadline for requesting a review of the 1995/96 review period. In addition, petitioner notes that 19 CFR 351.701 states that the Department's regulations ''apply to all administrative reviews initiated on the basis of requests made on or after the first day of July, 1997.'' Thus, petitioner argues that the 1996/97 administrative review is the first review governed by the new regulations.

Petitioner also argues that the Department did not in fact ''verify'' that Husky is not likely to dump in the future, because the Department only verifies previously submitted facts at verification. Petitioner further argues that the Department does not issue findings at verification, such as a finding of no likelihood of future dumping. Also, petitioner notes that the Department must determine that Husky did not sell sulphur for export to the United States at less than normal value for three consecutive years and that there is no likelihood of future dumping. Petitioner notes that the Department did not preliminarily hold that Husky did not sell at less than normal value for three consecutive years; hence, Husky does not qualify for revocation regardless of Husky's likelihood of future dumping.

Finally, petitioner contends that if the Department were to revoke the order with respect to Husky, Husky would sell the subject merchandise at less than normal value. Petitioner notes that Husky has reduced its U.S. export volume since the 1991/92 review and has taken further steps with regard to limiting those exports subject to antidumping duties. For a further discussion of the petitioner's arguments, which entail proprietary information, see petitioner's July 15, 1998 letter to the Department (proprietary version).

Department's Position: We agree with petitioner. As the Department stated in its Preliminary Results (at 850):

> [T]he Department's policy is not to apply [section 351.222(d)] retroactively to include periods subject to review under earlier versions of the regulations. As we explained in a recent administrative review of the countervailing duty order on agricultural tillage tools from Brazil, ''[a]lthough section 351.222(d) of the Department's regulations provides that the Secretary may revoke the order in part when there are unreviewed years in the period upon which revocation is based, the regulations do not provide for the application of this provision retroactively to review periods that would have been controlled by the Department's pre-Uruguay Round regulations.'' Because the Department does not apply section 351.222(d) of the new regulations retroactively, any unreviewed periods that apply to the three-consecutive-year revocation requirement must be periods reviewed under Part 351. Husky's 1995–96 POR thus cannot be considered the second of three consecutive PORs in this revocation analysis. Therefore, because Husky has not satisfied the threshold requirement that revocation be based upon sales ''at not less than normal value for a period of at least three consecutive years,'' we do not reach the additional criteria for revocation enumerated at 19 CFR 351.222 (b)(2) (ii) and (iii).

We do not agree with Husky's argument regarding the timing of the issuance of the Department's proposed regulations. While the proposed regulations were introduced before the deadline for requesting a review of the 1995/96 review period, those regulations were not final. That the proposed regulations do not constitute enforceable regulations cannot be disputed. Furthermore, the proposed regulations did not contain a proposed provision regarding the applicability dates for the new final regulations.

As noted by petitioner, and as stated in Subpart G of the current regulations, the new regulations apply to all administrative reviews initiated on the basis of requests made on or after July 1, 1997. Under this rule, the 1996/97 administrative review is the first review governed by the new regulations. While

we agree with respondent that the new regulations did not explicitly state when the intervening year rule could be applied, we find that the regulations' silence on this issue affords the Department sufficient discretion to interpret Subpart G as prohibiting retroactive application of the intervening year rule set forth in section 351.222(d). Also, retroactive application of the intervening year rule is potentially prejudicial to petitioner, as the regulations governing the 1995/96 POR contained no such rule. It would thus be unfair to petitioner to alter the legal status of the 1995/96 POR subsequent to any opportunity to request a review of that period. Finally, we note that a decision not to apply the intervening year rule retroactively accords with the general preference in administrative law against the retroactive application of new regulations.

We also note that it is not the case, as asserted by Husky, that the ITC in its sunset review ''revoked'' the antidumping duty order on elemental sulphur from Canada. Rather, the ITC found that revocation of this order would not likely lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time. *See Elemental Sulphur From Canada,* 64 FR 2232 (January 13, 1999) (Investigation No. AA1921–127). Pursuant to this determination, the order on elemental sulphur from Canada is scheduled to be revoked effective January 1, 2000. However, all entries made before that date will remain subject to the administrative review procedures set forth at section 751 of the Act.

Regarding Husky's other revocation arguments, we find that Husky's reliance on the Department's changed circumstances review in *Color Television Receivers from Korea* is misplaced. In that case, the respondent, Samsung, had satisfied the threshold revocation requirement of three consecutive years of *de minimis* margins. In fact, at the time of that changed circumstances review, Samsung had sold subject merchandise at not less than foreign market value for six consecutive years. *See Color Television Receivers from Korea; Preliminary Results of Changed Circumstances Antidumping Administrative Review,* 62 FR 68256 (December 31, 1997). Further, the Department determined that it was not likely that Samsung would sell subject merchandise at less than foreign market value in the future. *Id.* By contrast, in this case, as explained, the Department does not reach the likelihood analysis because Husky cannot demonstrate three consecutive years of no sales at less than normal value. In this regard, we note that the Department in fact has already considered these arguments in the context of Husky's request that the Department initiate a changed circumstances review, and our position has been placed on the record of this review. Specifically, the Department considered, and rejected, these arguments in full in its *Decision Memorandum from Edward Yang to Joseph A. Spetrini,* dated March 22, 1999.

We agree with petitioner that we did not ''verify'' that Husky is not likely to dump in the future, as argued by Husky. The purpose of verification is to establish that information submitted on the record of a review or investigation is accurate. It is not the objective of a verification to consider legal arguments and make on-the-spot legal conclusions regarding such information. Thus, the Department's verification team merely reviewed evidence which Husky claims supports its assertion that it is not likely to dump in the future. In any event, as petitioner notes, the issue is moot, since section 351.222(d) does not apply.

Likewise, Husky's assertion that it has demonstrated that it has not sold subject merchandise at less than fair value since 1994 is unpersuasive, because, as noted above, Husky is not eligible for revocation based on three consecutive years of no dumping. For these reasons, we are not altering our determination that Husky has not met the regulatory criteria to be considered for revocation.

Comment 2—General and Administrative (''G&A'') and Financial Expenses. Husky alleges that the Department erred when it adjusted Husky's cost of sales (''COS'') figures used to calculate Husky's consolidated financial expense ratio and company-wide general and administrative (''G&A'') expense ratio for the preliminary results. According to Husky, the Department's preliminary adjustments overstate cost of production (''COP''). Moreover, Husky maintains that the Department had accepted Husky's general and interest expense rate calculation methodology in prior reviews. Husky further elaborates that the COS figure reported on the financial statements cannot be used because these figures do not account for all the costs associated with manufacturing the products for sale. According to Husky, other costs of manufacture, such as depreciation, depletion, and exploration, as well as the cost of manufacture for downstream products, are listed separately in its financial statements (*i.e.,* not included in the COS figure reported on the financial statements).

According to Husky, the COS figure on the financial statements only reflects the cost of its operations and not the value added in the downstream operations. Husky states that the downstream portion of the cost is captured in the sales revenue account, where the margin (the difference between the sales revenue and the cost of sales) is recorded. Therefore, the total sales revenue and the COS are understated, as Husky does not record the revenue from the downstream operations in its revenue figure and does not record the cost of downstream operations in its COS. Therefore, Husky contends that these figures should not be used in calculating G&A and financial expense ratios.

In addition, Husky argues that the Department has, in other cases, adjusted COS to include costs that may not be recorded as part of COS in a company's financial statements, but that the Department nevertheless deems to be part of COS (citing *Notice of Final Determination of Sales at Less Than Fair Value: Static Random Access Memory from Taiwan,* 63 FR 8909, 8921–22 (February 23, 1998) (''*SRAM from Taiwan*'')).

Petitioner argues that Husky has understated its reported G&A and financial expenses by overstating COS figures used to calculate these amounts. According to petitioner, Husky has inflated its COS figure in the following ways: First, Husky increased COS in its financial statement ''purportedly to account for the cost of its 'downstream' operations that Husky claimed was not reflected in its financial-statement cost of sales.'' However, petitioner claims, Husky has already included this cost in the COS figures. To support its position, petitioner references Husky Oil Operation Ltd's (''HOOL'') G&A worksheet submitted as Exhibit 16 of its April 2, 1998 questionnaire response, that indicates that the total cost of downstream merchandise was recorded in HOOL's COS figure.

Second, petitioner notes that Husky's revised COS figures include marketing activities. According to petitioner, this type of expense should not be included in the calculations.

Third, petitioner states that if Husky's assertion is correct, then Husky should have only added to its COS figure the cost of further processing the ''upstream'' products into the ''downstream'' products.

Fourth, petitioner argues that Husky did not provide information to allow the Department to ''determine whether Husky's 'downstream' lines of business

incur G&A expenses proportionate to those incurred by Husky's 'upstream' production operations.'' Petitioner argues that the G&A incurred in respondent's downstream operations may be less than the G&A incurred in its upstream operations. If this is the case, including the COS figures for the downstream operations in the financial-statement COS figures would ''inflate'' the COS figure.

Finally, petitioner contends that it is the Department's practice for the respondent to bear the burden of ''establishing entitlement to an adjustment,'' citing the following decisions by the Court of International Trade (''CIT''): *Koyo Seiko* v. *United States,* 905 F. Supp. 1112, 1116 (Ct. Int'l Trade 1995); *NSK, Ltd.* v. *United States,* 825 F. Supp. 315, 320 (Ct. Int'l Trade 1993); and *Timken Co.* v. *United States,* 673 F. Supp. 495, 513 (Ct. Int'l Trade 1987). Petitioner argues that, for the above reasons, the Department should not rely on Husky's reported G&A and financial expense ratios for the final results.

Department's Position: We disagree with Husky that it properly calculated its reported COS used to calculate both G&A and interest expenses. Normally, we rely on the COS reported on the audited financial statements of the respondent to allocate general and interest expenses. This methodology avoids any distortions that may result if greater amounts of company-wide general expenses or financial expense are allocated disproportionally between products. *See Final Determination of Sales at Less Than Fair Value: Fresh Atlantic Salmon from Chile,* 63 FR 31412, 31433 (Comment 29) (June 9, 1998). In this instance, Husky deviated from the Department's normal methodology and calculated surrogate COS figures. To calculate these surrogate figures, Husky increased the COS figures reported on its income statements to include depletion, exploration, and its downstream production costs. As a result, these COS figures are not on the same basis as the reported cost of manufacturing (''COM'') and, in fact, are overstated. Specifically, we disagree with Husky that it is appropriate to include depletion, exploration, and certain additional downstream costs as a component of the COS figures because the reported COM excludes these items. The Department has consistently stated in prior cases that the two figures should be on the same basis (*see, e.g., Notice of Final Determination of Sales at Less Than Fair Value: Stainless Steel Round Wire from Canada,* 64 FR 17324, 17334 (April 9, 1999); *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68434 (December 11, 1998); and *Notice of Final Results of Antidumping Duty Administrative Review: Circular Welded Non-Alloy Steel Pipe from the Republic of Korea,* 63 FR 32833, 32837 (June 16, 1998)).

We also specifically disagree with Husky's inclusion of additional downstream manufacturing costs in the COS figure because the COS figure reported on Husky's financial statements intentionally omits this cost in accordance with Canadian Generally Accepted Accounting Principles (''GAAP''). For example, Husky has classified its operations as either upstream (*e.g.,* production of crude oil, natural gas, sulphur, etc.), downstream (production of refined oil, asphalt, etc.), upgrader, or corporate. In the normal course of business, the upstream operations transfer their finished products to the downstream operations for further processing through intra-company transactions. These operations are not separate entities that require consolidation, but merely separate business units that make up a single corporation. Thus, Husky's COS figures reported on the income statements reflect the upstream operations costs and the appropriate portion of downstream costs in accordance with Canadian GAAP (*see Verification of Cost of Production (''COP'') and Constructed Value (''CV'') Data for Husky Oil, Ltd.,* dated December 1, 1998, (*''Cost Verification Report''*), Exhibit 22). As a result, intra-company transactions are appropriately eliminated to avoid double counting both sales revenue and costs. Therefore, it would be inappropriate to allocate G&A and financial expense to intra-company transactions since these amounts are normally eliminated when preparing the companies' financial statements. *See Notice of Final Determination of Sales at Less Than Fair Value; Stainless Steel Round Wire from Canada,* 64 FR 17324, 17334 (April 9, 1999) and *Certain Cut-to-Length Carbon Steel Plate from Brazil,* 63 FR 12744, 12749 (Comment 8) (March 16, 1998).

Petitioner's arguments about whether Husky's marketing activities are reflected in Husky's financial statement COS and whether Husky's downstream operations incur G&A expenses proportionate to Husky's upstream operations are moot because we are not using Husky's submitted COS figures.

We also disagree with Husky's reliance on *SRAM from Taiwan,* where the Department addressed the inclusion of certain costs in the calculation of COP, not COS, as in the instant case. Thus, *SRAM from Taiwan* is unrelated to the calculation of COS, and is inapplicable.

We note that, with respect to Husky's observation that the Department has accepted Husky's G&A calculation in prior reviews, the Department may change its position on a specific issue taken in prior proceedings as long as it provides an explanation for the change (*see Rust* v. *Sullivan,* 500 U.S. 173, 1860187 (1991)). In this case, Husky's increase to COS, which results in the use of a figure expressed on a different basis than COM, does not follow the Department's normal practice for calculating G&A expenses. Furthermore, there is no basis in this record to justify deviating from the Department's normal practice. Consequently, we are following our normal practice in this review, which is to ensure that COS and COM are calculated on the same basis.

For the reasons stated above, we have calculated Husky's G&A and financial expense ratio in accordance with our normal methodology using a COS figure that was on the same basis as the reported COM. For the final results, we calculated a general expense rate that is made up of company-specific G&A and corporate-wide G&A expense. Specifically, we calculated the company-specific (*i.e.,* HOOL) G&A expense rate by dividing HOOL's unconsolidated G&A expense by its unconsolidated COS figure, which we increased to include depreciation expense. We then calculated a company-wide G&A expense rate for general expenses that benefitted all the entities of the consolidated HOOL Group. The denominator in this instance was HOOL's consolidated COS figure, which we increased to include depreciation expense. For the calculation of interest expense, we are continuing to use Husky's consolidated financial statements as we did in the *Preliminary Results. See Analysis Memorandum of Husky for the Final Results of the Administrative Review of Elemental Sulphur from Canada for the period December 1, 1996 through November 30, 1997 (''Analysis Memo: Final''),* dated July 6, 1999, for a complete discussion.

Comment 3—Adjustment to reported interest expenses. Husky alleges that in the preliminary results, the Department incorrectly included interest expenses paid on subordinated debt and dividends of Class C shares in the calculation of Husky's total interest expenses. Husky provides the following reasons as to why this inclusion is incorrect.

First, Husky argues that the interest on subordinated shareholders' loans and dividends on Class C shares are amounts held by external shareholders in proportion to their shareholdings. Therefore, Husky argues that these expenses are not interest expenses but rather dividend and loan payments based on equity positions. Second, Husky argues that under Canadian GAAP, these loans are not treated like normal debt, and that the Department should follow prior reviews of this order, and reverse its preliminary decision. According to Husky, the interest on subordinated shareholders' loans and dividends on Class C shares are ''treated as loans for the 'ceiling' test under the full cost method of accounting applicable to the oil and gas industry.'' Respondent provides a brief summary of the ceiling test as a ''calculation to determine if it is necessary to expense any portion of capitalized costs taking into account future revenues and all costs, including financing, but excluding the subordinated interest and Class C shares.'' Respondent argues that its auditors, in Note 6 of Husky's Consolidated Financial Statements and Auditors' Report, dated December 31, 1997 (''financial statements'') ''determined that the loans were so subordinated that they could not be treated as debt'' and that these ''loans are subordinated to all senior debt and other financial debt of the Company.''

Petitioner argues that the Department properly included interest on subordinated shareholders' loans and dividends on Class C shares as interest expenses, since Husky's exclusion of these payments improperly understated its financial expense ratio.

First, petitioner argues that Husky did not address the fact that the *Cost Verification Report* notes that company officials stated that ''these account balances (*i.e.*, the interest on subordinated shareholders' loans and dividends on Class C shares) reflect the interest expense due to shareholders for lending the organization funds.'' Petitioner argues that the Department relied on this statement from company officials in determining that these amounts should be included in the calculation of interest expense. Additionally, petitioner notes that the *Cost Verification Report* states that Husky officials identified the following three characteristics of these shareholders' loans: (1) each shareholder charges the same fixed interest rate; (2) Husky accrues the interest expense even if the entity has an operating loss; and (3) the accrued expense is not a dividend.

Second, petitioner argues that Department practice is to ''include interest on loans from owners or shareholders in the calculation of a respondent's financial expense ratio used to calculate COP/CV'' (citing *Final Determination of Sales at Less Than Fair Value: Fresh Kiwifruit from New Zealand*, 57 FR 13695, 13704–05 (April 17, 1992) (''*Kiwifruit from New Zealand*''); and *Final Determinations of Sales at Less Than Fair Value: Antifriction Bearings (Other Than Tapered Roller Bearings)* and Parts Thereof from the Federal Republic of Germany, 54 FR 18992, 19077 (May 3, 1989) (''*Antifriction Bearings from Germany*'')). Also, petitioner argues that when a respondent's financial statements ''classify the holdings as debt rather than equity, the Department includes the amounts paid on the holdings in the calculation of the financial expense ratio,'' citing *Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador*, 60 FR 7019, 7039 (February 6, 1995) (''*Roses from Ecuador*''), and *Notice of Final Determination of Sales at Less Than Fair Value: Melamine Institutional Dinnerware Products from Taiwan*, 62 FR 1726, 1731 (January 13, 1997) (''*Melamine Institutional Dinnerware Products from Taiwan*'').

Third, petitioner argues that Note Six of respondent's financial statement does not state that the subordinated shareholders' loans and dividends on Class C are not debt. Also, petitioner addresses how respondent's subordinated shareholders' loans and dividends on Class C shares are represented in Husky's financial statement. Because this discussion involves proprietary information, please see *Analysis Memo: Final* for a full discussion of this issue.

Fourth, petitioner argues that respondent's statement that ''the holdings [subordinated shareholders' loans and dividends on Class C shares] are not treated like normal debt under Canadian GAAP,'' in fact acknowledges that the holdings are debt. Also, petitioner notes that under both the statute and the Statement of Administrative Action (''SAA''), COP/CV cannot be calculated using foreign accounting practices that ''do not reasonably reflect the costs of producing the subject merchandise.'' In addition, petitioner argues that the CIT has ''made [it] clear that even if a respondent's accounting records are consistent with the respondent's home country GAAP, it is unlawful for the Department to rely on those records when they are unreliable and distortive of 'actual costs' '' (citing *Thai Pineapple Pub. Co. v. United States*, 946 F. Supp. 11, 20 (Ct. Int'l Trade 1996)). Petitioner argues that the Department has determined that COP/CV must reasonably reflect actual production costs, citing, *e.g.*, *Certain Cut-to-Length Carbon Steel Plate from Brazil; Final Results of Antidumping Duty Administrative Review*, 62 FR 18486, 18492 (April 15, 1997), and *Final Determination of Sales at Less Than Fair Value; Canned Pineapple Fruit from Thailand*, 60 FR 29553, 29559 (June 5, 1995). Petitioner notes that the ''SAA identifies U.S. GAAP as the standard for determining whether a company's records reflect actual costs.'' Also, petitioner notes how respondent's subordinated shareholders' loans and dividends on Class C shares may be classified in Husky's financial statement. Because this argument entails the discussion of proprietary information, *see Analysis Memo: Final* (proprietary version).

Department's Position: We disagree with respondent's characterization of the interest on subordinated shareholders' loans and dividends on Class C shares. As petitioner notes above, and as mentioned in the *Cost Verification Report*, Husky officials identified the following three characteristics of these shareholders' loans: (1) each shareholder charges the same fixed interest rate; (2) Husky accrues the interest expense even if the entity has an operating loss; and (3) the accrued expense is not a dividend. These three characteristic descriptions, as well as the statement that the account balances of shareholder loans reflect the interest expense due to shareholders for loaning the organization funds, suggest that these are interest expenses for Husky.

Furthermore, we note that Husky's auditors appear to have implicitly characterized the subordinated shareholders' loan amounts as debt, by stating that these ''loans are subordinated to all senior debt and other financial debt of the Company.'' *See Cost Verification Report*, Exhibit 2 (Husky's Consolidated Financial Statements and Auditors' Report, dated December 31, 1997, Note Six). The loans, while subordinated to other debt, are still identified as debt because they have a specific maturity date and require the payment of interest (Note 12 of the same financial report). Additionally, we agree with petitioner's argument regarding how the subordinated shareholders' loans and dividends on Class C shares are represented in Husky's financial statements. Because this discussion involves proprietary information, *see Analysis Memo: Final* (proprietary

version) for a full discussion of this issue.

We agree with petitioner that the Department's practice is to include interest on loans from owners or shareholders when calculating a respondent's financial expense ratio. *See, e.g., Kiwifruit from New Zealand* (Department agreed with petitioners that any interest expenses that were necessary to produce kiwifruit should properly be included in the cost of production, since there was no evidence that the interest rate on the related-party loan did not reflect market interest rates.); and *Antifriction Bearings from Germany* (Department stated that the loan to respondent from a shareholder does not differ from other debt. Therefore, the interest paid on that loan was treated as an interest expense.).

In addition, if a respondent's financial statements classify the owners' or shareholders' holdings as a debt or loan, rather than as equity, Department practice is to include the payments on these holdings in the calculation of respondent's financial expense ratio. *See Roses from Ecuador* (Department noted that since the loan in question was not recorded originally as an equity investment and was reflected in the company's books and records as borrowings, we had no basis to reclassify it as equity.) and *Melamine Institutional Dinnerware Products from Taiwan* (Department stated that although respondent may have considered the transactions in question to serve as equity capital infusions, its audited financial statement classified them as long-term loans. Other than respondent's assertions, there was no basis on the record to reclassify these amounts.).

Finally, as stated in section 773(f)(1)(A) of the Act, the Department normally relies on foreign company's books and records for calculating COP/CV if these practices are: (1) consistent with their home country GAAP, and (2) reasonably reflect the costs associated with the production and sale of the merchandise. Due to the economic realities of these loans, Canadian GAAP has required the company to treat these loans as a note payable. Thus, the interest expense incurred on this debt should be reflected in the cost of production as any other interest expense.

Based on our analysis above, we continue to find that these payments by Husky are properly classified as interest expenses in the calculation of its financial expense ratio.

Final Results of Review

As a result of our review of the comments received, we determine that the following margin exists:

Manufacturer/Exporter	Time Period	Margin (percent)
Husky Oil, Ltd. ..	12/01/96–11/30/97	0.37

Because the final calculated margin is *de minimis*, the Department will instruct the U.S. Customs Service to liquidate entries of subject merchandise during the POR without regard to antidumping duties.

The following cash deposit requirements will be effective upon publication of these final results for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be the rate listed above (except that if the rate is *de minimis, i.e.,* less than 0.5 percent, no cash deposit rate will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original less than fair value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be the ''all others'' rate made effective by the final results of the 1993/94 administrative review of these orders (*see Elemental Sulphur from Canada: Final Results of Antidumping Duty Administrative Review*, 62 FR 37970 (July 15, 1997) (1992/93 and 1993/94 Final Results)). These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

Notification of Interested Parties

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d)(1), that continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 6, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–17801 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Antidumping Duty Administrative Reviews of Heavy Forged Hand Tools from the People's Republic of China

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

ACTION: Notice of extension of time limit for final results of reviews.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the final results of the administrative reviews of the antidumping duty orders on Heavy Forged Hand Tools from the People's Republic of China. These reviews cover five manufacturers/exporters of the subject merchandise to the United States for the period February 1, 1997 to January 31, 1998.

EFFECTIVE DATE: July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Lyman Armstrong or James Terpstra, AD/CVD Enforcement, Office 4, Group II, Import Administration, U.S. Department of Commerce, 14th St. and Constitution Ave., NW Washington, DC 20230, telephone: (202)–482–3601, or (202)–482–3965, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete the final results of these reviews within the initial time limit established by the

Uruguay Round Agreements Act (245 days after the last day of the anniversary month), pursuant to section 751(a)(3)A) of the Tariff Act of 1930, as amended (the Act), the Department is extending the time limit for completion of the final results until August 4, 1999. *See* Memorandum from Bernard T. Carreau to Robert LaRussa, on file in the Central Records Unit located in room B–099 of the main Department of Commerce building (July 2, 1999).

This extension is in accordance with section 751(a)(3)A) of the Act (19 U.S.C. 1675 (a)(3)(A)).

Dated: July 7, 1999.

Bernard T. Carreau,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–17800 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–822]

Certain Helical Spring Lock Washers from the People's Republic of China; Preliminary Results of Antidumping Duty Administrative Review

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

ACTION: Notice of Preliminary Results of Antidumping Duty Administrative Review.

SUMMARY: We preliminarily determine that sales of certain helical spring lock washers from the People's Republic of China by Zhejiang Wanxin Group Co., Ltd. were not made below normal value during the period October 1, 1997 through September 30, 1998. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Sally Hastings or Vincent Kane, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone (202) 482–3464 or 482-2815, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930, as amended (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations are to 19 CFR Part 351 (1998).

Background

On October 19, 1993, the Department published the antidumping duty order on certain helical spring lock washers (HSLWs) from the People's Republic of China (PRC) (58 FR 53914). The Department notified interested parties of the opportunity to request an administrative review of this order on October 9, 1998 (63 FR 54440). The petitioner, Shakeproof Industrial Products Division of Illinois Tool Works, Inc., and the respondent, Zhejiang Wanxin Group Co. (ZWG) (also known as Hangzhou Spring Washer Plant), requested that the Department conduct an administrative review of ZWG. These requests were received on October 29 and 30, 1998, respectively. The notice of initiation of this administrative review was published on November 30, 1998 (63 FR 65748). On December 14, 1998, we issued questionnaires to ZWG as well as to the President of China Chamber of Commerce for Machinery and Electronics' Products Import and Export and other PRC governmental entities. We received responses to our questionnaire from ZWG on February 11 and 17, 1999.

The Department is conducting this administrative review in accordance with Section 751 of the Act.

Scope of Review

The products covered by this review are HSLWs of carbon steel, of carbon alloy steel, or of stainless steel, heat-treated or non-heat-treated, plated or non-plated, with ends that are off-line. HSLWs are designed to: (1) Function as a spring to compensate for developed looseness between the component parts of a fastened assembly; (2) distribute the load over a larger area for screws or bolts; and, (3) provide a hardened bearing surface. The scope does not include internal or external tooth washers, nor does it include spring lock washers made of other metals, such as copper.

HSLWs subject to this review are currently classifiable under subheading 7318.21.0030 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this proceeding is dispositive.

This review covers the period from October 1, 1997 through September 30, 1998.

Separate Rates Determination

To establish whether a company operating in a state-controlled economy is sufficiently independent to be entitled to a separate rate, the Department analyzes each exporting entity under the test established in the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991) (*Sparklers*), as amplified by the *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994) (*Silicon Carbide*). Under this policy, exporters in nonmarket economies (NMEs) are entitled to separate, company-specific margins when they can demonstrate an absence of government control, both in law and in fact, with respect to export activities. Evidence supporting, though not requiring, a finding of *de jure* absence of government control over export activities includes: (1) An absence of restrictive stipulations associated with the individual exporter's business and export licenses; (2) any legislative enactments decentralizing control of companies; and, (3) any other formal measures by the government decentralizing control of companies. *De facto* absence of government control over exports is based on four factors: (1) Whether each exporter sets its own export prices independently of the government and without the approval of a government authority; (2) whether each exporter retains the proceeds from its sales and makes independent decisions regarding the disposition of profits or financing of losses; (3) whether each exporter has the authority to negotiate and sign contracts and other agreements; and, (4) whether each exporter has autonomy from the government regarding the selection of management. (*See Silicon Carbide,* 59 FR at 22587 and *Sparklers,* 56 FR at 20589.)

In each of the previous administrative reviews of the antidumping duty order on HSLWs from the PRC, covering successive review periods from October 1, 1993 through September 30, 1997, we determined that ZWG merited a separate rate. We have found that the evidence on the record of this review also demonstrates an absence of government control, both in law and in fact, with respect to ZWG's export activities according to the criteria identified in *Sparklers,* and an absence of government control with respect to the additional criteria identified in *Silicon Carbide.* Therefore, we have continued to assign ZWG a separate rate.

Export Price

Because ZWG sold the subject merchandise to unaffiliated purchasers in the United States prior to importation into the United States and the constructed export price methodology is not otherwise indicated, we have used export price in accordance with section 772(a) of the Act.

We calculated export price based on the f.o.b. price to unaffiliated purchasers. From this price, we deducted amounts for foreign inland freight and brokerage and handling. We valued these deductions using surrogate country cost data. We selected India as the surrogate country for the reasons explained in the ''Normal Value'' section of this notice.

Normal Value

Section 773(c)(1) of the Act provides that the Department shall determine normal value (NV) using a factors-of-production methodology if: (1) The merchandise is exported from an NME, and (2) the information does not permit the calculation of NV using home-market prices, third-country prices, or constructed value under section 773(a) of the Act. The Department has treated the PRC as an NME in all previous antidumping cases. In accordance with section 771(18)(C)(i) of the Act, any determination that a foreign country is an NME shall remain in effect until revoked by the administering authority. None of the parties to this proceeding has contested such treatment in this review. Moreover, parties to this proceeding have not argued that the PRC HSLW industry is a market-oriented industry and, consequently, we have no basis to determine that the information would permit the calculation of NV using PRC prices or costs. Therefore, we calculated NV based on factors of production (FOP) in accordance with sections 773(c)(3) and (4) of the Act and 19 CFR 351.408(c).

Under the FOP methodology, we are required to value the NME producer's inputs in a comparable market economy country that is a significant producer of comparable merchandise. We determined that India is at a comparable level of economic development to that of the PRC. Also, India is a significant producer of comparable merchandise. Therefore, for this review, we have used Indian prices to value the FOP except where the factor was purchased from a market economy supplier and paid for in a market economy currency. (*See* Memorandum to Susan Kuhbach from Jeff May, dated March 15, 1999, ''Certain Helical Spring Lock Washers from the PRC: Nonmarket Economy Status and Surrogate Country Selection,'' which is on file in the CRU-Public File.)

We selected, where possible, publicly available values from India which were: (1) average non-export values; (2) representative of a range of prices within the POR or most contemporaneous with the POR; (3) product-specific; and, (4) tax-exclusive. We valued the factors of production as follows:

- ZWG purchased a meaningful amount of carbon steel wire rod from the United Kingdom, a market economy supplier, and paid for in a market economy currency. Pursuant to 19 CFR 351.408(c)(1), we valued this factor using the price paid to the market economy supplier. Thus, for carbon steel wire rod values, we used the average cost per metric ton of carbon steel wire rod imported from the United Kingdom by ZWG during the period of review.
- For the value of chemicals used in the production and plating process of HSLWs, we used per kilogram values obtained from the Indian publication *Chemical Weekly* from the *Monthly Statistics of the Foreign Trade of India-Imports* (*MFTI*). We adjusted these values, where appropriate, to reflect inflation through the POR using the Wholesale Price Index (WPI) as reported in the *International Financial Statistics* published by the International Monetary Fund (IMF). We also adjusted these values to account for freight costs incurred between the supplier and ZWG.
- To value coal, we used a per kilogram value obtained from the *MFTI*. We adjusted this value to reflect inflation through the POR using the WPI published by the IMF. We also adjusted this amount to account for freight costs incurred between the supplier and ZWG.
- To value electricity, we used the price of electricity for 1995 reported in *Energy Prices and Taxes, Fourth Quarter 1998,* a publication of the International Atomic Energy Agency. We adjusted the value to reflect inflation through the POR using the WPI published by the IMF.
- To value water, we used the 1997 *Water Utilities Data Book for the Asian and Pacific Region* published by the Asian Development Bank.
- For labor, we used the regression-based wage rate for the PRC in ''Expected Wages of Selected NME Countries,'' located on the Internet at http:0\\www.ita.doc.gov\ import__admin\ records\wages\. Because of the variability of wage rates in countries with similar per capita GDP's, 19 CFR 351.408(c)(3) requires the use of a regression-based wage rate. The source for the wage rates is ''Expected Wages of Selected NME Countries—1997 Income Data,'' *1998 Year Book of Labour Statistics,* International Labour Office, (Geneva: 1998) Chapter 5B: Wages in Manufacturing.
- For factory overhead, selling, general, and administrative expenses (SG&A), and profit values, we used information from the January, 1997 *Reserve Bank of India Bulletin* for the Indian industry group ''Processing and Manufacturing: Metals, Chemicals, and Products Thereof.'' From this information, we were able to determine factory overhead as a percentage of the total cost of manufacturing, SG&A as a percentage of the total cost of manufacturing, and the profit rate as a percentage of the cost of manufacturing plus SG&A.
- For packing materials, we used the per kilogram values obtained from the *MFTI*. Where necessary, we adjusted these values to reflect inflation through the POR using the WPI published by the IMF. We also adjusted them to account for freight costs incurred between the PRC supplier and ZWG.
- To value foreign brokerage and handling, we used information reported in *Certain Stainless Steel Wire Rod from India* in a document dated May 12, 1998.
- To value truck freight, we used a rate derived from the April 20, 1994, issue of *The Times of India.* We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.
- To value rail freight, we used rate information published by the Indian Railway Conference Association for rates in force from April 1, 1995. We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.
- To value shipping freight, we used a rate reported to the Department in the August, 1993 cable from the U.S. Embassy in India which was submitted for and used in the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the People's Republic of China,* 58 FR 48833 (September 20, 1993). We adjusted the rate to reflect inflation through the POR using the WPI published by the IMF.

For a complete description of the factor values used, *see* ''Memorandum to File: Factor Values Used for the Preliminary Results of the Fourth Administrative Review,'' dated July 6, 1999 (Factors Memorandum) a public version of which is available in the Public File.

Preliminary Results of Review

We preliminarily determine that the following dumping margin exists:

Manufacturer/exporter	Time period	Margin (percent)
Zhejiang Wanxin Group Co., Ltd.	10/01/97–09/30/98	0.00

Within 5 days of the date of publication of this notice, in accordance with 19 CFR 351.224, the Department will disclose its calculations. Any interested party may request a hearing within 30 days of publication of this notice. Any hearing, if requested, will be held approximately 37 days after the publication of this notice. Interested parties may submit written comments (case briefs) within 30 days of the date of publication of this notice. Rebuttal comments (rebuttal briefs), which must be limited to issues raised in the case briefs, may be filed not later than 35 days after the date of publication. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised by the parties, within 120 days of publication of these preliminary results.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. If there is no change in the margin for the final results, we will instruct Customs to liquidate the entries made during the POR without regard to antidumping duties. The Department will issue appraisement instructions directly to the U.S. Customs Service.

Furthermore, the following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of HSLWs from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(2)(C) of the Act: (1) for ZWG, which has a separate rate, the cash deposit rate will be the company-specific rate established in the final results of this administrative review; (2) for all other PRC exporters, the cash deposit rate will be the PRC rate, which is 128.63 percent, which is the All Other PRC Manufacturers, Producers and Exporters rate from the *Final Determination of Sales at Less Than Fair Value: Certain Helical Spring Lock Washers from the PRC,* 58 FR 48833 (September 20, 1993); and (3) for non-PRC exporters of subject merchandise from the PRC, the cash deposit rate will be the rate applicable to the PRC supplier of that exporter.

These deposit rates, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: July 6, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–17802 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Secretary Daley's Trade Mission To The Middle East

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of trade mission to the Middle East.

SUMMARY: This notice serves to inform the public of a Secretarial Trade Mission to the Middle East, October 9–18, 1999, and of the opportunity to apply for participation in the mission; sets forth objectives, procedures, and participation criteria for the mission; and requests applications.

DATES: Applications should be submitted to Lucie Naphin by August 18, 1999, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit. The mission is scheduled to travel to Egypt, Israel, the West Bank, Jordan, Saudi Arabia, and the United Arab Emirates.

ADDRESSES: Request for and submission of applications—Applications are available from Lucie Naphin, Director of the office of Business Liaison, at (202) 482–1360 or via facsimile at (202) 482–4054. Numbers listed in this notice are not toll-free. An original and two copies of the required application materials should be sent to Ms. Naphin. Applications sent by facsimile must be immediately followed by submission of the original application to Ms. Naphin at the following address: Office of Business Liaison, Room 5062, U.S. Department of Commerce, 14th Street and Constitution Ave, N.W. Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Lucie Naphin at (202) 482-1360. Information is also available via the International Trade Administration's (ITA) Internet home page at: ''http://www.ita.doc.gov'

SUPPLEMENTARY INFORMATION:

Trade Mission Description

Secretary of Commerce William M. Daley will lead two trade missions to the Middle East in October, 1999. He will lead a business development mission to Egypt, Israel, Gaza/West Bank, and Jordan October 9–15, 1999 and a business development mission to Saudi Arabia and the United Arab Emirates (U.A.E.) October 15–18, 1999.

Egypt, Israel, Gaza/West Bank, and Jordan

In Jordan, Israel, Gaza/West Bank, and Egypt, the focus of the mission will be on commercial opportunities presented by the liberalization of these countries' economies and the privatization of key industry sectors. The delegation will include 10–15 U.S. company executives of large, medium and small firms representing the following key sectors: information technology, including computer hardware, software development, and telecommunications; energy; environmental technologies; agribusiness, including food processing and fertilizers; health care; tourism, including hotel construction and management; and insurance and banking.

This mission will reaffirm the U.S. Government's support for the commercial aspects of the peace process, a top foreign and commercial priority.

Saudi Arabia and the United Arab Emirates

In Saudi Arabia and the U.A.E., the focus of the mission will also be on commercial opportunities presented by the liberalization of these countries' economies and the privatization of key industry sectors. The delegation will include 10–15 U.S. company executives of large, medium and small firms representing the following key sectors of: energy, including power generation, and oil and gas exploration and development; information technology, including computer hardware, software development, and telecommunications; environmental technologies; agribusiness; and health care.

This mission will include advocacy for major commercial projects, including the recent interest expressed by Saudi Crown Prince Abdullah in attracting greater U.S. private sector participation in the Saudi energy sector.

Timetable

The mission will depart Washington on October 8. A delegation will visit Jordan, Israel, Gaza/West Bank, and Egypt October 9–15, and a second delegation will visit Saudi Arabia and the U.A.E. October 15–18.

Commercial Setting

Egypt, Israel, Gaza/West Bank, and Jordan

The Government of Egypt has embarked on a significant economic reform program which has made Egypt an attractive emerging market. Egypt plans to privatize much of its power sector, roads, airports, ports, cement companies, and water supply. Egypt has also passed legislation allowing 100 percent foreign ownership of banks and insurance companies. Egypt is seeking U.S. firms for the mobile phone market. Egypt is also interested in U.S. environmental and agricultural export technologies. An increasing number of American firms are looking at Egypt for possible exports and to establish their regional marketing and manufacturing centers there. Egypt is our third largest market in the Middle East with exports totaling $3 billion in 1998.

As our second largest market in the Middle East, Israel offers major export and investment opportunities in environmental technologies, information technologies, and the medical field. Israel has the highest number of high-technology start-ups per capita in the world, and is seeking joint ventures with U.S. firms; eight U.S. state governments have offices in Israel to take advantages of these opportunities. U.S. exports to Israel in 1998 were valued at $7 billion.

Gaza/West Bank benefits from the Duty Free Proclamation, which allows U.S. products to be traded free of tariffs with the Palestinian Authority. U.S. firms also have the opportunity to use industrial facilities at the newly launched industrial park, the Gaza Industrial Estate. The Palestinian business community has long sought to encourage greater U.S. private sector participation in their market, and is eager to serve as agents and distributors for, as well as joint venture partners with, American firms. Telecommunications, tourism, and franchising in a wide range of areas, including food and office products, are particularly promising sectors for U.S. business.

The Jordanian Government has made new commitments to privatize key industries, including telecommunications. The Government has also recently announced that the Aqaba railway will be privatized by a consortium, led by U.S. companies. Moreover, the United States, Jordan, and Israel have instituted several Qualifying Industrial Zones in Jordan, which allow goods to enter the United States free of duties and quotas on a reciprocal basis. The U.S. Government also has a number of aid programs in Jordan that offer export opportunities to U.S. companies in infrastructure and environmental technologies.

Saudi Arabia and the United Arab Emirates

Saudi Arabia is the largest U.S. market in the Middle East, with $10.5 billion in exports in 1998. Recent increases in oil prices have improved the Saudis' ability to purchase goods and services. Saudi Arabia is particularly interested in U.S. firms in energy, telecommunications, environmental technologies, and medical services and equipment. Saudi Arabia is moving forward to develop much of its natural gas potential for the first time.

The United Arab Emirates, which has made great strides in diversifying its economy, represents a booming economy. The U.A.E. is interested in environmental technologies, medical fields, and telecommunications, among other sectors. Last year, the U.A.E. imported $2.4 billion in U.S. products. In 1997, Secretary Daley visited Abu Dhabi and Dubai in the U.A.E. following his participation in the Middle East/North Africa Economic Conference in Doha, Qatar.

New commercial opportunities will develop as a result of growing interest in privatization, which is already occurring in the U.A.E.'s power sector and is proposed for the same sector in Saudi Arabia, as well as additional sectors in both countries. In addition, expanding private sector opportunities is a major emphasis of the U.S.-Gulf Cooperation Council Economic Dialogue and the policies of those two key members of the GCC.

Goals for the Missions

The Secretary's missions to the Middle East will advance specific business interests of the mission members by introducing them to key host government decisionmaking officials and to potential business partners. U.S. companies participating on the missions who are already established in the region will increase their visibility, and new-to-market firms will be able to gain a foothold in these very competitive markets. In addition, the Secretary will support the U.S. Government's efforts to reduce market access problems encountered by American firms in these markets.

The Secretary also will encourage continued progress in economic reforms in each of these stops. These reforms have been the focus of the Gore-Mubarak Economic Partnership, the U.S.-GCC Economic Dialogue, the U.S.-Jordanian Bilateral Economic Committee, and the U.S.-Palestinian Bilateral Committee. The Secretary will also co-chair the semi-annual meeting of the U.S.-Israel Science and Technology Commission.

Mission Scenarios

At each stop, American Embassy officials will provide a detailed briefing on the economic and commercial climate, and the status of regional economic and commercial cooperation. Meetings will be arranged with appropriate government ministers and other senior level government officials. In addition, private meetings will be scheduled with potential buyers, agents/distributors, and/or joint venture or investment partners.

The Secretary will meet with senior government officials as well as his trade counterparts to encourage free market reforms beneficial to the U.S. private sector. The Secretary will also urge host government officials to eliminate market access problems encountered by American firms and to take steps to liberalize their trade and investment

regimes. He will also meet with resident American business representatives.

Criteria for Participation of Companies

The recruitment and selection of private sector participants for these missions will be conducted according to the Statement of Policy governing Department of Commerce-led trade missions announced by Secretary Daley on March 3, 1997. Participants will be selected separately for each mission and applicants should complete and submit an application for each mission. Approximately 10–15 companies will be selected for each mission. Companies may apply for the one or both of the missions. Selection for one mission does not confer priority for selection for the other mission.

Eligibility

Participating companies must be incorporated in the United States. A company is eligible to participate only if the products and/or services that it will promote (a) are manufactured or produced in the United States; or (b) if manufactured or produced outside the United States, are marketed under the name of a U.S. firm and have U.S. content representing at least 51 percent of the value of the finished good or service. (At the discretion of the Department, which will generally be exercised on a mission-specific and sector-by-sector basis, the 51 percent U.S. content requirement may be modified or waived.)

Selection Criteria

Companies will be selected for participation on each mission on the basis of:

—Level of seniority of designated company representatives and appropriateness of the company to the mission objectives;
—Relevance of a company's business and product line to the sectors identified below;
—Past, present, and prospective business activity in the region; and
—Diversity of company size, type, location, demographics, and traditional under-representation in business.

In addition, the Department may consider whether the company's overall business objectives, including those of any U.S. or overseas affiliates, are fully consistent with the mission's foreign and commercial policy objectives.

Companies for the Egypt, Israel, Gaza/West Bank, and Jordan business development mission will be drawn from several sectors including, but not limited to:

—Information technology, including computer hardware, software development, and telecommunications;
—Environmental technologies, including waste treatment and water development;
—Agribusiness and food processing, farm machinery, fertilizers;
—Tourism, including hotel construction and management, resort development, and entertainment;
—Insurance and banking;
—Medical services and equipment; and
—Franchising.

Companies for the Saudi Arabia and United Arab Emirates business development mission will be drawn from several sectors, including, but not limited to:

—Energy, including power generation, and oil and gas exploration and development;
—Information technology, including computer hardware, software development, and telecommunications;
—Environmental technologies;
—Agribusiness; and
—Medical services and equipment.

An applicant's partisan political activities (including political contributions) are irrelevant to the selection process.

Time Frame For Applications

Applications for the Middle East trade missions will be made available beginning on or about July 13, 1999. Companies/participants may apply to one or both trade missions, however, separate applications will be required for each trade mission. The fees to participate in these missions have not yet been determined. The fees will not cover travel or lodging expenses. For additional information on these trade missions or to obtain an application for either or both, business persons should be referred to Lucie Naphin, Director of the Office of Business Liaison, or Jennifer Andberg, Office of Business Liaison, at 202–482–1360. Applications should be submitted to Lucie Naphin by August 18, 1999, in order to ensure sufficient time to obtain in-country appointments for applicants selected to participate in the mission. Applications received after that date will be considered only if space and scheduling constraints permit.

Authority: 15 U.S.C. 1512.

Dated: July 7, 1999.

Thomas Parker,

Director, Office of the Near East, International Trade Administration, Department of Commerce.

[FR Doc. 99–17742 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–DA–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 2]

National Fire Codes: Request for Proposals for Revision of Codes and Standards

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

The National Institute of Standards and Technology (NIST) is publishing this notice for the National Fire Protection Association (NFPA) as a public service. NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

The National Fire Protection Association (NFPA) proposes to revise some of its fire safety codes and standards and requests proposals from the public to amend existing NFPA fire safety codes and standards. The purpose of this request is to increase public participation in the system used by NFPA to develop its codes and standards.

DATES: Interested persons may submit proposals on or before the dates listed with the standards.

ADDRESSES: Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, at the above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

The NFPA develops fire safety codes and standards which are known collectively as the ''National Fire Codes.'' Federal agencies frequently use these codes and standards as the basis for developing Federal regulations concerning fire safety. Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Request for Proposals

Interested persons may submit amendments, supported by written data, views, or arguments to Casey C. Grant, Secretary, Standards Council NFPA, at the above address. Proposals should be submitted on forms available from the NFPA Codes and Standards Administration Office at the same address.

Each person must include his or her name and address, identify the document and give reasons for the proposal. Proposals received before or by 5:00 PM local time on the closing date indicated will be acted on by the Committee. The NFPA will consider any proposal that it receives on or before the date listed with the code or standard.

At a later date, each NFPA Technical Committee will issue a report which will include a copy of written proposals that the Committee has received and an account of their disposition by the Committee. Each person who has submitted a written proposal will receive a copy of the report.

Authority: 15 U.S.C. 272.

Dated: July 6, 1999.

Karen H. Brown,

Deputy Director.

NFPA No.	Title	Proposal closing date
15	Standard for Water Spray Fixed Systems for Fire Protection	01/07/00
17	Standard for Dry Chemical Extinguishing Systems	01/05/01
17A	Standard for Wet Chemical Extinguishing Systems	01/05/01
18	Standard on Wetting Agents	06/30/00
25	Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems	06/30/00
31	Standard for the Installation of Oil-Burning Equipment	07/02/99
36	Standard for Solvent Extraction Plants	07/02/99
50	Standard for Bulk Oxygen Systems at Consumer Sites	07/02/99
51	Standard for the Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting, and Allied Processes.	06/30/00
51A	Standard for Acetylene Cylinder Charging Plants	07/02/99
51B	Standard for Fire Prevention During Welding, Cutting, and Other Hot Work	06/30/00
55	Standard for the Storage, Use, and Handling of Compressed and Liquefied Gases in Portable Cylinders	07/06/01
58	Liquefied Petroleum Gas Code	07/02/99
59	Standard for the Storage and Handling of Liquefied Petroleum Gases at Utility Gas Plants	07/02/99
61	Standard for the Prevention of Fires and Dust Explosions in Agricultural and Food Products Facilities	01/05/01
68	Guide for Venting of Deflagrations	07/02/99
70	National Electrical Code	11/05/99
72	National Fire Alarm Code	11/03/00
75	Standard for the Protection of Electronic Computer/Data Processing Equipment	06/30/00
76	Standard for the Protection of Telecommunications Facilities	07/30/99
80	Standard for Fire Doors and Fire Windows	06/30/00
85	Combustion Systems Hazards Code	07/02/99
96	Standard for Ventilation Control and Fire Protection of Commercial Cooking Operations	10/07/00
97	Standard Glossary of Terms Relating to Chimneys, Vents and Heat-Producing Appliances	07/06/01
101A	Guide on Alternative Approaches to Life Safety	07/02/99
105	Recommended Practice for the Installation of Smoke-Control Door Assemblies	07/02/99
160	Standard for the Flame Effects before an Audience	07/02/99
211	Standard for Chimneys, Fireplaces, Vents, and Solid Fuel-Burning Appliances	07/06/01
258	Standard Research Test Method for Determining Smoke Generation of Solid Materials	07/02/99
284	Standard Test Method for Mattresses for Correctional Occupancies	07/02/99
287	Standard Methods of Tests for Measurement of Material Flammability Using the Fire Propagation Apparatus.	07/02/99
306	Standard for the Control of Gas Hazards on Vessels	01/07/00
407	Standard for Aircraft Fuel Servicing	01/07/00
471	Recommended Practice for Responding to Hazardous Materials Incidents	06/30/00
472	Standard for Professional Competence of Responders to Hazardous Materials Incidents	06/30/00
473	Standard for Competencies for EMS Personnel Responding to Hazardous Materials Incidents	06/30/00
502	Standard for Road Tunnels, Bridges, and Other Limited Access Highways	01/07/00
505	Fire Safety Standard for Powered Industrial Trucks Including Type Designations, Areas of Use, Conversions, Maintenance, and Operation.	01/05/01
513	Standard for Motor Freight Terminals	01/07/00
560	Standard for the Storage, Handling, and Use of Ethylene Oxide for Sterilization and Fumigation	01/07/00
664	Standard for the Prevention of Fires and Explosions in Wood Processing and Woodworking Facilities	01/07/00
704	Standard System for the Identification of the Fire Hazards of Materials for Emergency Response	01/07/00
750	Standard on Water Mist Fire Protection Systems	07/06/01
804	Standard for Fire Protection for Advanced Light Water Reactor Electric Generating Plants	07/02/99
901	Standard Classifications for Incident Reporting and Fire Protection Data	07/02/99
909	Standard for the Protection of Cultural Resources	07/02/99
914	Recommended Practice for Fire Protection in Historic Structures	07/02/99
1081	Standard for Industrial Fire Brigade Member Professional Qualifications	01/07/00
1126	Standard for the Use of Pyrotechnics before a Proximate Audience	07/02/99
1192	Standard on Recreational Vehicles	06/30/00
1194	Standard for Recreational Vehicles Parks and Campgrounds	06/30/00
1401	Recommended Practice for Fire Service Training Reports and Records	07/02/99
1404	Standard for a Fire Department Self-Contained Breathing Apparatus Program	07/02/99
1405	Guide for Land-Based Fire Fighters Who Respond to Marine Vessel Fires	07/02/99
8501	Standard for Single Burner Boiler Operation	07/02/99
8502	Standard for Prevention of Furnace Explosions/Implosions in Multiple Burner Boilers	07/02/99
8503	Standard for Pulverized Fuel Systems	07/02/99

NFPA No.	Title	Proposal closing date
8504	Standard on Atmospheric Fluidized-Bed Boiler Operation	07/02/99
8505	Standard for Stoker Operation	07/02/99
8506	Standard on Heat Recovery Steam Generators Systems	07/02/99

*P Proposed NEW drafts are available from the NFPA Codes and Standards Administration, 1 Batterymarch Park, Quincy, MA 02269.

[FR Doc. 99–17782 Filed 7–12–99; 8:45 am]
BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Notice 1]

National Fire Codes: Request for Comments on NFPA Technical Committee Reports

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice.

SUMMARY: The National Institute of Standards and Technology (NIST) is publishing this notice for the National Fire Protection Association (NFPA) as a public service. NIST does not necessarily endorse, approve, or recommend any of the standards referenced in the notice.

The NFPA revises existing standards and adopts new standards twice a year. At its November meeting or its May meeting, the NFPA acts on recommendations made by its technical committees. The purpose of this notice is to request comments on technical committee reports which will be presented at NFPA's May 2000 Meeting.

DATES: Forty reports appear in the 2000 May Meeting Report on Proposals which becomes available on July 30, 1999. Comments received on or before October 8, 1999, will be considered by the respective NFPA committees before final action is taken on the proposals.

ADDRESSES: The ''2000 May Meeting Report on Proposals'' is available from NFPA, Fulfillment Center, 11 Tracy Drive, Avon, MA 02322. Comments on the technical committee reports should be submitted to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, P.O. Box 9101, Quincy, Massachusetts 02269–9101.

FOR FURTHER INFORMATION CONTACT: Casey C. Grant, Secretary, Standards Council, NFPA, at the above address, (617) 770–3000.

SUPPLEMENTARY INFORMATION:

Background

Standards developed by NFPA technical committees have been used by various Federal agencies as the basis for Federal regulations concerning fire safety. The NFPA codes and standards are known collectively as the ''National Fire Codes.'' Often, the Office of the Federal Register approves the incorporation by reference of these standards under 5 U.S.C. 552(a) and 1 CFR Part 51.

Revisions of existing standards and adoption of new standards are reported by NFPA technical committees at the NFPA November meeting or at the May meeting each year. The NFPA invites public comment on its technical committee reports contained in the ''2000 May Meeting Report on Proposals.''

Request for Comments

Interested persons may participate in these revisions by submitting written data, views, or arguments to Casey C. Grant, Secretary, Standards Council, NFPA, 1 Batterymarch Park, Quincy, Massachusetts 02269–9101. Commenters may use the forms provided for comments in the ''2000 May Meeting Report on Proposals.'' Each person submitting a comment should include his or her name and address, identify the notice, and give reasons for any recommendations. Comments received on or before October 8, 1999 will be considered by the NFPA before final action is taken on the proposals.

Copies of all written comments received and the disposition of those comments by the NFPA committees will be published as the ''2000 May Meeting Report on Comments'' by March 31, 2000, prior to the May Meeting. A copy of this report will be sent automatically to each commenter. Action on the reports of the NFPA technical committees (adoption or rejection) will be taken at the May Meeting, May 14–18, 2000 in Denver, Colorado, by NFPA members.

Authority: 15 U.S.C. 272.

Dated: July 6, 1999.

Karen H. Brown,

Deputy Director.

REPORT ON PROPOSALS

Doc.	Title	Action
30	Flammable and Combustible Liquids Code	P
30A	Automotive and Marine Service Station Code	P
32	Standard for Drycleaning Plants	C
33	Standard for Spray Application Using Flammable or Combustible Materials	P
34	Standard for Dipping and Coating Processes Using Flammable or Combustible Liquids	P
45	Standard on Fire Protection for Laboratories Using Chemicals	C
73	Residential Electrical Maintenance Code for One- and Two-Family Dwellings	P
77	Recommended Practice on Static Electricity	C
92A	Recommended Practice for Smoke-Control Systems	C
92B	Guide for Smoke Management Systems in Malls, Atria, and Large Areas	C
122	Standard for Fire Prevention and Control in Underground Metal and Nonmetal Mines	R
150	Standard on Fire Safety in Racetrack Stables	P
203	Guide on Roof Coverings and Roof Deck Constructions	P
214	Standard on Water-Cooling Towers	P
221	Standard for Fire Walls and Fire Barrier Walls	P
231D	Standard for Storage of Rubber Tires	W
232	Standard for the Protection of Records	C
232A	Guide for Fire Protection for Archives and Records Centers	W

REPORT ON PROPOSALS—Continued

Doc.	Title	Action
241	Standard for Safeguarding Construction, Alteration, and Demolition Operations	P
303	Fire Protection Standard for Marinas and Boatyards	P
307	Standard for the Construction and Fire Protection of Marine Terminals, Piers, and Wharves	P
312	Standard for Fire Protection of Vessels during Construction, Repair, and Lay-Up	P
318	Standard for the Protection of Cleanrooms	P
481	Standard for the Production, Processing, Handling and Storage of Titanium	P
495	Explosive Materials Code	P
498	Standard for Safe Havens and Interchange Lots for Vehicles Transporting Explosives	P
501	Standard on Manufactured Housing	P
501A	Standard for Fire Safety Criteria for Manufactured Home Installations, Sites, and Communities	P
555	Guide on Methods for Evaluating Potential for Room Flashover	R
650	Standard for Pneumatic Conveying Systems for Handling Combustible Particulate Solids	W
654	Standard for the Prevention of Fire and Dust Explosions from the Manufacturing, Processing, and Handling of Combustible Particulate Solids.	C
703	Standard for Fire Retardant Impregnated Wood and Fire Retardant Coatings for Building Materials	P
720	Recommended Practice for the Installation of Household Carbon Monoxide (CO) Warning Equipment	C
780	Standard for the Installation of Lighting Protection Systems	P
853	Standard for the Installation of Stationary Fuel Cell Power Plants	N
1000	Standard for Fire Service Professional Qualifications Accreditation and Certification Systems	C
1071	Standard for Emergency Vehicle Technician Professional Qualifications	N
1123	Code for Fireworks Display	P
1145	Guide for the Use of Class A Foam in Manual Structural Fire Fighting	N
1915	Standard for Fire Apparatus Preventative Maintenance Program	N

P = Partial revision; W = Withdrawal; R = Reconfirmation; N = New; C = Complete Revision.

[FR Doc. 99–17781 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799E]

Reporting Requirements for Commercial Fisheries Under Section 118 of the Marine Mammal Protection Act

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 13, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Vicki Cornish, Office of Protected Resources (F/PR2), Room 13700, 1315 East-West Highway, Silver Spring, MD 20910, 301–713–2322, ext. 125.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act prohibits the taking of marine mammals except under permit or exemption. Section 118 of the Act authorizes an exemption for commercial fisheries provided that fishermen register and report all mortalities and serious injuries of marine mammals. NOAA will submit to OMB a request for renewal of approval for the reporting requirements. The information collected is required by statute and is needed by NOAA to determine the impacts of commercial fishing activities on marine mammal populations.

II. Method of Collection

Respondents must submit a standard postage-paid form reporting mortalities or serious injuries within 48 hours after the end of the fishing trip.

III. Data

OMB Number: 0648–0292
Form Number: None

Type of Review: Regular submission

Affected public: Business and other for-profit, individuals

Estimated Number of Respondents: 10,000

Estimated Time Per Response: 9 minutes

Estimated Total Annual Burden Hours: 1,500

Estimated Total Annual Cost to Public: $0

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 collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 1, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 99–17795 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799I]

Application for Commercial Fisheries Exemption Under Section 118 of the Marine Mammal Protection Act

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before September 13, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue NW, Washington DC 20230 (or via Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Vicki Cornish, Office of Protected Resources (F/PR2), Room 13700, 1315 East-West Highway, Silver Spring, MD 20910, 301–713–2322, ext. 125.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Marine Mammal Protection Act prohibits the taking of marine mammals except under permit or exemption. Section 118 of the Act authorizes an exemption for commercial fisheries provided that fishers in Category I and II fisheries (those with the most likely interactions with marine mammals) to register for a certificate of exemption that will protect the fisher from prosecution for violating the moratorium on the taking of marine mammals.

II. Method of Collection

Respondents must submit a form with a registration fee.

III. Data

OMB Number: 0648–0293

Form Number: None

Type of Review: Regular submission

Affected public: Business and other for-profit, individuals

Estimated Number of Respondents: 22,400

Estimated Time Per Response: 15 minutes

Estimated Total Annual Burden Hours: 5,600

Estimated Total Annual Cost to Public: $616,000

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 collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and /or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: July 1, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 99–17797 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799H]

New England Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a joint public meeting of its Research Steering and Experimental Fisheries Committee on July 29, 1999 to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this groups will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will be held on July 29, 1999, at 9:30 a.m.

ADDRESSES: The meeting will be held at the Council office,

5 Broadway, Saugus, MA 01960–1097; telephone: (781) 231–0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council; (781) 231–0422.

SUPPLEMENTARY INFORMATION: The committee will establish procedures, approve projects and forward recommendations concerning the one percent Total Allowable Catch (TAC) set-aside earmarked for sea scallop fishery research.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting dates.

Dated: July 8, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–17793 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799F]

North Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The North Pacific Fishery Management Council (Council) will meet jointly with the Alaska Board of Fisheries (Board).

DATES: The meeting will be held on Tuesday, July 27, 1999.

ADDRESSES: The meeting will be held at Hawthorn Suites, 9th Avenue and L Street, Anchorage, AK 99501.

Council address: North Pacific Fishery Management Council, 605 W. 4th Ave., Suite 306, Anchorage, AK 99501–2252.

FOR FURTHER INFORMATION CONTACT: Council staff, phone: 907–271–2809.

SUPPLEMENTARY INFORMATION: The Council and Board will meet July 27, 1999, beginning at 10:00 a.m. and concluding by 4:00 p.m.,to discuss the following issues:

1. Review of Council's June meeting in Kodiak, AK.

2. Consultation on the Board's recent action with regard to a trawl stand-down.

3. Review of the Council and Board's joint protocol and discussion of possible improvements.

Although the meeting is open to the public the Board and Council do not plan to take oral public comment at this meeting. Written comments received at the Council office by Thursday,

July 22, will be copied and provided to Council and Board members at the meeting.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during the meeting. Action will be restricted to those issues specifically identified in the agenda listed in this notice.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Helen Allen, 907–271–2809, at least 5 working days prior to the meeting date.

Dated: July 8, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–17791 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070799G]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Observer Program Implementation Committee (Observer Committee) will hold a working meeting which is open to the public.

DATES: The Observer Committee working meeting will begin Tuesday, July 27, 1999 and continue through Wednesday, July 28, 1999, from 8 a.m. to 5 p.m., each day.

ADDRESSES: The meeting will be held at the Pacific Fishery Management Council Conference Room, 2130 SW Fifth Avenue, Suite 224, Portland, OR; telephone: (503) 326-6352.

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Jim Glock, Groundfish Fishery Management Coordinator; telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to continue development of an observer program proposal for 2000. The program proposal will be presented to the Council at its September 13–17, 1999 meeting in Portland, OR.

Although other issues not contained in this agenda may come before this group for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this agenda.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. John Rhoton at (503) 326–6352 at least 5 days prior to the meeting date.

Dated: July 8, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–17792 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 061599B]

Marine Mammals; File No. 486–1506

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that Brent S. Stewart, Ph.D., J.D. (Principal Investigator), Senior Research Biologist, Hubbs-Sea World Research Institute 2595 Ingraham Street, San Diego, CA 92109, has been issued a permit to take pinnipeds for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289); and

Southwest Region, NMFS, 501 West Ocean Blvd., Long Beach, California 90802–4213 (562–980–4001).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 3, 1999, notice was published in the **Federal Register** (64 FR 23607) that a request for a scientific research permit to take northern elephant seals, northern fur seals, harbor seals, and California sea lions and to incidentally harass Steller sea lions and Guadalupe fur seals had been submitted by the above-named individual. 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 (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing endangered species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

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: July 7, 1999.

Ann Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–17796 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062899A]

Marine Mammals; Permit No. 926 (File No. P562)

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

ACTION: Issuance of permit amendment.

SUMMARY: Notice is hereby given that Permit No. 926, issued to Dr. Robin Baird, Biology Department, Dalhousie University, Halifax, Nova Scotia, B3H 4J1, Canada, was amended.

ADDRESSES: See **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Jeannie Drevenak or Trevor Spradlin, 301/713–2289.

SUPPLEMENTARY INFORMATION: The subject amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR part 222).

Permit No. 926 authorizes Dr. Baird to harass various species of cetaceans during the conduct of photo-identification, observational studies, and suction cup tagging of several species of cetaceans in the waters of Washington, Southeast Alaska, Oregon, California, and Hawaii. This amendment authorizes the extension of the expiration date through October 31, 1999.

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.

ADDRESSES: The amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130 Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, National Marine Fisheries Service, NOAA, 709 W. 9th Street, Federal Building, Room 461, P.O. Box 21668, Juneau, AK 99802 (907–586–7235);

Regional Administrator, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, WA 98115 (206/526–6150);

Regional Administrator, Southwest Region, National Marine Fisheries Service, NOAA, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (562/980–4001); and

Protected Resources Program Manager, Pacific Islands Area Office, NOAA, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

Dated: June 30, 1999.

Ann Terbush,

Chief, Permits and Documentation Division, National Marine Fisheries Service.

[FR Doc. 99–17798 Filed 7–12–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Office of the Secretary, Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DoD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The agenda will include a discussion of the Defense Labor-Management Relations Evaluation initiative and other related Partnership topics.

DATES: The meeting is to be held August 11, 1999, in room 1E801, Conference Room 7, the Pentagon, from 1:00 p.m. until 3:00 p.m. Comments should be received by August 4, 1999, in order to be considered at the August 11 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, (703) 696–6301, ext. 704.

Dated: July 7, 1999.

Patricia Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–17667 Filed 7–12–99; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Performance Review Boards List of 1999 Members

Below is a list of additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Awards System.

Secretariat

Lt. Gen. David L. Vesely

Mr. Harlan Wilder

Ms. Beth Corliss

Mr. Robert Corsi

Ms. Margaret LeClaire

Air Staff and ''Others''

Mr. William A. Davidson

Mr. Blaise Durante

Ms. Patricia Zarodkiewicz

Brig. Gen. John L. Clay

Mr. Don Fox

Air Force Materiel Command

Dr. J. Daniel Stewart

Mr. Gerald Yanker

Janet A. Long,

Air Force Federal Register Liaison Officer.

[FR Doc. 99–17685 Filed 7–12–99; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 13, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: July 7, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Reinstatement.

Title: Grants to States for Training Incarcerated Youth Offenders—State Plan, Data Collection.

Frequency: Three-year plan.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 56.

Burden Hours: 9,520.

Abstract: To receive an award under the Youth Offenders Program, a State Correctional Agency must submit a State plan describing how the program will operate. The data requested from the State is necessary to run the allocation formula.

Written comments and requests for copies of the proposed information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *vivian—reese@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically at her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–17738 Filed 7–12–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before August 12, 1999.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: July 7, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Vocational and Adult Education

Type of Review: Reinstatement.

Title: Carl D. Perkins Vocational and Applied Technology Education Act (P.L. 101–392)—Financial Status Report—SF 269.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs and LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 53

Burden Hours: 2,200

Abstract: The Financial Status Report (SF–269) is collected by the Division of Vocational-Technical Education from State agencies to determine compliance with statutory and regulatory spending requirements of formula grants awarded under the Carl D. Perkins Vocational and Applied Technology Education Act of 1990.

Written comments and requests for copies of this information collection

request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *vivian—reese@ed.gov* or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Sheila Carey at 202–708–6287 or electronically at her internet address Sheila__Carey@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–17739 Filed 7–12–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Docket No. EA–216]

Application To Export Electric Energy; TransAlta Energy Marketing (U.S.) Inc.

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: TransAlta Energy Marketing (U.S.) Inc. (TEMUS) has applied for authority to transmit electric energy from the United States to Canada pursuant to section 202(e) of the Federal Power Act.

DATES: Comments, protests or requests to intervene must be submitted on or before August 12, 1999.

ADDRESSES: Comments, protests or requests to intervene should be addressed as follows: Office of Coal & Power Im/Ex (FE–27), Office of Fossil Energy, U.S. Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585–0350 (FAX 202–287–5736).

FOR FURTHER INFORMATION CONTACT: Xavier Puslowski (Program Office) 202–586–4708 or Michael Skinker (Program Attorney) 202–586–6667.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated and require authorization under section 202(e) of the Federal Power Act (FPA) (16 U.S.C. 824a(e)).

On June 23, 1999, the Office of Fossil Energy (FE) of the Department of Energy (DOE) received an application from TEMUS to transmit electric energy from the United States to Canada. TEMUS, a Delaware corporation with its principal place of business in Canada, is a power marketer that does not own or control any electric generation or transmission facilities nor does it have any franchised electric service territory in the United States. TEMUS will purchase the electric energy to be exported at wholesale from electric utilities and Federal Power Marketing Administrations in the United States.

TEMUS proposes to arrange for the delivery of electric energy to Canada over the international transmission facilities owned by Basin Electric Power Cooperative, Bonneville Power Administration, Citizens Utilities, Detroit Edison Company, Eastern Maine Electric Cooperative, Joint Owners of the Highgate Project, Long Sault, Inc., Maine Electric Power Company, Maine Public Service Company, Minnesota Power Inc., Minnkota Power Cooperative, New York Power Authority, Niagara Mohawk Power Corporation, Northern States Power, and Vermont Electric Transmission Company. The construction of each of the international transmission facilities to be utilized by TEMUS, as more fully described in the application, has previously been authorized by a Presidential permit issued pursuant to Executive Order 10485, as amended.

Procedural Matters

Any person desiring to become a party to this proceeding or to be heard by filing comments or protests to this application should file a petition to intervene, comment or protest at the address provided above in accordance with §§ 385.211 or 385.214 of the FERC's Rules of Practice and Procedures (18 CFR 385.211, 385.214). Fifteen copies of each petition and protest should be filed with the DOE on or before the date listed above.

Comments on the TEMUS application to export electric energy to Canada should be clearly marked with Docket EA–216. Additional copies are to be filed directly with Sterling Koch, Solicitor, TransAlta Energy Marketing U.S.) Inc., 8th Floor, 1202—Centre Street South, Calgary, Alberta, Canada T2G 5A5, and Ed De Palezieux, TransAlta Energy Marketing (U.S.) Inc., 8th Floor, 1202—Centre Street South, Calgary, Alberta, Canada T2G 5A5

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to the National Environmental Policy Act of 1969, and a determination is made by the DOE that the proposed action will not adversely impact on the reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above or by accessing the Fossil Energy Home Page at http://www.fe.doe.gov. Upon reaching the Fossil Energy Home page, select ''Regulatory Programs,'' then ''Electricity Regulation,'' and then ''Pending Proceedings'' from the options menus.

Issued in Washington, D.C., on July 7, 1999.

Anthony J. Como,

Deputy Director, Electric Power Regulation, Office of Coal & Power Im/Ex, Office of Coal & Power Systems, Office of Fossil Energy.

[FR Doc. 99–17785 Filed 7–12–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Science

Fusion Energy Sciences Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Fusion Energy Sciences Advisory Committee. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Friday, July 23, 1999, 1:15 p.m. to 5:30 p.m.; Saturday, July 24, 8:30 a.m. to 4:30 p.m.

ADDRESSES: Crestwood Lodge; Snowmass Village Conference Center; Snowmass, CO.

FOR FURTHER INFORMATION CONTACT: Albert L. Opdenaker, Office of Fusion Energy Sciences; U.S. Department of Energy; 19901 Germantown Road; Germantown, MD 20874–1290; Telephone: 301–903–4927.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: The Committee will discuss and finalize the report from the Goals and Metrics Panel taking into account the results of the Fusion Summer Study.

Tentative Agenda:

Friday, July 23, 1999

1:15 p.m. Japan's Fusion Program by Noboyuki Inoue
2:00 p.m. Discussions of Goals, Metrics and Plans for August FESAC in light of the Fusion Summer Study
3:30 p.m. Public Comment
4:30 p.m. Continue Discussions of the Goals and Metrics
5:30 p.m. Adjourn

Saturday, July 24, 1999

8:30 a.m. Discussions of the Goals and Metrics for August FESAC meeting

12:30 p.m. Lunch
1:30 p.m. Public Comments; Finalize Goals, Metrics, and Plans for August FESAC meeting
4:30 p.m. Adjourn

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of the items on the agenda, you should contact Albert L. Opdenaker at 301–903–8584 (fax) or albert.opdenaker @science.doe.gov (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Committee will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule. This notice is being published less than 15 days before the date of the meeting due to programmatic issues that needed resolution.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room; IE–190; Forrestal Building; 1000 Independence Avenue, SW; Washington, DC, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C., on July 8, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–17784 Filed 7–12–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–389–000]

Algonquin Gas Transmission Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Algonquin Gas Transmission Company (Algonquin) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

Sixth Revised Sheet No. 678
Third Revised Sheet No. 715

Algonquin states that the purpose of this filing is to comply with Order No. 587–K, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Boards which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

Algonquin states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to be 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 be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17699 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–408–000]

Algonquin LNG, Inc.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Algonquin LNG, Inc. (ALNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

Fifth Revised Sheet No. 83

ALNG states that the purpose of this filing is to comply with Order No. 587–K, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

ALNG states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17730 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–384–000]

ANR Storage Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, ANR Storage Company (ANRS) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below, to be effective on August 1, 1999:

Fourth Revised Sheet No. 132
Second Revised Sheet No. 132B
Second Revised Sheet No. 137
Sixth Revised Sheet No. 153

ANRS states the attached sheets are being filed in compliance with the Commission's Order No. 587–K issued on April 2, 1999, at docket No. RM96–1–011.

ANRS states that copies of this filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17694 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Black Marlin Pipeline Company; Tariff Filing

[Docket No. RP99–400–000]

July 7, 1999.

Take notice that on July 1, 1999, Black Marlin Pipeline Company (Black Marlin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to become effective August 1, 1999:

Second Revised Sheet No. 107A
First Revised Sheet No. 108A
First Revised Sheet No. 132A
First Revised Sheet No. 132B
Fifth Revised Sheet No. 201A
First Revised Sheet No. 211A
Fourth Revised Sheet No. 212

Black Marlin states that on April 2, 1999, in Docket No. RM96–1–011, the Commission's issued Order No. 587–K. In Order No. 587–K, the Commission incorporated into its regulations, by reference, the standards set forth in Version 1.3 which were promulgated by the Gas Industry Standards Board (GISB) on July 31, 1998. Order No. 587–K requires pipelines to implement the incorporated regulations by the first day of the month following ninety days after publication in the **Federal Register** and to conform their tariffs to Version 1.3 not more than sixty and not less than thirty days prior to the implementation date. Black Marlin states that the instant filing includes revised tariff sheets in compliance with Order No. 587–K. The revisions do not include the intraday nomination and scheduling standards previously filed by Black Marlin and accepted by the Commission in Docket No. RP99–15, *et al.*

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17724 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–372–000]

Blue Lake Gas Storage Company; Proposed Changes in FERC Gas Tariff

July 7, 1999

Take notice that on July 1, 1999, Blue Lake Gas Storage Company (Blue Lake) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed below, to be effective August 1, 1999:

Third Revised Sheet No. 132
Third Revised Sheet No. 133A
Second Revised Sheet No. 137
Sixth Revised Sheet No. 153

Blue Lake states the attached tariff sheets are being filed in compliance with the Commission's Order No. 587–K issued on April 2, 1999, at docket No. RM96–1–011.

Blue Lake states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17718 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–417–000]

Canyon Creek Compression Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Canyon Creek Compression Company (Canyon) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective August 1, 1999.L

Canyon states that these tariff sheets were filed in compliance with the Commission's Order No. 587–K issued April 2, 1999 in Docket No. RM96–1–011.

Canyon requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheet to become effective August 1, 1999, pursuant to Order No. 587–K.

Canyon states that copies of the filing are being mailed to Canyon's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/

online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17711 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–398–000]

Caprock Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Caprock Pipeline Company (Caprock) tendered for filing as part of its FERC Gas Tariff, First Revised Volumes No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Second Revised Sheet No. 6A
Second Revised Sheet No. 21
Sixth Revised Sheet No. 29A
Fourth Revised Sheet No. 37
Second Revised Sheet No. 39

Caprock is submitting this filing to incorporate latest GISB 1.3 standards. Caprock is complying with FERC Order dated April 2, 1999 in Docket No. RM96–1–011.

Caprock states that copies of this filing have been served upon all affected firm customers of Caprock and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17707 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–364–000]

CNG Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on June 30, 1999, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Forty-Ninth Revised Sheet No. 32

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B Surcharge, effective for the three-month period commencing August 1, 1999. The charge for the quarter ending July 31, 1999, has been $0.0194 per Dt, as authorized by Commission order dated April 23, 1999, in Docket No. RP99–277–000. CNG's proposed Section 18.2.B surcharge for the next quarterly period is $0.0224 per Dt. The revised surcharge is designed to recover $144,557 in Stranded Account No. 858 Costs, which CNG incurred for the period of March, 1999, through May, 1999.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such interventions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. A copy of this filing is on file with the Commission and is 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).

David P. Boergers,

Secretary.

[FR Doc. 99–17713 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–365–000]

Columbia Gas Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on June 30, 1999, Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of August 1, 1999:

Fourth Revised Sheet No. 265
Fifth Revised Sheet No. 266
Third Revised Sheet No. 267
First Revised Sheet No. 268
Third Revised Sheet No. 297
Second Revised Sheet No. 315
Second Revised Sheet No. 316
Eighth Revised Sheet No. 456

Columbia states that this filing is being submitted in compliance with the Commission Order No. 587–K, Standards for Business Practices of Interstate Natural Gas Pipelines, 87 FERC 61,021 (1999) issued on April 2, 1999, in Docket No. RM96–1–011. In this Order, the Commission required pipelines to file revised tariff sheets to conform their tariffs to Version 1.3 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not more than 60 days and not less than 30 days prior to the August 1, 1999 implementation date required by Order No. 587–K.

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 protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such interventions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. A copy of this filing is on file with the Commission and is 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).

David P. Boergers,

Secretary.

[FR Doc. 99–17714 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–356–000]

Columbia Gulf Transmission Company; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on June 30, 1999, Columbia Gulf Transmission Company (Columbia Gulf) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets, bearing a proposed effective date of August 1, 1999:

Fourth Revised Sheet No. 128
Fourth Revised Sheet No. 155A
Fifth Revised Sheet No. 163
First Revised Sheet No. 166A
Fourth Revised Sheet No. 167
Fifth Revised Sheet No. 286

Columbia Gulf states that this filing is being submitted in compliance with the Commission Order No. 587–K, Standards for Business Practices of Interstate Natural Gas Pipelines, 87 FERC 61,021 (1999) issued on April 2, 1999, in Docket No. RM96–1–011. In this Order, the Commission required pipelines to file revised tariff sheets to conform their tariffs to Version 1.3 of the consensus industry standards, promulgated by the Gas Industry Standards Board (GISB). The Commission directed that pipelines implement these standards by filing revised tariff sheets not more than 60 days and not less than 30 days prior to the August 1, 1999 implementation date required by Order No. 587–K.

Columbia Gulf 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 protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such interventions or protests must be filed as provided in section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. A copy of this filing is on file with the Commission and is 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).

David P. Boergers,

Secretary.

[FR Doc. 99–17712 Filed 6–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–373–000]

Destin Pipeline Company, L.L.C.; Proposed Changes to FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Destin Pipeline Company, L.L.C. (Destin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's Order No. 587–K to become effective August 1, 1999:

Original Sheet No. 38a
Second Revised Sheet No. 71
Original Sheet No. 71a
First Revised Sheet No. 73
First Revised Sheet No. 76a
Original Sheet No. 76b
Second Revised Sheet No. 77
Original Sheet No. 77a
First Revised Sheet No. 78
First Revised Sheet No. 82
Second Revised Sheet No. 136
Original Sheet No. 136a

On April 2, 1999, the Commission issued Order No. 587–K in Docket No. RM96–1–011 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain new and revised business practices standards issued by the Gas Industry Standards Board (GISB) and incorporated by reference in 18 C.F.R. 284.10(b). The standards require pipelines to post certain information on World Wide Web homepages and to comply with the new and revised business practices governing nominations, flowing gas, electronic delivery mechanisms and capacity release.

Destin states that the revisions shown on the Tariff Sheets filed herewith reflect Destin's compliance filing to conform with the new and revised GISB standards approved under Order No. 587–K. Such standards specifically include nomination and confirmation practices, the definition of a gigacalorie for nominations in Mexico and the addition of an allocation methodology. The order required Destin to submit its compliance filing for implementation of the approved standards by August 1, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17719 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Dynegy Midstream Pipeline, Inc.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Dynegy Midstream Pipeline, Inc. (DMP), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets:

Original Sheet No. 67A, 163
First Revised Sheet Nos. 88, 138, 147, 157, 162, 165, 166
Second Revised Sheet Nos. 32, 33, 34, 35, 36, 38, 39, 63, 71, 74,

DMP states that it is submitting these revised tariff sheets to incorporate the Version 1.3 Gas Industry Standards Board (GISB) standards adopted by Order No. 587–K in Docket No. RM96–1, et al. DMP proposes an August 1, 1999 effective date for these sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal

Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.)

David P. Boergers,

Secretary.

[FR Doc. 99–17690 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–409–000]

El Paso Natural Gas Co.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, El Paso Natural Gas Company (El Paso) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective August 1, 1999.

Fifth Revised Sheet No. 202A
Sixth Revised Sheet No. 202B

El Paso states that the tariff sheets are being filed to implement Version 1.3 of the Gas Industry Standards Board standards.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.W., 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17731 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–367–000]

Florida Gas Transmission Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Florida Gas Transmission Company (FGT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets to become effective August 1, 1999:

Eighth Revised Sheet No. 102B
Third Revised Sheet No. 102C
Seventh Revised Sheet No. 116
Sixth Revised Sheet No. 121
Third Revised Sheet No. 125
Third Revised Sheet No. 129B

FGT states that on April 2, 1999, in Docket No. RM96–1–011, the Federal Energy Regulatory Commission issued Order No. 587–K. In Order No. 587–K, the Commission incorporated into its regulations, by reference, the standards set forth in Version 1.3 which were promulgated by the Gas Industry Standards Board (GISB) on July 31, 1998. Order No. 587–K requires pipelines to implement the incorporated regulations by the first day of the month following ninety days after publication of Order No. 587–K in the **Federal Register**, and to file to conform their tariffs to Version 1.3 not more than sixty and not less than thirty days prior to the implementation date. FGT states that the instant filing includes revised tariff sheets in compliance with Order No. 587–K. The revisions do not include the modifications to the intraday nomination and scheduling standards previously filed by FGT and accepted by the Commission in Docket No. RP99–14, et al.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 384.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17716 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–59–000]

Florida Gas Transmission Company; Refund Report

July 7, 1999.

Take notice that on July 1, 1999, Florida Gas Transmission Company (FGT) tendered for filing with the Federal Energy Regulatory Commission a refund report reflecting a Gas Research Institute (GRI) refund received May 28, 1999, which FGT refunded to its eligible firm shippers on June 11, 1999.

In compliance with the Commission's February 22, 1995 Order in Docket No. RP95–124–000, FGT states that it has allocated refunds of $1,624,840 to firm shippers on a pro rata basis based on amounts paid through GRI surcharges during 1998.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed on or before July 14, 1999. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17722 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–382–000]

Garden Banks Gas Pipeline Company, LLC; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Garden Banks Gas Pipeline Company, LLC (GBGP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, tariff sheets listed in Appendix B to the filing, with a proposed effective date of August 1, 1999.

GBGP states that the purpose of this filing is to comply with Part 284 of the Commission's Regulations and Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011. In Order No. 587–K, the Commission adopted version 1.3 of Gas Industry Standards Board consensus standards. Version 1.3 updated and improved the standards, with the principal changes occurring in the areas of confirmation practices, further standardization of the information provided on pipeline Internet web sites, and revisions to the data sets. The tariff sheets filed herein reflect version 1.3 standards adopted by the Commission.

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, N.E., 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 should be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202) 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17692 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–2822–000, ER99–2973–000, ER99–2948–000, ER99–2923–000, ER99–2928–000, ER99–2917–000, ER99–2817–000, ER99–2388–000, and ER99–2404–000 (Not consolidated)]

Green Power Partners I LLC et al.; Issuance of Order

July 7, 1999.

Green Power Partners I LLC, Fibertek Energy, LLC, Baltimore Gas & Electric Company, Phelps Dodge Energy Services, LLC, Cleco Evangeline, LLC, FPL Energy MH50, L.P., UGI Development Company.

Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company.

Sithe Maryland Holdings LLC, Sithe Keystone LLC, Sithe Conemaugh LLC, Sithe Hunterstown LLC, Sithe Orrtanna LLC, Sithe Titus LLC, Sithe Warren LLC, Sithe Blossburg LLC, Sithe Tolna LLC, Sithe Mountain LLC, Sithe Piney LLC, Sithe Wayne LLC, Sithe Hamilton LLC, Sithe Shawnee LLC, Sithe Shawville LLC, Sithe Portland LLC, Sithe Seward LLC, York Haven Power Company, Sithe Gilbert LLC, Sithe Sayreville LLC, Sithe Forked River LLC, Sithe Glen Gardner LLC, Sithe Werner LLC, Sithe Power Marketing, L.P.

July 7, 1999.

The above-captioned companies (hereinafter ''the Applicants'') filed with the Commission rate schedules in the above-captioned proceedings, respectively, under which the Applicants will engage in wholesale electric power and energy transactions at market-based rates, and for certain waivers and authorizations. In particular, certain of the Applicants may also have requested in their respective applications that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liabilities by the Applicants.

On July 1, 1999, the Commission issued an order that accepted the rate schedules for sales of capacity and energy at market-based rates (Order), in the above-docketed proceedings.

The Commission's July 1, 1999 Order granted, for those Applicants that sought such approval, their request for blanket approval under Part 34, subject to the conditions found in Appendix B in Ordering Paragraphs (2), (3), and (5):

(2) Within 30 days of the date of this order, any person desiring to be heard or to protest the Commission's blanket approval of issuances of securities or assumptions of liabilities by the Applicants 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.

(3) Absent a request to be heard within the period set forth in Ordering Paragraph (2) above, if the Applicants have requested such authorization, the Applicants are hereby authorized to issue securities and assume obligations and liabilities as guarantor, endorser, surety or otherwise in respect of any security of another person; provided that such issue or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and reasonably necessary or appropriate for such purposes.

(5) The Commission reserves the right to modify this order to require a further showing that neither public nor private interests will be adversely affected by continued Commission approval of the Applicants' issuances of securities or assumptions of liabilities. * * *

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is August 2, 1999.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, N.E., Washington, D.C. 20426.

David P. Boergers,

Secretary.

[FR Doc. 99–17735 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–411–000]

Iroquois Gas Transmission System, L.P.; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, proposed to become effective August 1, 1999.

Third Revised Sheet No. 57B
Second Revised Sheet No. 59B
Seventh Revised Sheet No. 60
Original Sheet No. 60B.01
Third Revised Sheet No. 60D
Original Sheet No. 60E
Seventh Revised Sheet No. 120

In Order No. 587–K, the Commission amended Section 284.10 of its

regulations to incorporate by reference the most recent version of the standards, Version 1.3 promulgated July 31, 1998, by the Gas Industry Standards Board (GISB). Specifically, Order No. 587–K adopts Version 1.3 of the GISB standards which updates and improves the standards, with the principal changes occurring in the areas of confirmation practices, further standardization of the information provided on pipeline Internet web sites, and revisions to the data sets.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17733 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–406–000]

KN Interstate Gas Transmission Co.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, KN Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, with an effective date of July 1, 1999:

Third Revised Volume No. 1–B

Second Revised Sheet No. 8A
Fifth Revised Sheet No. 9
First Revised Sheet No. 11A
First Revised Sheet No. 11B
Third Revised Sheet No. 19
Fifth Revised Sheet No. 89A

First Revised Volume No. 1–C

Third Revised Sheet No. 16A
Second Revised Sheet No. 17C
Third Revised Sheet No. 18
Fourth Revised Sheet No. 43
Second Revised Sheet No. 43D
Second Revised Sheet No. 44

First Revised Volume No. 1–D

First Revised Sheet No. 7A
Third Revised Sheet No. 8
Third Revised Sheet No. 18
Fifth Revised Sheet No. 71A

KNI states that it is submitting this filing to incorporate the latest GISB 1.3 standards. KNI is complying with FERC Order dated April 2, 1999 in Docket No. RM96–1–011.

KNI states that copies of this filing have been served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.)

David P. Boergers,

Secretary.

[FR Doc. 99–17728 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–407–000]

KN Wattenberg Transmission LLC; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, KN Wattenberg Transmission LLC (KNW) tendered for filing as part of its FERC Gas Tariff, First Revised Volumes No. 1, the following tariff sheets with an effective date of August 1, 1999.

First Revised Volume No. 1

Second Revised Sheet No. 19
Second Revised Sheet No. 21
Third Revised Sheet No. 22
First Revised Sheet No. 22A
Second Revised Sheet No. 33
Third Revised Sheet No. 35
Second Revised Sheet No. 36
First Revised Sheet No. 44A
Third Revised Sheet No. 67
First Revised Sheet No. 69

KNW states that it is submitting this filing to incorporate the latest GISB 1.3 standards. KNW is complying with FERC Order dated April 2, 1999 in Docket No. RM96–1–011.

KNW states that copies of this filing has been served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17729 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–397–000]

Koch Gateway Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the tariff sheets listed in Appendix A to the filing, to become effective August 1, 1999.

Koch states that this filing is in compliance with the Commission's Final Rule, issued April 2, 1999 (Final Rule), Standards For Business Practice of Interstate Natural Gas Pipelines,

Order No. 587–K, 87 FERC ¶ 61,021 (1999). The revised tariff sheets contain modifications reflecting Koch's compliance with the standards promulgated by the Gas Industry Standards Board (GISB), to become effective as of August 1, 1999. The instant filing addresses the directives contained in the Final Rule.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17706 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–396–000]

Michigan Gas Storage Company; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Michigan Gas Storage Company (MGSCo) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Fourth Revised Tariff Sheet No. 41A and Fifth Revised Tariff Sheet No. 54A, with an effective date of August 1, 1999.

MGSCo states that the filing is being made in compliance with Order No. 587–K, regarding Gas Industry Standards Board (GISB) standards.

MGSCo states that copies of this filing are being served on all customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17705 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–392–000]

Mid Louisiana Gas Company; Proposed Changes in FERC Gas Tariff

July 7,1999.

Take notice that on July 1, 1999, Mid Louisiana Gas Company (Mid Louisiana) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Sixth Revised Sheet No. 78
Original Sheet No. 78A
Fourth Revised Sheet No. 87
First Revised Sheet No. 87A
Second Revised Sheet No. 87A
Original Sheet No. 87B
Fourth Revised Sheet No. 142
First Revised Sheet No. 155B
Third Revised Sheet No. 158
Second Revised Sheet No. 162

Mid Louisiana states that the purpose of this filing is to comply with the Commission Order No. 587–K issued on April 2, 1999 in Docket No. RM96–1–011 wherein the Commission adopted, by reference in Section 284.10(b)(1)(i through v) of its Regulations, certain standardized business procedures, Version 1.3 as submitted by the Gas Industry Standards Board (GISB).

Mid Louisiana states that the modifications evidenced on the enclosed tariff sheets reflect its acceptance and incorporation of the proposed business standards into its general tariff provisions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions of protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17702 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No RP99–393–000]

Midcoast Interstate Transmission Inc.; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Midcoast Interstate Transmission Inc. (MIT) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Third Revised Sheet No. 78
Second Revised Sheet No. 78A
Fifth Revised Sheet No. 80
Fourth Revised Sheet No. 154
Original Revised Sheet No. 154A

MIT states that the purpose of this filing is to comply with the Commission Order No. 587–K issued on April 2, 1999 in Docket No. RM96–1–011 wherein the Commission adopted, by reference in Section 284.10(b)(1)(i through v) of its Regulations, certain standardized business procedures, Version 1.3 as submitted by the Gas Industry Standards Board (GISB).

MIT states that the modifications evidenced on the enclosed tariff sheets reflect its acceptance and incorporation of the proposed business standards into its general tariff provisions. The sheets are submitted, as directed by the Commission's order with a proposed effective date of August 1, 1999.

Any person desiring to be heard or to protest said filing should file a motion

to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17703 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–377–000]

MIGC, Inc.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999 MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Third Revised Sheet No. 6 with a proposed effective date of August 1, 1999.

MIGC states that the purpose of the filing is to revise and update the fuel retention and loss percentage factors (FL&U factors) set forth in its FERC Gas Tariff, First Revised Volume No. 1 in accordance with the requirement of Section 25 of said tariff.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with 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. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call (202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc 99–17688 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–395–000]

MIGC, Inc.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999 MIGC, Inc. (MIGC), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain tariff sheets with a proposed effective date of August 1, 1999.

MIGC states that the purpose of the filing is to comply with Order No. 587–K issued in Docket No. RM96–1–011.

MIGC states that copies of its filing are being mailed to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17704 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–383–000]

Mississippi Canyon Gas Pipeline, LLC; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Mississippi Canyon Gas Pipeline, LLC (Mississippi Canyon) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, tariff sheets listed in Appendix B to the filing, with a proposed effective date of August 1, 1999.

Mississippi Canyon states that the purpose of this filing is to comply with Part 284 of the Commission's Regulations and Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011. In Order No. 587–K, the Commission adopted version 1.3 of Gas Industry Standards Board consensus standards. Version 1.3 updated and improved the standards, with the principal changes occurring in the areas of confirmation practices, further standardization of the information provided on pipeline Internet web sites, and revisions to the data sets. The tariff sheets filed herein reflect version 1.3 standards adopted by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–222 for assistance).

David P. Boegers,

Secretary.

[FR Doc. 99–17693 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–375–000]

Mojave Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Mojave Pipeline Company (Mojave) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1 the following tariff sheets, with an effective date of August 1, 1999.

Third Revised Sheet No. 202
Third Revised Sheet No. 203
Original Sheet No. 203A

Mojave states that the filing is being filed in compliance with Order No. 587–K issued April 2, 1999 at Docket No. RM96–1–011.

Mojave states that the tariff sheets are being filed to implement Version 1.3 of the Gas Industry Standards Board standards.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–17686 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–386–000]

National Fuel Gas Supply Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the tariff Second Revised Sheet No. 408 and Original Sheet No. 408A, with a proposed effective date of August 1, 1999.

National Fuel states that the purpose of the instant filing is to comply with the Commission's Order Approving Settlement issued on April 29, 1998, 83 FERC ¶ 61,093, and the Order on Rehearing issued June 26, 1998, 83 FERC ¶ 61,331 (the Orders). The Orders provide that participating pipelines shall serve as voluntary collection agents for shippers who voluntarily choose to support GRI programs through a ''check-the-box'' approach on invoices.

National Fuel further states that collections pursuant to the voluntary contribution mechanism are not part of its pipeline rates, and any amount remitted by a shipper pursuant to the voluntary contribution mechanism is not refundable by National Fuel.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17696 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–401–000]

National Fuel Gas Supply Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, National Fuel Gas Supply Corporation (National Fuel) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Fourth Revised Sheet No. 457 and Second Revised Sheet No. 458, with a proposed effective date of August 1, 1999.

National Fuel states that the purpose of the instant filing is to comply with the Commission's Order No. 587–K issued April 2, 1999 in Docket No. RM96–1–011 (the Order). The Order amends § 284.10 of the Commission's Regulations to incorporate by reference the most recent standards, version 1.3 promulgated by the Gas Industry Standards Board on July 31, 1998. National Fuel's filing also indicates that a correction was also made to Fourth Revised Sheet No. 457 to remove the reference principles 1.1.17–1.1.19 since no other GISB principles are incorporated by reference in National Fuel's tariff, and since such incorporation is not required.

National Fuel states that copies of this filing were served upon its customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17725 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–416–000]

Natural Gas Pipeline Company of America; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing as

part of its FERC Gas Tariff, Sixth Revised Volume No. 1, certain tariff sheets to be effective August 1, 1999.

Natural states that these tariff sheets were filed in compliance with the Commission's Order No. 587–K issued April 2, 1999 in Docket No. RM96–1–011.

Natural requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective August 1, 1999, pursuant to Order No. 587–K.

Natural states that copies of the filing are being mailed to Natural's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such interventions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17710 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–388–000]

Nautilus Pipeline Company, L.L.C., Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Nautilus Pipeline Company, L.L.C. (Nautilus) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed in Appendix B to the filing, proposed to become effective August 1, 1999.

Nautilus states that the purpose of this filing is to comply with Part 284 of the Commission's Regulations and Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011. In Order No. 587–K, the Commission adopted version 1.3 of Gas Industry Standards Board consensus standards. Version 1.3 updated and improved the standards, with the principal changes occurring in the areas of confirmation practices, further standardization of the information provided on pipeline Internet web sites, and revisions to the data sets. The tariff sheets filed herein reflect version 1.3 standards adopted by the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17698 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–390–000]

Northern Border Pipeline Company; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Northern Border Pipeline Company (Northern Border) tendered for filing as part of its FERC Gas Tariff First Revised Volume No. 1, the tariff sheets as listed on the filing, to become effective August 1, 1999.

Northern Border states that this filing is made in compliance with Order No. 587–K, issued in Docket No. RM96–1–011 on April 2, 1999. These compliance tariff sheets reflect the GISB standards adopted in Order No. 587–K.

Northern Border states that a copy of the instant filing is being served on all affected customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17700 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–391–000]

Northern Natural Gas Company; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Northern Natural Gas Company (Northern) tendered for filing changes in its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to be effective August 1, 1999:

Sixth Revised Sheet No. 204
Fourth Revised Sheet No. 259
Fifth Revised Sheet No. 260
Fourth Revised Sheet No. 265

Northern states that the above-listed tariff sheets are filed to comply with Order No. 587–K issued April 2, 1999 in Docket No. RM96–1–011, incorporating Version 1.3 of the Gas Industry Standards Board business practice standards.

Northern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426 in accordance with 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17701 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–402–000]

Paiute Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Paiute Pipeline Company (Paiute) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets, to become effective August 1, 1999:

Third Revised Sheet No. 56C
Original Sheet No. 56C.1
Second Revised Sheet No. 58A
Fourth Revised Sheet No. 58B
Original Sheet No. 58B.1
Third Revised Sheet No. 61
Second Revised Sheet No. 61A
Original Sheet No. 61A.1
First Revised Sheet No. 61C
Fourth Revised Sheet No. 63C
Third Revised Sheet No. 98A
Original Sheet No. 98B
Fourth Revised Sheet No. 114

Paiute indicates that the purpose of the instant filing is (1) to comply with the directives of Order No. 587–K, issued by the Commission on April 2, 1999 in Docket No. RM96–1–011; and (2) to effectuate changes to the General Terms and Conditions of Paiute's tariff which are necessary to implement the Gas Industry Standards Board standards which were adopted by the Commission in Order No. 587–K.

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, N.E., 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17726 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–378–000]

Panhandle Eastern Pipe Line Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Panhandle Eastern Pipe Line Company (Panhandle) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

Second Revised Sheet No. 240
Sixth Revised Sheet No. 339

Panhandle states that the purpose of this filing is to comply with Order No. 587–K, Final Rule issued on April 2, 1999 in Docket No. RM96–1–011. The revised tariff sheets reflect certain Version 1.3 standards promulgated by the Gas Industry Standards Board which were adopted by the Commission and incorporated by reference in the Commission's Regulations.

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 protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–17689 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–374–000]

Sea Robin Pipeline Company; Proposed Changes to FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets in compliance with the Commission's Order No. 587–K to become effective August 1, 1999:

First Revised Sheet No. 17.01
Second Revised Sheet No. 20
First Revised Sheet No. 21a
Fifth Revised Sheet No. 25
Fourth Revised Sheet No. 30a
Fourth Revised Sheet No. 32
First Revised Sheet No. 33a
Second Revised Fourth Revised Sheet No. 95

On April 2, 1999, the Commission issued Order No. 587–K in Docket No. RM96–1–011 which revised the Commission's regulations governing interstate natural gas pipeline to require such pipelines to follow Version 1.3 of the business practices standards issued by the Gas Industry Standards Board (GISB) and incorporated by reference in Section 284.10(b) of the Commission's Regulations. The standards require pipelines to post certain information on World Wide Web homepages and to comply with the new and revised business practices governing nominations, flowing gas, electronic delivery mechanisms and capacity release.

Sea Robin states that the revisions shown on the Tariff Sheets filed herewith reflect Sea Robin's compliance filing to conform with Version 1.3 of the GISB standards approved under Order No. 587–K. Such standards specifically include nomination and confirmation practices, the definition of a gigacalorie for nominations in Mexico, the addition of an allocation methodology, and the format and content of information postings on Sea Robin's web site. The order required Sea Robin to submit its compliance filing for implementation of the approved standards by August 1, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17720 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–387–000]

South Georgia Natural Gas Company; Proposed Changes to FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following revised tariff sheets in compliance with the Commission's Order No. 587–K to become effective August 1, 1999:

Fourth Revised Sheet No. 15a
Original Sheet No. 15b
Second Revised Sheet No. 16b
Fifth Revised Sheet No. 17
Fourth Revised Sheet No. 32a
Eighth Revised Sheet No. 33
Fifth Revised Sheet No. 34
Fifth Revised Sheet No. 35
First Revised Sheet No. 46a
Sixth Revised Sheet No. 98

On April 2, 1999, the Commission issued Order No. 587–K in Docket No. RM96–1–011 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow Version 1.3 of the business practices standards issued by the Gas Industry Standards Board (GISB) and incorporated by reference in Section 284.10(b) of the Commission's Regulations. The standards require pipelines to post certain information on World Wide Web homepages and to comply with the new and revised business practices governing nominations, flowing gas, electronic delivery mechanisms and capacity release. The revisions shown on the Tariff Sheets filed herewith reflect South Georgia's compliance filing to conform with Version 1.3 of the GISB standards approved under Order No. 587–K. Such standards specifically include nomination and confirmation practices, the definition of a gigacalorie for nominations in Mexico, the addition of an allocation methodology, and the format and content of information positings on South Georgia's web site. The order required South Georgia to submit its compliance filing for implementation of the approved standards by August 1, 1999.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Wshington, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17697 Filed 1–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–385–000]

Steuben Gas Storage Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Steuben Gas Storage Company (Steuben) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the tariff sheets listed below, to be effective August 1, 1999:

Third Revised Sheet No. 132
Third Revised Sheet No. 132B
Second Revised Sheet No. 135
Sixth Revised Sheet No. 154

Steuben states the attached tariff sheets are being filed in compliance with the Commission Order No. 587–K, issued on April 2, 1999 at docket No. RM96–1–011.

Steuben states that copies of the filing were served upon the company's Jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.)

David P. Boergers,

Secretary.

[FR Doc. 99–17695 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–415–000]

Stingray Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Stingray Pipeline Company (Stingray) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective August 1, 1999.

Stingray states that these tariff sheets were filed in compliance with the Commission's Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011.

Stingray requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective August 1, 1999, pursuant to Order No. 587–K.

Stingray states that copies of the filing are being mailed to its customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17709 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–405–000]

TCP Gathering Co.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, TCP Gathering Co. (TCP) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Fourth Revised Sheet No. 18
First Revised Sheet No. 18D
Third Revised Sheet No. 19
Second Revised Sheet No. 19A
Second Revised Sheet No. 72
First Revised Sheet No. 88D
Fourth Revised Sheet No. 103A

TCP is submitting this filing to incorporate latest GISB 1.3 standards. TCP is complying with FERC Order dated April 2, 1999 in Docket No. RM96–1–011.

TCP states that copies of this filing have been served upon all affected firm customers of TCP and applicable state agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:// ww.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17727 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–58–000]

Tennessee Gas Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on June 30, 1999, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, original and revised tariff sheets pertaining to its pro forma Electronic Data Interchange (EDI) Trading Partner Agreement (TPA).

Tennessee states that this filing will remove its existing pro forma EDI TPA and instead incorporate the Model TPA of the Gas Industry Standards Board (GISB) which GISB filed with the Commission on November 3, 1998 (November 3, 1998 Model TPA). Tennessee further states that this action was suggested by the Commission in Tennessee Gas Pipeline Co., 82 FERC (¶61,182 (1998). Additionally, the filing will modify Tennessee's Agency Authorization Agreement for EDI to include space for additional GISB data sets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17721 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM99–2–17–000]

Texas Eastern Transmission Corporation; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Texas Eastern Transmission Corporation (Texas Eastern) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1 and Original Volume No. 2, revised tariff sheets listed on Appendix A to the filing, to become effective August 1, 1999.

Texas Eastern states that these revised tariff sheets are filed pursuant to Section 15.1, Electric Power Cost (EPC) Adjustment, of the General Terms and Conditions of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1.

Texas Eastern states that Section 15.1 provides that Texas Eastern shall file to be effective each August 1 revised rates for each applicable zone and rate schedule based upon the projected annual electric power costs required for the operation of transmission compressor stations with electric motor prime moves.

Texas Eastern states that these revised tariff sheets are being filed to reflect changes in Texas Eastern's projected costs for the use of electric power for the twelve month period beginning August 1, 1999. Texas Eastern states that the rate changes proposed to the primary firm capacity reservation charges, usage rates and 100% load factor average costs for full Access Area Boundary service from the Access Area Zone, East Louisiana, to the three market area zones are as follows:

Zone	Reservation	Usage	100%LF
Market 1	$0.006/dth	$0.0005/dth	$0.0007/dth.
Market 2	0.018/dth	0.0014/dth	0.0020/dth.
Market 3	0.027/dth	0.0021/dth	0.0030/dth.

Texas Eastern states that copies of its filing have been mailed to all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202 208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17708 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–414–000]

Trailblazer Pipeline Co.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Trailblazer Pipeline Co. (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective August 1, 1999.

Trailblazer states that these tariff sheets were filed in compliance with the Commission's Order No. 587–K issued April 2, 1999 in Docket No. RM96–1–011.

Trailblazer requested waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective August 1, 1 999, pursuant to Order No. 587–K.

Trailblazer states that copies of the filing are being mailed to Trailblazer's customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17734 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–380–000]

Transcontinental Gas Pipe Line Corporation; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing a revised tariff sheet to its FERC Gas Tariff, Third Revised Volume No. 1. The effective date of such tariff sheet is August 1, 1999.

Transco states that the purpose of the instant filing is to incorporate the standardized procedures for business practices adopted in the GISB standard, Version 1.3, to the extent those standardized procedures currently are not reflected in Transco's tariff.

Additionally, Transco is submitting a table attached as Appendix A to the filing, showing the GISB Version 1.3 standard, the complying tariff sheet number, and an explanatory statement, if necessary, describing any reasons for deviation from or changes to each GISB standard.

Transco has not reflected certain of the Version 1.3 new and revised data dictionary standards in the instant filing. Transco respectfully requests that the Commission grant a waiver of the requirements of Order No. 587–K that it file revised tariff sheets at this time to conform its tariff to reflect the foregoing Version 1.3 data dictionary standards. Transco's current tariff incorporates the Version 1.2 data dictionary standards. Transco has determined that the new and revised data dictionary standards in Version 1.3 involve data sets that its shippers have not used in the past and currently do not use. Developing and testing the modifications to Transco's current business systems in order to incorporate the Version 1.3 data dictionary standards would require that Transco devote substantial resources, in terms of personnel, time and money, to programming data sets that Transco's shippers have thus far not expressed an interest in using.

Transco has embarked, along with its affiliated interstate pipelines, on a project to construct a state of the art, Internet-based interactive service delivery computer system. That system will provide a full range of interactive services to Transco's customers, including on-line contracting, nominations, confirmations, scheduled quantities, imbalance status and trading, and invoicing, and will be fully compliant with the then-effective GISB business and data dictionary standards. Transco currently expects that this new service delivery system will be implemented on its pipeline system in mid-2000.

Transco believes that its resources will be more productively and efficiently employed in the development of the new system, which as noted above will comply with the then-effective GISB business and data dictionary standards, rather than in attempting to separately modify, for the interim period, its existing business systems to program and test the implementation of data sets that Transco's shippers have thus far not expressed an interest in using. In order to ensure, however, that none of its shippers is prejudiced or harmed by a grant of Transco's requested waiver, Transco will commit to programming its exiting system to support any one of the above-listed data sets within ninety

days of Transco's receipt of a shipper request for the creation of such data set.

Based on the foregoing, Transco submits that good course exists for the Commission to grant Transco's request for a waiver of the requirements of Order No. 587–K that it file revised tariff sheets at this time to conform its tariff to reflect the Version 1.3 data dictionary standards listed above, and that no party will be prejudiced or harmed by a grant of the requested waiver.

Transco states that copies of the instant filing have been served on customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17691 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–368–000]

Transcontinental Gas Pipe Line Corporation; Tariff Filing

July 7, 1999.

Take notice that on June 30, 1999, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain revised tariff sheets. The proposed effective date of such tariff sheets is August 1, 1999.

Transco states that the filing is submitted pursuant to Section 39 of the General Terms and Conditions of Transco's FERC Gas Tariff which provides that Transco will file to adjust its Great Plains Volumetric Surcharge (GPS) 30 days prior to each GPS Annual Period beginning August 1. The GPS Surcharge is designed to recover: i) the cost of gas purchased from Great Plains Gasification Associates (or its successor) which exceeds the Spot Index (as defined in Section 39 of the General Terms) and ii) the related cost of transporting such gas.

The revised GPS Surcharge included therein consists of two components—the Current GPS Surcharge calculated for the period August 1, 1999 through July 31, 2000 plus the Great Plains Deferred Account Surcharge (Deferred Surcharge). The determination of the Deferred Surcharge is based on the balance in the current GPS subaccount plus accumulated interest at April 30, 1999.

Transco states that included in Appendix B attached to the filing are workpapers supporting the calculation of the revised GPS Surcharge of $0.0131 per dt reflected on the tariff sheets included therein.

Transco states that copies of the instant filing are being mailed to customers, State Commissions and other interested parties.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17717 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–366–000]

Transwestern Pipeline Company; Proposed Changes in FERC Gas Tariff

July 7, 1999.

Take notice that on July 1, 1999, Transwestern Pipeline Company (Transwestern), tendered for filing changes in its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets proposed to be effective August 1, 1999:

Eighth Revised Sheet No. 49
Second Revised Sheet No. 80A.01

Transwestern states that the above-listed tariff sheets are filed to comply with Order No. 587–K issued April 2, 1999 in Docket No. Rm96–1–011 incorporating Version 1.3 of the Gas Industry Standards Board business practice standards.

Transwestern further states that copies of the filing have been mailed to each of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–17715 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–376–000]

Venice Gathering System, L.L.C., Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Venice Gathering System, L.L.C.(VGS), tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, the following tariff sheets:

Original Sheet No. 193
First Revised Sheet Nos. 48, 90, 104, 163, 178, 187, 192
Second Revised Sheet Nos. 49–42, 54, 56, 78, 83, 86, 196

VGS states that it is submitting these revised tariff sheets to incorporate these Industry Standards Board (GISB) standards adopted by Order No. 587–K in Docket No. RM96–1, et al. VGS proposes an August 1, 1999 effective date for these sheets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.fere.fed.us/online/rims.htm (call 202–2–208–2222 for assistance.

David P. Boergers,

Secretary.

[FR Doc. 99–17687 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–60–000]

Williston Basin Interstate Pipeline Company; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective July 1, 1999:

Third Revised Sheet No. 375
Seventeenth Revised Sheet No. 776
Twenty-second Revised Sheet No. 777
Sixteenth Revised Sheet No. 778
Sixteenth Revised Sheet No. 825
Seventeenth Revised Sheet No. 826
Twenty-second Revised Sheet No. 827
Seventeenth Revised Sheet No. 828
Twenty-third Revised Sheet No. 829
Twenty-third Revised Sheet No. 830
Thirty-second Revised Sheet No. 831
Thirtieth Revised Sheet No. 832
Twenty-ninth Revised Sheet No. 833
Fourth Revised Sheet No. 834
Second Revised Sheet No. 835

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17723 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–410–000]

Williston Basin Interstate Pipeline Co.; Tariff Filing

July 7, 1999.

Take notice that on July 1, 1999, Williston Basin Interstate Pipeline Co., (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective August 1, 1999:

Third Revised Sheet No. 175
Fourth Revised Sheet No. 176
Second Revised Sheet No. 176A
Seventh Revised Sheet No. 227
Fifth Revised Sheet No. 227A
Second Revised Sheet No. 227A.1
First Revised Sheet No. 227A.1a
Original Sheet No. 227A.1b
Original Sheet No. 227A.1c
Third Revised Sheet No. 235A
Sixth Revised Sheet No. 371
Third Revised Sheet No. 372

Williston Basin states that the tariff sheets reflect modifications to Williston Basin's FERC Gas Tariff in compliance with the Commission's Order No. 587–K issued April 2, 1999, in Docket No. RM96–1–011. The tariff sheets reflect the Gas Industry Standards Board (GISB) Version 1.3 standards adopted by the Commission in such Order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Sections 385.214 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 proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may be viewed on the web at http:\\www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 99–17732 Filed 7–12–99; 8:45 am]

BILLING CODE 6717–07–M

ENVIRONMENTAL PROTECTION AGENCY

[IL 192;FRL–6377–2]

Final Determination for Prevention of Significant Deterioration Air Quality Permit

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final action.

SUMMARY: The purpose of this document is to announce that on March 10, 1999, the EPA Environmental Appeals Board (EAB) issued a Remand Order finding that the West Suburban Recycling and

Energy Center, L.P. (WSREC), in the Village of Summit, Illinois, had failed to establish that the incinerator described in its prevention of significant deterioration (PSD) permit application is still viable, and concluded that no PSD permit to construct should be issued to WSREC under these circumstances. The EAB remanded the matter to the Illinois Environmental Protection Agency (Illinois EPA) to issue a final permit decision denying the federal PSD permit. On April 22, 1999, the Illinois EPA denied the WSREC application for a federal PSD permit.

DATES: Judicial review of the PSD permit denial is available pursuant to 307(b)(1) of the Clean Air Act and only by filing a petition for review in the United States Court of Appeals for the Seventh Circuit by September 13, 1999.

ADDRESSES: Documents relevant to the above action are available for public inspection during normal business hours at the following addresses:

Illinois Environmental Protection Agency, Bureau of Air, Permit Section, 1021 N. Grand Ave. East, Springfield, Illinois 62794

United States Environmental Protection Agency, Region 5, 77 West Jackson Blvd. (AR–18J), Chicago, IL 60604

FOR FURTHER INFORMATION CONTACT: Mr. Steve Marquardt, United States Environmental Protection Agency, Region 5, 77 West Jackson (AR–18J), Chicago, Illinois 60604. (312) 353–3214.

SUPPLEMENTARY INFORMATION: On November 4, 1998 the EAB issued an Order to Show Cause Why Appeal Should Not Be Dismissed As Moot (''Show Cause Order'') in this case. The Show Cause Order directed the permittee/petitioner, WSREC, to ''affirm that it is presently committed to construct the resource recovery facility'' that is the subject of this appeal. Show Cause Order at 7. In particular, WSREC was to ''demonstrate that it has the means to obtain control over the properties identified in its site plan for purposes of construction.''. *Id.* At 8. The purpose of the Show Cause Order was to give WSREC an opportunity to defend against the dismissal of this appeal on the ground that ''WSREC does not intend, or is unable, to construct the facility identified in its permit application.'' *Id.*

In light of WSREC's failure to affirm that it intends to construct the facility described in its PSD permit application and the evidence of property transfers covering the proposed project site, the EAB concluded that there is no realistic prospect that construction will commence within the regulatory time frame specified in 40 CFR 52.21(r). Further, the EAB found that WSREC failed to show cause why this appeal should not be dismissed as moot. The appeal was dismissed by the EAB and the matter was remanded to the Illinois EPA for the purpose of issuing a final permit decision denying the permit. The EAB instructed that the Illinois EPA's final decision shall be considered final agency action for the purposes of judicial review.

Dated: June 23, 1999

Jerri-anne Garl,

Acting Regional Administrator, Region 5.

[FR Doc. 99–17770 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6375–2]

RIN 2060–AG59

Consumer and Commercial Products: Wood Furniture, Aerospace, and Shipbuilding and Ship Repair Coatings: Control Techniques Guidelines in Lieu of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final determination.

SUMMARY: This final determination announces our final decision to list wood furniture manufacturing coatings, aerospace coatings, and shipbuilding and ship repair coatings for regulation in the first group of consumer and commercial product categories to be regulated under section 183(e) of the Clean Air Act (Act). We determined that emissions of volatile organic compounds (VOC) from these coatings have the potential to cause or contribute to ozone levels that violate the national ambient air quality standards (NAAQS) for ozone. Ozone is a major component of smog which causes negative health and environmental impacts when present in high concentrations at ground level.

This final determination also announces our determination under section 183(e) of the Act that control techniques guidelines (CTG) are substantially as effective as national regulations in reducing VOC emissions from wood furniture manufacturing coatings, aerospace coatings, and shipbuilding and ship repair coatings which contribute to violations of the NAAQS for ozone. With this final determination, we may issue CTG in lieu of national regulations for each of these specific categories.

We based our final determination on comparison of the effectiveness of VOC control in the wood furniture manufacturing CTG (61 FR 25223, May 20, 1996), the aerospace CTG (63 FR 15006, March 22, 1998), and the shipbuilding and ship repair CTG (61 FR 44050, August 27, 1996) with the estimated effectiveness of control possible from national regulations for these product categories.

EFFECTIVE DATE: July 13, 1999.

ADDRESSES: *Docket.* Docket No. A–96–23 contains supporting information for this final determination. You can inspect this docket and copy material between 8:30 a.m. and 5:30 p.m., Monday through Friday. The docket is located at our Air and Radiation Docket and Information Center, Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington, DC 20460. Telephone (202) 260–7546, FAX (202) 260–4400. You may have to pay a reasonable fee for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Brown, (919) 541–5305, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (*brown.dan@epa.gov).*

SUPPLEMENTARY INFORMATION:

Whom does this action affect? Entities potentially affected by this action are those wood furniture manufacturing operations, aerospace manufacturing and rework operations, or shipbuilding and ship repair (surface coating) operations which are (or have the potential to become) ''major'' sources of VOC emissions and are located in certain ozone nonattainment areas. Potentially affected entities are included in the following table:

Category	Examples of potentially affected entities
Industry	Wood furniture or wood furniture component(s) manufacturing. (SIC Codes 2434, 2511, 2512, 2517, 2519, 2521, 2531, 2541, 2599, 5712).
	Any manufacturing, reworking, or repairing of aircraft such as airplanes, helicopters, missiles, rockets, and space vehicles. (SIC Codes 3720, 3721, 3724, 3728, 3760, 3761, 3764, 3765, and 4581).

Category	Examples of potentially affected entities
Federal Government	Any building or repairing, repainting, converting, or alteration of ships. The term ship means any marine or fresh-water vessel, including self-propelled by other craft (barges), and navigational aids (buoys). Note: Offshore oil and gas drilling platforms and vessels used by individuals for noncommercial, nonmilitary, and recreational purposes that are less than 20 meters in length are not considered ships. (SIC Code 3731) Federal agencies which undertake aerospace manufacturing or rework operations (see above) such as the Air Force, Navy, Army, and Coast Guard. Federal agencies which undertake shipbuilding or ship repair operations (see above) such as the Navy and Coast Guard.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities which are the focus of this action. This table lists the types of entities that we are now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected.

What is the judicial review process for this determination? We proposed this section 183(e) determination on August 22, 1997 (62 FR 44672). Today's final determination is our final administrative action concerning that proposal. Under section 307(b)(1) of the Act, you can challenge this final determination only by filing a petition for review in the United States Court of Appeals for the District of Columbia Circuit by September 13, 1999. Under section 307(d)(7)(B) of the Act, you can raise an issue during judicial review only if someone raised it with reasonable specificity during the public comment period.

The information presented in this document is organized as follows:

I. Why are we taking this action?
II. What were the significant comments we received and our responses to them?
A. Estimated levels of control for reasonably available control technology (RACT) and best available control (BAC)
1. Comparing BAC and RACT
2. Selecting BAC
B. Emission reductions attributed to CTG
C. Estimated number of affected facilities
III. What is our final action?
IV. Administrative requirements
A. Docket
B. Paperwork Reduction Act
C. Executive Order 12866: Regulatory Planning and Review
D. Executive Order 12875: Enhancing Intergovernmental Partnership
E. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996
F. Unfunded Mandates Reform Act of 1995
G. Submission to Congress and the General Accounting Office
H. National Technology Transfer and Advancement Act
I. Executive Order 13045: Protection of Children from Environmental Health Risks and Safety Risks
J. Executive Order 13084: Consultation and Coordination with Indian Tribal Governments

I. Why are we taking this action?

Ground-level ozone, which is a major component of ''smog,'' is formed in the atmosphere by reactions of VOC and oxides of nitrogen (NO_X) in the presence of sunlight. The formation of ground-level ozone is a complex process that is affected by many variables.

Exposure to ground-level ozone is associated with a wide variety of human health effects, agricultural crop loss, and damage to forests and ecosystems. Acute health effects are induced by short-term exposures to ozone (observed at concentrations as low as 0.12 parts per million (ppm)), generally while individuals are engaged in moderate or heavy exertion, and by prolonged exposures to ozone (observed at concentrations as low as 0.08 ppm), typically while individuals are engaged in moderate exertion. Moderate exertion levels are more frequently experienced by individuals than heavy exertion levels. The acute health effects include respiratory symptoms, effects on exercise performance, increased airway responsiveness, increased susceptibility to respiratory infection, increased hospital admissions and emergency room visits, and pulmonary inflammation. Groups at increased risk of experiencing such effects include active children, outdoor workers, and others who regularly engage in outdoor activities or have preexisting respiratory disease. Available information also suggests that long-term exposures to ozone may cause chronic health effects (e.g., structural damage to lung tissue and accelerated decline in baseline lung function).

In 1990, Congress enacted section 183(e) of the Act, establishing a new regulatory program to control VOC emissions from consumer and commercial products. Section 183(e) directed the Administrator to study the VOC emissions from these products and report to Congress concerning their potential to contribute to levels of ozone which violate the NAAQS for ozone. The statute also directed us to identify, list, and schedule for regulation those categories of products which account for at least 80 percent of VOC emissions from all such products in ozone nonattainment areas.

Following these directions, we studied these products and determined that VOC emissions from consumer and commercial products have the potential to contribute to ozone levels that violate the NAAQS for ozone. We also identified coatings used in wood furniture manufacturing, aerospace, and shipbuilding and ship repair as product categories to regulate to reduce VOC emissions. For a more detailed discussion of our findings, see:

- ''Consumer and Commercial Products Report to Congress'' (EPA–453/R–94–066–A).
- **Federal Register** document announcing the schedule for regulating consumer and commercial products (60 FR 15264).
- **Federal Register** document summarizing significant public comments and the EPA's responses regarding the section 183(e) study, Report to Congress, and the list and schedule for regulation (63 FR 48792).

Section 183(e) of the Act directs us to regulate consumer and commercial products using best available controls (BAC). The statute defines ''consumer and commercial'' products as:

> * * * any substance, product (including paints, coatings, and solvents), or article (including any container or packaging) held by any person, the use, consumption, storage, disposal, destruction, or decomposition of which may result in the release of volatile organic compounds.

The statute defines ''BAC'' as:

> * * * the degree of emissions reduction the Administrator determines, on the basis of technological and economic feasibility, health, environmental, and energy impacts, is achievable through the application of the most effective equipment, measures, processes, methods, systems or techniques, including chemical reformulation, product or feedstock substitution, repackaging, and directions for use, consumption, storage, or disposal.

Although the statute provides that we may use ''any system or systems'' of regulation to achieve VOC emission reductions, it provides two primary options for reducing VOC emissions from these products, national

regulations or CTG. Because of the difference between the entities subject to regulation under each mechanism, the statute permits us to obtain VOC emission reductions either at the point of manufacture or at the point of use. A regulation under section 183(e) may only apply to certain regulated entities defined in the statute as:

> * * * (i) manufacturers, processors, wholesale distributors, or importers of consumer and commercial products for sale or distribution in interstate commerce in the United States; or (ii) manufacturers, processors, wholesale distributors, or importers that supply the entities listed under clause (i) with such products for sale or distribution in interstate commerce in the United States.

Thus, section 183(e) does not allow us to issue regulations that would directly regulate end users of these products. Alternatively, section 183(e) also includes provisions that allow us to control these emissions at the point of use by issuing CTG. We may issue CTG instead of national regulations, under section 183(e)(3)(C) of the Act, if the Administrator determines that CTG will be ''substantially as effective as'' regulations in reducing VOC emissions from consumer and commercial products which contribute to ozone in areas that violate the NAAQS.

Although not specifically defined in the Act, a CTG is a guidance document issued by the EPA which, under section 182(b)(2), triggers a responsibility for States to submit reasonably available control technology (RACT) rules for stationary sources of VOC that are covered by the CTG as part of each State's State Implementation Plan. The EPA defines RACT as ''the lowest emission limit that a particular source is capable of meeting by the application of control technology that is reasonably available considering technological and economic feasibility'' (44 FR 53761, September 17, 1979). Each CTG includes a ''presumptive norm'' or ''presumptive RACT'' that we believe satisfies the definition of RACT. If a State submits a RACT rule that is consistent with the presumptive RACT in the CTG, the State does not need to submit additional support to demonstrate that the rule meets the Act's RACT requirement. However, if the State submits an alternative emission limit or level of control for a source or source category for which there is a presumptive RACT and deviates from the CTG, the State must submit independent documentation as to why the rule meets the statutory RACT requirement.

In our proposed determination, we discussed a number of factors we may consider in making our determination that CTG are substantially as effective as rules under section 183(e) (62 FR 44672, August 22, 1997). For these three product categories, we considered the following factors to determine if CTG are substantially as effective as national regulations:

—the product's distribution and place of use;

—the most effective entity to regulate in order to control emissions (in other words, whether it is more effective to achieve VOC reductions at the manufacturer level or the user level);

—consistency with other VOC control strategies; and

—estimates of VOC emission reductions.

As we consider other product categories in future phases of regulation under section 183(e), there may be other factors that will be relevant for given product categories.

The distribution and use of these products is focused on the industrial sector with fewer large users (e.g., industrial facilities), rather than many small users (e.g., individual consumers in the general public). Users often add thinning solvent to these coatings at the industrial facility after purchase from the coating manufacturer. Hence, we believe the industrial facility (i.e., the coating user) will be the most effective entity to target for VOC emission reductions from these products. This approach would be consistent with previous efforts to reduce VOC emissions from industrial coatings by issuing CTG for the industrial facilities where the coatings are applied. Furthermore, the historical use of CTG to control VOC emissions from similar coating operations has proven to be effective in reducing VOC emissions. In order to assess the relative effectiveness of each mechanism, we also compared the VOC emission reductions that we estimated for a CTG with those that we estimated for a national regulation for each product category. For the comparison, we used the existing CTG issued for wood furniture manufacturing (61 FR 25223), aerospace coatings (63 FR 15006), and shipbuilding and ship repair (61 FR 44050) to estimate VOC emission reductions for the CTG. We then made estimates of the projected VOC emission reductions from national regulations by estimating what would constitute BAC for each product category.

For wood furniture manufacturing coatings, aerospace coatings, and shipbuilding and ship repair coatings, we determined that CTG would be substantially as effective as national regulations in reducing VOC emissions in ozone nonattainment areas. For these product categories, the VOC emissions typically occur in fixed industrial settings where CTG enable monitoring and enforcement of controls during use of the product. We described the level of control presumptively established for each category in the proposed determination (62 FR 44672, August 22, 1997) and in the wood furniture manufacturing CTG (61 FR 25223, May 20, 1996), the aerospace CTG (63 FR 15006, March 22, 1998), and the shipbuilding and ship repair CTG (61 FR 44050, August 27, 1996).

II. What were the significant comments we received and our responses to them?

We placed our proposed determination and supporting documentation in a docket open to the public when we published the proposal in the **Federal Register** on August 22, 1997 (62 FR 44672). At that time, we asked for comments and later received comment letters from manufacturers and importers, trade groups, environmental groups, and one private citizen. All of the public comments on our proposed determination, and our responses to the comments, are in the docket (A–96–23), as referenced in the **ADDRESSES** section of this document. We requested but did not receive comments on the listing of these three commercial products in our proposed determination on August 22, 1997 (62 FR 44672). We discuss the most significant issues raised by commenters and our response to them in this document.

A. Estimated Levels of Control for Reasonably Available Control Technology (RACT) and Best Available Controls (BAC)

1. Comparing BAC and RACT

Comment: BAC, the degree of control required for a national regulation under section 183(e), allegedly should be more stringent than RACT, the degree of control required for CTG. The commenter noted that we should base BAC on ''best'' available controls, whereas we can base RACT on controls that are ''reasonably'' available. The commenter stated that to show that a CTG would be substantially as effective as a regulation, we would thus have to show that RACT is substantially as effective as BAC. The commenter's essential point is that it would be very difficult to establish that ''reasonably'' available controls could be substantially as effective as ''best'' available controls, because ''best'' implies a higher degree of controls.

Response: We disagree that BAC must automatically be a more stringent level

of control than RACT. Each of these terms refers to the optimum degree of control within its respective regulatory program and, as discussed in the proposed determination, we believe that BAC is not necessarily more stringent than RACT. We note that although section 183(e) contemplates the implementation of ''best'' available controls, it does so in terms that direct us to determine what is ''best'' in light of enumerated factors, including technological and economic feasibility.

We believe the degree of emission reduction in a national regulation based on BAC should reflect nationwide usage of coatings within a category under all conditions. This includes situations where high-VOC coatings are necessary to achieve product performance requirements. The level of control should be achievable considering, among other things, economic impacts. Thus, we believe that it is appropriate to consider the continued availability of high-VOC coatings in the selection of BAC if they are essential to fill a necessary product niche. In addition, we must base BAC (like RACT) on available control technologies that are achievable based on technological feasibility. Therefore, we cannot automatically select lower VOC-emitting products that are not proven for the range of uses in a category as dispositive of BAC simply because they have the lowest VOC emissions.

High-VOC coatings, if essential to fill a necessary product niche, could significantly influence the selection of BAC in development of a national regulation and result in a higher VOC limit to allow their continued production and use. High-VOC coatings would also impact the selection of controls for RACT. However, the impact would be lessened for RACT to the extent that regulations of the ''use'' of high-VOC coatings through CTG could lead to a lower VOC limit for specific applications and, hence, lower overall VOC emissions. Rules reflecting a CTG's presumptive RACT control level could also include provisions for more efficient coating application equipment, air pollution control devices, process changes, and work practice standards to further reduce VOC emissions. Thus, it is possible that a national regulation utilizing BAC could be less stringent than a RACT rule triggered by issuance of a CTG. We believe that this outcome is likely for many coatings used in industrial manufacturing processes where higher VOC coatings are often essential for product performance, but where on-site emission reduction measures through RACT rules can mitigate the VOC emissions to the atmosphere.

Because Congress explicitly provided for the use of CTG in lieu of a national regulation pursuant to section 183(e), we believe it is reasonable to assume that ''reasonably available control technology'' can be substantially as effective as ''best available control'' under certain conditions and for some categories. Congress, however, did not provide a distinct standard or methodology for EPA to consider when determining whether CTG are substantially as effective as regulations. Furthermore, the legislative history does not directly address this issue. Given the ambiguity in the statute, we have chosen to make this comparison based on reasonable considerations as set forth in the proposed determination.

Most importantly, we do not consider the comparison of numerical emission reduction estimates as the sole factor in the evaluation of whether a CTG is ''substantially as effective.'' As discussed in the proposed determination, other factors related to implementation and enforcement are equally important in determining the overall emission reduction effectiveness of each regulatory strategy. Such factors include consideration of the most effective entity to target for reductions (e.g., the product manufacturer or the product user), the distribution and site of product use (e.g., distributed and used in an established stationary facility or widely dispersed for use in varied locations), and consistency with other control strategies (e.g., have existing control strategies proved effective). Thus, in making the determination that CTG for wood furniture, aerospace, and shipbuilding and ship repair operations will be substantially as effective as regulations pursuant to section 183(e), we did not rely solely on the comparison of emission reduction estimates. We believe a proper determination requires consideration of the estimates of BAC, the corresponding emission reduction estimates, and the implementation and enforcement factors described in the proposal.

2. Selecting BAC

Comment: In comparing potential emission reductions from a CTG versus a national regulation, one commenter stated that we used unsupported estimates of the stringency of BAC standards that we would develop under a national regulation. The commenter suggested that our estimated standards were themselves illegal under section 183(e) because we did not consider all of the statutory factors in estimating what would constitute BAC under a projected national regulation.

Response: We maintain that we performed the proper analysis necessary to compare the potential emission reductions from a CTG to the potential emission reductions from a national regulation for each of these three product categories. As an initial matter, we note that section 183(e) does not stipulate how to assess whether a CTG is substantially as effective as a regulation in obtaining VOC emission reductions. As explained in the proposed determination, neither the statute nor the legislative history provides a distinct standard that Congress directed us to use for this analysis (62 FR 44672, 44674, August 22, 1997).

We acknowledge that the statute is ambiguous regarding how we are to make the determination that a CTG for a given product category would be substantially as effective as a national regulation in achieving VOC emission reductions. We believe that it is reasonable to interpret the provisions to allow a comparison of the estimated VOC emission reductions achievable by the alternative mechanisms of a CTG or a regulation. Moreover, we believe it is appropriate to interpret the provisions to allow us to choose a reasonable means to estimate the projected emission reductions. It would be unreasonable to require us, in effect, to perform a complete rulemaking process before making an informed determination that a CTG would be substantially as effective as a national regulation.

As detailed more fully in the proposed determination, we concluded that it would be reasonable to compare the expected VOC emission reductions from existing CTG for these product categories with the projected VOC reductions from national regulations that we might develop for the same products. We noted explicitly in the proposed determination that the projected VOC reductions from a national regulation were, by necessity, estimates based upon the information available to us. Contrary to the assertions of the commenter, we believe that we had adequate information regarding the affected industries and products to make reasonable estimates. For these three product categories, we completed an in-depth and detailed review of the industries during the development of national emission standards for hazardous air pollutants (NESHAP) and CTG. Based upon this information, as described in Docket No. A–96–23, we were informed about the industries and the issues that would

potentially affect development of any national regulation governing these products used in an industrial setting.

The commenter suggested that we had insufficient support for our estimates, thereby invalidating the comparison of CTG to national regulation. Taken to its logical extreme, however, the commenter's argument would require us to proceed through every step of a rulemaking process (e.g., regulatory development, proposal, response to comments, interagency review, and drafting of a final regulation) before we could have sufficient certitude about the level of control possible from a national regulation to make a valid comparison with CTG. We do not believe that section 183(e) requires such an extensive process in order to make a valid comparison between the efficacy of a national regulation and that of a CTG.

The commenter also stated that we underestimated the reductions feasible through a national regulation, thereby invalidating the comparison. We disagree because in making our estimation, we took into account the very issues that would have been relevant in the development of a national regulation. As detailed in the proposed determination, we explained alternative approaches, industry issues, and constraints for regulating each of the three product categories. We could not, of course, predict with perfect accuracy what the emission limits would have been for a national regulation. Such a determination would be possible only after completion of an actual rulemaking process. We did, however, utilize our expertise and familiarity with the issues to give an informed estimation of the VOC limits in a national regulation for these product categories. As the commenter acknowledged, we must consider a variety of factors in assessing what level of control is BAC for a product category. For a regulation with national scope, that level is not necessarily the lowest possible VOC content.

Even if we were conservative in estimating the potential VOC reductions achievable through a national regulation or a CTG, we note that the precise amount of reductions possible through one mechanism or another is but one factor for consideration. As stated in the proposed determination, we believe that we may take into account a variety of different factors related to implementation and enforcement such as the most effective entity to target for reductions (e.g., the product manufacturer or the product user), the distribution and site of use of the product (e.g., distributed and used in an established stationary facility or widely dispersed for use in varied locations), and consistency with other control strategies (e.g., have existing control strategies proved effective) (62 FR 44675). Thus, for example, it might be possible to achieve greater numeric reductions through a national regulation rather than a CTG, but other factors might render a CTG substantially as effective as or more effective than a national regulation.

Simply put, some products are more suitable for control through a national regulation at the point of manufacture and some products are better controlled at the point of use instead. For example, VOC control for a product like house paint is more effective through a regulation governing manufacturers, whereas control of products used by a smaller number of large sophisticated industrial end users is more effective through a CTG. As explained in greater detail in the proposed determination, we believe that these three product categories are appropriate for VOC control through a CTG rather than a regulation for a variety of reasons.

Comment: One commenter claimed that we provided incorrect estimates of the potential VOC emission reductions from a national regulation for wood furniture manufacturing coatings. Because we identified three possible control technologies: waterborne coatings, high solids coatings, and ultraviolet curable coatings, the commenter indicated that properly estimated BAC standards should have reflected some combination of these technologies. The commenter noted that we concluded in the proposed determination that waterborne and high-solids coatings are not necessarily compatible for all products. The commenter stated that the primary reason for our rejection of certain technologies was our concern that manufacturers would not be able to produce the same quality of product and would therefore suffer economically. The commenter stated that the proposed determination did not indicate that we made any effort to verify the assertions of manufacturers or to balance economic consequences against environmental and health benefits.

Response: As previously noted, the data and information that we used to support the BAC estimate came from extensive regulatory negotiations under the Federal Advisory Committee Act (FACA) to support development and promulgation of a NESHAP under section 112 of the Act and a CTG under section 183(b) of the Act. We believe these data are adequate to support an estimate of BAC for a national regulation because we examined all available coating technologies and the total VOC emissions from these coatings in these industries when developing the existing CTG.

In the selection of the level of control that is BAC and evaluation of its potential economic impacts, we believe it is reasonable to consider the impact on coating users if necessary coatings were no longer available. For the wood furniture manufacturing industry, sealer and top-coat coatings must be compatible to ensure acceptable finishes on the wood. Even though there may be lower VOC coatings that could potentially justify a lower level for BAC, we believe it is necessary to evaluate whether a limit based solely on such coatings would eliminate the availability of necessary compatible sealers and top-coats. We established BAC limits for wood furniture coatings based on broadly defined coating types (e.g., top-coats and sealers) so that all of the necessary coating technologies available within the coating type (e.g., waterborne, high solids, and conventional) would remain available to meet the needs of coating users to fill a product niche.

An alternative to establishing a single VOC content limit as BAC considering all coating technologies would be to establish less broadly defined categories of coatings with individual BAC limits for each type of coating technology. As we discussed in the proposed determination, we considered subcategorizing wood furniture coating types into several technology groups: waterborne coatings with a BAC limit based only on waterborne technology, high-solids coatings with BAC based only on high-solids technology, and conventional coatings with BAC based only on conventional coating technology. Although this approach might lead to lower VOC limits for the individual coating technologies, we do not believe it would automatically lead to the use of lower VOC coatings. Regulations under section 183(e) regulate the manufacturer, distributor, or processor of a coating; these regulations do not regulate how or under what circumstances the end user can apply a specific technology. Therefore, under this scenario, a wood furniture manufacturer would be able to use a coating technology with a higher VOC limit (e.g., solvent based) even if a lower VOC coating technology (e.g., waterborne) could achieve the same results.

Alternatively, regulators can specifically address the use of coating technologies with a CTG restricting the use of higher VOC coating technology to

only those applications where the use of lower VOC technology is not compatible with the specific sealer and top-coat system. Thus, a CTG can include stricter requirements on the actual use of coating technologies whereas a national regulation could not. Furthermore, since regulators can more effectively monitor and enforce compliance with requirements on the use of these products in wood furniture manufacturing facilities, these facilities can be better targeted for effective VOC reductions with a CTG.

In assessing the projected VOC emission reductions from a national regulation, we had to consider the limitations imposed by section 183(e). We believe that for purposes of comparing the potential emission reductions from a regulation for wood furniture coatings, establishing a single BAC level that is the lowest achievable level that does not preclude any necessary coating technology is appropriate.

Regarding our reliance on information provided by manufacturers on coating technologies and economic impacts used to establish the estimated BAC for this category, our assessment was based on information from the regulatory negotiation process under FACA, described above. The FACA committee was comprised of industry groups, public interest groups, and governmental agencies and conducted extensive discussions regarding the feasibility of coating technologies, economic impacts, and environmental benefits. We believe that such a process provided more reliable and less biased information than the commenter suggested. We maintain that the information developed during this FACA process is adequate to support estimates of the VOC emission reductions from a potential national regulation for purposes of making this determination.

Comment: One commenter criticized our estimates of the stringency of BAC standards for aerospace and shipbuilding and ship repair coatings. The commenter questioned our assertion that the best available control measures (BACM) presented in the aerospace and shipbuilding CTG ''represent the best performing sources in the industry'' and, thus, would be ''similar if not equivalent'' to BAC. The commenter stated that we did not indicate how BACM standards represent the best performing sources or why the best performing sources would be equivalent to BAC. The commenter concluded that there are indications that properly written national regulations for these products would be more stringent than those we used for comparison purposes, and that it is impossible for us or the public to reach a valid determination that CTG are substantially as effective as national regulations for these product categories without more information and more thorough analysis.

Response: We reaffirm our conclusion that the BACM levels of control we presented in the aerospace and shipbuilding CTG represent the best performing sources in the industry and, thus, would be similar if not equivalent to BAC for these products for purposes of this analysis. We indicated in our proposed determination that BACM was based on data used to support development and promulgation of NESHAP for the aerospace and shipbuilding and ship repair industries under section 112 of the Act and CTG under section 183(b) of the Act. We believe these data are adequate to support an estimate of BAC for a national VOC regulation because we examined VOC emissions from these coatings when developing the NESHAP and CTG.

Data analysis supporting development of the NESHAP includes the selection of maximum achievable control technology (MACT) to reduce emissions from aerospace and shipbuilding and ship repair coatings, after considering the energy, environmental, and economic impacts of the technology, and other costs. The MACT is based on industry sources with the best performing emission reduction technology. While typically there may be differences in the level of emission reduction provided by MACT, BACM, BAC, and RACT, when there is a limited range of control options for a specified industry, such as coating technologies, the level of control may be identical. We determined that MACT, BAC, BACM, and RACT were all identical for these industries based on the lowest achievable emission levels for the aerospace and shipbuilding and ship repair coatings.

In conducting our review of available data to make today's final determination, we did not find any clear indications that properly written national regulations based on BAC would be more stringent. Nor did we receive any such information during the comment period for the proposed determination. We believe that we have sufficient information to make a valid comparison of the projected emission reductions from a CTG and national regulation for each of these product categories. We believe it is appropriate to make such determinations based on readily available information, thereby maximizing the use of limited resources. Furthermore, we believe this was the intent of the Congress in section 183(e)(3)(C), which gives the Administrator discretion to determine if CTG would be substantially as effective as regulations and to issue CTG in lieu of regulations when appropriate.

B. Emission Reductions Attributed to CTG

Comment: A commenter stated that we failed to quantify or support our estimate of VOC emission reductions possible from CTG. The commenter stated that in the discussion of the CTG for aerospace facilities, we indicated that 1,288 tons per year (tpy) of the total 4,288 tpy estimated reductions would come from equipment and work practice standards, but we did not provide any indication of how we reached this number. For the wood furniture manufacturing CTG, the commenter stated that we provided no allocation of the sources of reduction at all. Finally, the commenter stated that we appear to have reached the estimated 1,366 tpy in VOC reductions for the shipbuilding and ship repair category without accounting for any reductions from work practices.

Response: We do not agree that we failed to quantify and support the estimates of VOC reductions from CTG for these three categories. The docket for this action includes memoranda that document the calculations made for each category (Docket No. A–96–23).

As discussed in the proposed determination and in the responses above, the advantage of a CTG is that it targets VOC emission reductions at the source. A CTG can limit the amount of VOC in a coating when applied, including any VOC the user adds to the product as manufactured (e.g., thinning solvents). Additionally, CTG can include requirements for pollution control devices, process changes, work practices, and other means which can further reduce emissions of VOC from coating use and other sources (e.g., VOC emissions from equipment cleaning and coating mixing). National regulations under section 183(e) apply to manufacturers, processors, wholesale distributors, and importers of commercial products such as these industrial coatings and, therefore, could only limit the amount of VOC in the coatings as sold and distributed.

For CTG that include recommended requirements for process changes or control equipment, the additional VOC emission reductions are typically a function of the amount of coating applied. Therefore, with estimates of the amount of coating applied, emission

reductions resulting from such requirements can often be quantified. The aerospace CTG recommended such requirements for coating application equipment. This equipment improves the efficiency of the coating operation resulting in less VOC emissions. Since the VOC reductions correlate with the amount of coating used, we were able to quantify the additional reductions associated with the CTG's recommended requirement and consider them in making our proposed determination (Docket No. A–96–23).

The commenter is correct that we did not allocate and account for additional VOC emission reductions associated with the CTG for shipbuilding and wood furniture manufacturing. As discussed in the proposed determination, we expect the CTG to achieve additional VOC reductions since RACT VOC limits regulate coatings as-applied (i.e., including any VOC added after purchase). It was also discussed that CTG recommend work practice standards for the cleaning of coating equipment. Since VOC are used to clean coating equipment, these work practices will potentially achieve additional VOC reductions from the industrial facilities that we could not achieve with a regulation governing the VOC content of products as manufactured. In making our estimate of VOC reductions from a CTG, we could not definitively quantify additional emission reductions from such limits and work practices, based on available data. In these cases, the full benefit of a CTG over a national regulation may not be completely quantifiable. In this respect, we agree that our estimation of the reductions from the CTG may be conservative and that we would anticipate greater reductions. However, even without quantifying and allocating the precise amount of projected VOC reductions, we concluded that a CTG would be substantially as effective for each category. We do not believe that section 183(e) requires us to quantify precisely the projected reductions from a potential regulation or CTG before we can reasonably make our determination.

Comment: The development of the existing wood furniture manufacturing CTG was a coordinated effort between industry, State, and local agencies and environmental groups. The commenter asserted that the advantage of a CTG over a national regulation is its ability to reduce emissions from coatings as they are used in the actual workplace setting. The commenter suggested that coatings purchased from vendors are often modified prior to application due to the variety of wood species and application equipment used in the industry. Attempting to control VOC emissions by reducing VOC in the product as manufactured would, therefore, be less effective for this product category. The commenter suggested that a CTG is a proven mechanism for reducing VOC emissions from this industry by placing limits on the coatings as applied and including work practice standards to reduce VOC emissions from other associated operations. The commenter supported our determination that CTG are substantially as effective as a national regulation for this product category.

Response: We concur with these comments for this product category. We recently promulgated a NESHAP for the wood furniture manufacturing industry under section 112 of the Act, and issued a final CTG for this industry under section 183(b) of the Act on May 20, 1996. As discussed above, in making our determination under section 183(e), we considered several factors related to implementation, enforcement, and estimated emission reductions from CTG and a national regulation for this product category. In estimating emission reductions, we considered pertinent information regarding the wood furniture industry that was gathered during the development of the NESHAP and CTG. Based on the analysis of this industry information, as documented in Docket No. A–96–23, we determined that a CTG would be substantially as effective as a national regulation under section 183(e) for wood furniture manufacturing coatings.

Comment: One commenter suggested that CTG are better targeted to reduce VOC emissions from solvent use in ozone nonattainment areas and that there are valid reasons for such reductions in most of these areas, except for those that are NO_X-limited. The commenter claimed that national regulations would impose additional restrictions in ozone attainment areas, for which the commenter believes there is no environmental justification. In addition, the commenter asserted that such national regulations would impose unnecessary costs on the users of products and on solvent producers. The commenter supported our determination that CTG are substantially as effective as national regulations under section 183(e) in reducing VOC emissions from these product categories.

Response: As discussed in previous responses, we made our determination to issue CTG for these product categories based upon consideration of various factors including implementation, enforcement, and emission reductions. In weighing whether to implement national regulations versus CTG, we also considered the nature of the product and its use. For example, we believe that a national regulation is an appropriate means to reduce emissions in accordance with section 183(e) for products that are, by their nature, easily transported across area boundaries, are widely distributed, and are used by widely varied types of end users in widely varied locations. Examples of such products are architectural coatings, consumer products (household and personal care), and automobile refinish coatings. Therefore, for this and other reasons, we promulgated national regulations for those three product categories on September 11, 1998 (63 FR 48792).

In the case of wood furniture, aerospace, and shipbuilding and ship repair coatings, we considered the fact that they are industrial coatings which, by their nature, are typically used by specific end users in specific locations. Furthermore, after purchasing these industrial coatings, end users often modify them to meet the specific needs of the industrial application. Because of the fixed location of their use and the ability to identify and locate the end users for compliance assurance and enforcement purposes, we concluded that control of VOC emissions from these product categories is more effectively accomplished through requirements imposed on the user rather than on the coating manufacturer. Thus, a CTG is a better mechanism to achieve VOC emission reductions for these categories of products. We do not agree with the commenter's assertion that there is no environmental benefit to reducing VOC emissions from solvents in ozone attainment areas (see the September 11, 1998 **Federal Register** documents referenced above for a discussion of EPA's position on this issue).

Comment: One commenter stated that since section 183(e) authorizes the imposition of national regulations on only the product manufacturers, processors, wholesalers, distributors, or importers or suppliers thereof, a national regulation could not reach the end-user operations that generate VOC emissions. For this reason, the commenter agreed that a CTG would be substantially as effective, if not more effective, than a national regulation in reducing VOC emissions from aerospace coatings. The commenter's reasons for this were:

—A CTG can affect equipment and work practice standards resulting in additional VOC emission reductions,

such as those associated with the use of solvents in cleaning operations; and

—A CTG can affect the coatings ''as applied'' which is the most effective way to control VOC emissions from aerospace coatings since users sometimes add VOC-containing solvents to the coatings before application.

Response: The commenter's points are in agreement with our conclusions regarding aerospace coatings. As noted in the response above, the EPA believes that some products are better suited to regulation through national regulations.

Comment: One commenter stated that Congress recognized that the nature, distribution, and use of some products would make a CTG a more effective control option and, therefore, specifically authorized EPA to issue CTG in lieu of national regulations.

The commenter agreed with us that CTG are substantially as effective as national regulations for the three categories under discussion here. Specifically, the commenter stated that site specific factors and the ability of end-users to control VOC emissions with equipment and work practices support the selection of CTG in lieu of regulations for these three categories.

Response: We agree with these statements regarding these products. There are many sources of VOC emissions from industrial facilities, only one of which is the actual use of commercial coating products. Other steps in the overall process involve the use of VOC and result in VOC emissions. Such steps include the cleaning of surfaces prior to application of a coating, the mixing and amendment of coatings prior to use, the cleaning of equipment and work spaces after coating use, and the storage and transfer of VOC used in these operations.

C. Estimated Number of Affected Facilities

Comment: One commenter claimed that we failed to explain how the difference in the number of facilities covered by CTG and national regulations would affect emission reductions. Specifically, the commenter noted that for wood furniture coatings, we estimated that only 950 of the 4,500 facilities in nonattainment areas would be covered by a CTG. The commenter also noted that we estimated a shipbuilding and ship repair CTG would cover just 100 of the 187 facilities in nonattainment areas. Similarly, with regard to aerospace coatings, the commenter noted that we estimated a CTG would cover only 64 percent of sources. In each case, the commenter questioned our statements that sources not covered by the CTG would not use significant amounts of the coatings. The commenter stated that we failed to support our contention that facilities not covered by CTG would not contribute significantly to VOC emissions.

Response: The commenter is correct that the two regulatory approaches could potentially impact a different number of sources. We do not agree, however, that we failed to explain this fact. As discussed in the proposed determination, CTG affect ''major sources'' of VOC emissions by triggering requirements for State rules applicable in nonattainment areas. Section 182 of the Act requires certain States to adopt rules for major sources of VOC for which the EPA issues CTG. Therefore, to estimate the number of sources in ozone nonattainment areas potentially affected by a CTG, we assumed that minor sources would not be subject to RACT and, thus, not be covered by the CTG. In contrast, a regulation affecting the manufacturers, processors, distributors, or importers of a product could potentially result in VOC emission reductions at all facilities that use the product, regardless of size. Therefore, we assumed that all facilities using the product in ozone nonattainment areas would be affected by a national regulation.

We estimated the number of potentially affected facilities under each regulatory option (Docket No. A–96–23). In doing so, we relied on estimates of the number, size, and location of facilities from data developed to support NESHAP and CTG for these categories. To determine if facilities were ''major'' sources of VOC affected by the CTG, we estimated VOC emissions based on both coating usage and other sources of VOC emissions. We estimated that fewer wood furniture manufacturing and shipbuilding and ship repair facilities would be covered by CTG than by a national regulation because some facilities do not use enough coatings to be major sources of VOC. We estimated that all aerospace facilities are major sources of VOC and, therefore, that all such facilities would be affected by either a CTG or a regulation.

To estimate the respective VOC emission reductions from a CTG or a regulation, we assumed that the States would adopt and the entities affected by each of these control strategies would comply with, the recommended VOC limits and equipment and work practice standards specified in the CTG or regulation. The estimated emission reductions are described in Docket No. A–96–23.

Although fewer wood furniture facilities would be affected by a CTG than a regulation, as described in the proposed determination and docket, in ozone nonattainment areas we estimated that VOC reductions per facility would be greater with a CTG and account for greater overall VOC emission reductions compared to a national regulation. Similarly, we estimated that the emission reductions for each aerospace facility are greater with a CTG than a regulation, thereby resulting in greater overall VOC emission reductions from a CTG. We estimated the emission reductions for each shipbuilding and ship repair facility to be comparable for either a CTG or a regulation. As noted above, a national regulation can achieve emission reductions at all sources whereas a CTG will achieve reductions at major sources in most nonattainment areas. Therefore, we estimated greater potential emission reductions from a regulation for this product category since more shipbuilding facilities would be affected by a national regulation than by a CTG. However, as indicated in the above response to ''Emission Reductions Attributed to CTG,'' we were not able to quantify completely, and therefore did not give full credit for, the estimated amount of reductions from a CTG for shipbuilding and ship repair coatings. The estimated VOC emission reductions from a CTG and a national regulation were, however, comparable even without quantifying and allocating the precise amount of projected VOC reductions from a CTG.

As noted in the proposed determination, the numerical amount of emission reductions is not the sole relevant factor in determining whether a CTG will be substantially as effective as a regulation. We believe that a CTG will be substantially as effective as a regulation in reducing VOC emissions from each of these three categories based on consideration of the following:

- Estimates of VOC emission reductions.
- The product's distribution and place of use.
- The most effective entity to target in order to control VOC emissions.
- Consistency with other control strategies.

For each of these three categories we have considered these factors as part of our analysis. With respect to the amounts of emission reduction possible, we have concluded that the CTG will probably provide more reductions than a regulation for wood furniture coatings and aerospace coatings and will probably provide comparable reductions for shipbuilding and ship repair coatings. We have also examined the

distribution and typical place of use for these products. Unlike other categories of products such as personal care products, these coatings tend to be used by a relatively small number of large commercial facilities, rather than by a large number of small users. This pattern of use and distribution makes it more feasible to focus upon VOC emission control at the point of use rather than upon reformulation at the place of manufacture. The EPA or States can thus more effectively assure compliance and enforce VOC emission controls for these products through a CTG than for some other product categories.

Finally, we do not contend that facilities excluded from coverage under the CTG approach will not contribute to VOC emissions. We agree that a CTG will not cover all sources and, therefore, that emissions from unaffected sources will not be subject to control under rules reflecting the CTG's presumptive RACT control level. We remain concerned about these VOC emissions. In enacting section 183(e), Congress recognized that even small amounts of emissions from a large number of small sources can, in the aggregate, contribute significantly to ozone nonattainment. The purpose of our regulatory program under section 183(e) is to achieve meaningful aggregate VOC emission reductions from the many sources reflected on the list of categories of consumer and commercial products identified for regulation. However, we must utilize the regulatory tools provided in the statute. As discussed above, section 183(e) allows the EPA to promulgate national regulations or to issue CTG for each product category. Under either approach, we cannot prevent all VOC emissions. Instead, we must choose the method we deem most appropriate to achieve necessary VOC reductions from each product category. We have concluded for the reasons stated above that CTG are the most effective mechanism to obtain VOC emission reductions from the product categories covered by today's final determination and that national regulations are the most effective mechanisms for some other product categories. This should not suggest that we believe that any remaining VOC emissions under either approach are not significant. For purposes of today's final action the determination is which of the two statutorily provided alternatives will best achieve necessary VOC emission reductions for these three product categories.

III. What is our Final Action?

We have made our final decision to list wood furniture manufacturing coatings, aerospace coatings, and shipbuilding and ship repair coatings for regulation in the first group of consumer and commercial product categories to be regulated under section 183(e) of the Act. We have determined that CTG are substantially as effective as regulations under section 183(e) of the Act in reducing VOC emissions from wood furniture manufacturing, aerospace, and shipbuilding and ship repair coatings which contribute to violations of the ozone NAAQS. We based this determination on a comparison of existing CTG and projected national regulations. For CTG, we utilized the final wood furniture manufacturing CTG (61 FR 25223, May 20, 1996), the final aerospace CTG (63 FR 15006, March 22, 1998), and the final shipbuilding and ship repair CTG (61 FR 44050, August 27, 1996). For national regulations, we estimated the level of control possible for each product category. As a result of this comparison, we have concluded that CTG are substantially as effective as national regulations to obtain reductions of VOC emissions which contribute to ozone in areas which violate the ozone NAAQS. Accordingly, we have determined that we may issue CTG in lieu of national regulations for these three product categories.

IV. Administrative Requirements

A. Docket

The docket is an organized and complete file of all the information submitted to or otherwise considered by the EPA in the development of this proposed determination. The principal purposes of the docket are: (1) to allow interested parties to identify and locate documents readily so that they can intelligently and effectively participate in the rulemaking process, and (2) to serve as the record in case of judicial review (section 307(d)(7)(A) of the Act).

B. Paperwork Reduction Act

This action does not involve any information collection requirements subject to an Office of Management and Budget (OMB) review under the *Paperwork Reduction Act*, 44 U.S.C. 3501, *et seq.*

C. Executive Order 12866: Regulatory Planning and Review

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

(1) have an annual effect on the economy of $100 million or more, or adversely and materially affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety in 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 obligation of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, the EPA has determined that this action is a ''significant regulatory action'' because it raises novel legal or policy issues arising out of legal mandates. As such, the EPA submitted this action to OMB for review. Any changes made in response to OMB suggestions or recommendations are documented in the public record.

D. Executive Order 12875: Enhancing Intergovernmental Partnership

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 unless 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, 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 action does not create a mandate on State, local, or tribal governments. The action does not impose any new enforceable duties on these entities. Accordingly, the

requirements of section 1(a) of Executive Order 12875 do not apply to this action.

E. Regulatory Flexibility Act/Small Business Regulatory Enforcement Fairness Act of 1996

The Regulatory Flexibility Act (RFA) of 1980 (5 U.S.C. 601, *et seq.*), as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996, requires the EPA to give special consideration to the effect of Federal regulations on small entities and to consider regulatory options that might mitigate any such impacts. The EPA is required to prepare a regulatory flexibility analysis and coordinate with small entity stakeholders if the EPA determines that a rule will have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small government jurisdictions.

The EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's action because it does not impose any new requirements on small entities. Today's action is a final listing decision and final determination that already existing CTG are substantially as effective as regulations to achieve VOC emission reductions. Because these CTG already exist and those entities required to comply with these CTG are already obligated to do so, today's decision imposes no new requirements on small entities. The EPA has likewise determined that today's action will not have a significant economic impact on a substantial number of small entities within the meaning of the RFA because the final decision to list these categories of products for regulation and the determination that CTG are substantially as effective as national regulations in reducing VOC emissions which contribute to ozone levels in areas which violate the NAAQS for ozone will impose no new obligations on small entities.

In addition, EPA notes that the determination that CTG are substantially as effective as regulations for control of VOC emissions from these product categories will not have an impact on small entities as contemplated by the RFA. The EPA does not directly regulate any small entities through issuance of CTG. Instead, EPA issues CTG to provide States with guidelines on appropriate RACT-based rules to obtain VOC emission reductions from the affected sources within certain nonattainment areas. The EPA's issuance of a CTG does trigger an obligation on the part of the States to issue State regulations, but the States are not obligated to issue regulations identical to the Agency's CTG. The CTG issued by the EPA include a presumptive norm to guide States, but States may deviate from the CTG with a proper showing to the Agency. Thus, States retain discretion in determining to what degree to follow the CTG and in determining which sources would be covered by the resulting State regulations.

F. Unfunded Mandates Reform Act of 1995

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 actions on State, local, and tribal governments and the private sector. Under section 202 of UMRA, the EPA must prepare a written statement, including cost-benefit analysis, for proposed or final rules with ''Federal mandates'' that may result in estimated costs to State, local, or tribal governments in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires the 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 the 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 the EPA did not adopt the alternative. Before the EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of 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.

The EPA has determined that because the final listing action and final determination that CTG are substantially as effective as regulations impose no requirements, today's 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. In addition, EPA has determined that today's action does not include regulatory requirements that would significantly or uniquely affect small governments. Thus, today's action is not subject to the requirements of sections 202, 203, and 205 of UMRA.

G. Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801, *et seq.*, as added by the SBREFA 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. The EPA will submit a report containing this rule and other required information to the United States Senate, the United States 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). This rule will be effective July 13, 1999.

H. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995, Pub. L. 104–113, Section 12(d) (15 U.S.C. 272 note), directs the 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 standard bodies. The NTTAA requires the EPA to provide Congress, through OMB, explanations when the EPA decides not to use available and applicable voluntary consensus standards.

This action does not involve any technical standards that would require EPA consideration of voluntary consensus standards pursuant to § 12(d) of the NTTAA. This action does not establish any such standards.

I. 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 Executive Order 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 EPA 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 EPA.

The EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is not an ''Economically Significant'' rule as defined under Executive Order 12866 and because it is based on technology performance and not on health or safety risks.

J. 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 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, Executive Order 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 action does not significantly or uniquely affect the communities of Indian tribal governments. Today's action does not impose any new requirements. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this action.

Dated: July 1, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–17493 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[AD–FRL–6375–3]

RIN 2060–AG59

Consumer and Commercial Products: Wood Furniture, Aerospace, and Shipbuilding and Ship Repair Coatings: Control Techniques Guidelines in Lieu of Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of issuance.

SUMMARY: This notice announces reissuance of control techniques guidelines (CTG) for the wood furniture coatings, aerospace coatings, and shipbuilding and ship repair coatings categories listed in the first group of consumer and commercial product categories to be regulated under section 183(e) of the Clean Air Act (Act). Our final listing of these categories for regulation and our final determination that CTG are substantially as effective as national regulations in reducing emissions of volatile organic compounds (VOC) from these three product categories is published elsewhere in today's **Federal Register**.

We based the final determination, in part, on the previously issued CTG for wood furniture coating (61 FR 25223, May 20, 1996), for aerospace coating (63 FR 15006, March 22, 1998), and for shipbuilding and ship repair coating (61 FR 44050, August 27, 1996) under section 183(b) of the Act. Accordingly, in this notice, we are reissuing these existing CTG as the CTG under section 183(e) for these three commercial product categories.

EFFECTIVE DATE: July 13, 1999.

ADDRESSES: *Control Techniques Guidelines.* Electronic copies of the CTG documents listed above may be obtained from our Technology Transfer Network Website (TTNWeb). The TTNWeb is a collection of related web sites containing information about many areas of air pollution science, technology, regulation, measurement, and prevention. The TTNWeb is directly accessible from the internet via the World Wide Web at the following address, ''http://www.epa.gov/ttn.'' The web site specifically related to this action can be found at the following address, ''http://www.epa.gov/ttn/uatw/coat/aerocoat/aero__coat.html'' and the CTG can be accessed under the Existing Regulations section of this site.

FOR FURTHER INFORMATION CONTACT: Mr. Daniel Brown, (919) 541–5305, Coatings and Consumer Products Group, Emission Standards Division (MD–13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711 (brown.dan@epa.gov).

SUPPLEMENTARY INFORMATION:

Whom does this notice affect? These CTG, as originally issued, triggered requirements under section 182(b)(2) for States to submit rules requiring reasonable available control technologies for these industries if:

—they are located in areas that exceed the national ambient air quality standards for ozone; and

—they are (or have the potential to become) ''major'' sources of VOC emissions.

This issuance does not affect any additional entities.

I. Why are we taking this action

The final determination that CTG are substantially as effective as national regulations is published in a separate action in today's **Federal Register** and provides a detailed description of ground level ozone and the steps we are taking under section 183(e) of the Act to reduce emissions of VOC from consumer and commercial products. Our final determination was based, in part, on a comparison of the level of VOC control in the previously issued CTG with the estimated level of control possible from national regulations for these product categories.

Upon making our final determination, we may issue CTG in lieu of national regulations in accordance with section 183(e)(3)(c) of the Act. This notice announces our decision to reissue these CTG as the section 183(e) CTG for these three product categories.

II. Administrative Requirements

1. General

Today's action is not a rule; it is a notice that EPA is reissuing the existing CTG, already issued for other purposes, as CTG for section 183(e). Since EPA has already issued these CTG and because the CTG themselves do not include binding regulations, but rather

define only presumptively the level of control to be reflected in State regulations for these categories, this notice does not impose any new regulatory requirements or costs. Therefore, the EPA has not prepared an assessment of the potential costs and benefits pursuant to Executive Order 12866, nor an economic impact analysis pursuant to section 317, a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), or a budgetary impact statement pursuant to the Unfunded Mandates Act of 1995. The Congressional Review Act, 5 U.S.C. 108, *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule, for purposes of 5 U.S.C. 804(3). Also, this **Federal Register** document does not contain any information collection requirements and, therefore, is not subject to the Paperwork Reduction Act (44 USC 3501, *et seq.*). This action does not establish any technical standards that would require the EPA to consider voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995.

2. 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 Executive Order 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 EPA 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 EPA.

The EPA interprets Executive Order 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 Executive Order has the potential to influence the regulation. This action is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

3. Executive Order 12866 and Office of Management and Budget (OMB) Review

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

(1) Have an annual effect on the economy of $100 million or more, or adversely and materially affect 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 obligation of recipients thereof; or

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

Pursuant to the terms of Executive Order 12866, the EPA has determined that this action is a ''significant regulatory action'' because it raises novel legal or policy issues arising out of legal mandates. As such, the EPA submitted this action to OMB for review. Changes made in response to OMB suggestions or recommendations are documented in the public record associated with our final determination that CTG are substantially as effective as national regulations. The final determination is published elsewhere in today's **Federal Register**.

Dated: July 1, 1999.

Carol M. Browner,

Administrator.

[FR Doc. 99–17494 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6376–8]

RCRA Subtitle C Waste Facility Social Siting Criteria Stakeholders' Roundtable

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Environmental Protection Agency's (EPA's) Office of Solid Waste will hold a roundtable discussion on community quality of life issues (i.e. cultural, social, economic, and nuisance) related to the siting of Resource Conservation and Recovery Act (RCRA) Subtitle C hazardous waste facilities. The roundtable panel will include individuals who have substantial experience in many aspects of facility siting. The purpose of the roundtable panel is to offer their own evaluations and suggestions on an EPA draft social siting criteria brochure and possible mechanisms and tools for conflict resolution regarding facility siting. The discussion is necessary to ensure that quality of life issues in the siting of RCRA Subtitle C facilities are accurately developed and addressed in the EPA brochure. The public is welcome to observe the discussions among participants and will be afforded some opportunities to express their views. However, this meeting is not intended to be a full public meeting.

DATES: The meeting will be held on July 27, 1999, from 9:00 a.m. to 4:00 p.m.

ADDRESSES: The meeting will be held at the Crystal City Gateway Marriott at Crystal City, 1700 Jefferson Davis Highway, Arlington, VA 22202.

A copy of the draft brochure is available and meeting notes will be available for viewing in the RCRA Information Center (RIC), located at Crystal Gateway I, First Floor, 1235 Jefferson Davis Highway, Arlington, VA. The Docket Identification number is F–1999–SSRN–FFFFF. The RIC is open from 9 a.m. to 4 p.m., Monday through Friday, excluding federal holidays. To review docket materials, it is recommended that the public make an appointment by calling (703) 603–9230. The public may copy a maximum of 100 pages from any regulatory docket at no charge. Additional copies cost $0.15/page.

FOR FURTHER INFORMATION CONTACT: For more detailed information on specific aspects of the meeting please contact Freya Margand, Office of Solid Waste, U.S. Environmental Protection Agency (Mail Code 5303W), 401 M Street SW, Washington, DC 20460, (703) 605-0633), margand.freya@epamail.epa.gov.

General information on RCRA Subtitle C facility siting and public participation can be found through EPA's OSW web site, http://www.epa.gov/osw and EPA's RCRA Hotline at (800) 824–9346 or TDD (800) 553–7672 (hearing impaired) or in the Washington, D.C. metropolitan area, call (703) 412–9810 or TDD (703) 412–3323; internet address, http://www.epa.gov/epaoswer/hotline.htm.

SUPPLEMENTARY INFORMATION:

Registration

Full participation in roundtable discussions is limited to the roundtable panel. No advanced registration is required to listen to the round table discussions. Observers may register at

the registration desk outside the reserved room the day of the roundtable.

Background

As hazardous waste facilities are sited and permitted, local communities often have a variety of legitimate concerns involving perceived and/or real changes in their quality of life (i.e., cultural/social, economic, location, and nuisance concerns). Quality of life concerns encompass a broad array of issues from those that are human health and environmental in nature, to those concerns which are primarily social or economic. Issues regarding human health and the environment should be considered as part of the permitting process for RCRA facilities. However, many of the community quality of life concerns, such as those of a social or economic nature, fall outside of the scope of RCRA and may not be covered by state laws and regulations.

The EPA has developed a draft brochure intended to be used as a vehicle to increase the awareness of community quality of life issues and concerns when dealing with facility siting and operational issues. This brochure will be the subject of roundtable discussions planned for July 27, 1999. The panel will be composed of individuals from State, Tribal, and Local governments/agencies, environmental justice communities, industry, environmental advocacy groups, and other federal agencies with experience in many aspects of facility siting (for example, land use planning, permitting, community outreach, and environmental justice concerns).

To have the most effective discussions, EPA will limit participation in the roundtable panel to invited panel members. However, EPA will provide one brief designated time slot for the general public to provide comments as time allows. EPA will try to accommodate as many requests as possible.

Information concerning this roundtable, including the draft brochure, agenda, and background information will be available, in limited quantities, at the registration desk the day of the roundtable.

Dated: June 28, 1999.

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 99–17771 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6375–6]

Notice of Availability of the Project XL Proposed

Final Project Agreement: Imation Corp., Camarillo, CA Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The EPA is proposing to implement a project under the Project XL program for the Imation Corp. facility in Camarillo, CA (hereafter ''Imation''). The terms of the project are defined in a proposed Final Project Agreement (FPA) which is being made available for public review and comment by this document. EPA is requesting comment on the proposed FPA and the Imation XL Project generally.

DATES: Public comments on this document are requested and must be received on or before August 12, 1999.

ADDRESSES: Comments. Written comments should be submitted in duplicate to: David Albright, Permits Office (AIR–3), Air Division, US Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901. Comments may also be faxed to Mr. Albright at (415) 744–1076. Comments may also be sent via electronic mail to: albright.david@epa.gov.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the proposed Final Project Agreement contact: David Albright, Permits Office (AIR–3), Air Division, US Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1627 or Daniel Reich, Office of Regional Counsel (RC–2–2), US Environmental Protection Agency, Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901, (415) 744–1343. The proposed FPA and related documents are also available on the world wide web at the following location: http://www.epa.gov/ProjectXL. Copies of the proposed Final Project Agreement are also available for inspection at the following location: Ventura County Air Pollution Control District, 669 County Square Drive, Ventura, CA. To be included on the Imation Project XL mailing list about future public meetings, XL progress reports, and other mailings from Imation on the XL project, contact Mr. Thomas Ferguson, Plant Manager, at (805) 482–1911, 350 S. Lewis Road, Camarillo, CA 93012. For information on all other aspects of the XL Program contact Christopher Knopes at the following address: Office of Reinvention, United States Environmental Protection Agency, 401 M Street, SW Room M3802 (Mail Code 1802), Washington, DC 20460. Additional information on Project XL, including documents referenced in this notice, other EPA policy documents related to Project XL, regional XL contacts, application information, and descriptions of existing XL projects and proposals, is available via the world wide web at http://www.epa.gov/ProjectXL.

SUPPLEMENTARY INFORMATION:

Outline of this Document

I. Background
- A. Overview of Project XL
- B. Overview of the Imation XL Project
- 1. Introduction
- 2. Imation XL Project Description
- 3. Environmental Benefits
- 4. Stakeholder Involvement
- 5. Evaluation of the Project

II. Clean Air Act Requirements
- A. Summary of Regulatory Requirements
- B. New Source Review Requirements
- C. Compliance with New Source Performance Standards (NSPS) and Maximum Achievable Control Technology Standards (MACT) Standards for Existing and Future Activities at Imation Camarillo
- D. State Implementation Plan Requirements
- E. Title V Operating Permit

III. Other Requirements

I. Background

A. Overview of Project XL

EPA is proposing to implement a project developed under Project XL, an important EPA initiative to allow regulated entities to achieve better environmental results at less cost. Project XL—for ''eXcellence and Leadership''' was announced on March 16, 1995, as a central part of the National Performance Review's and EPA's effort to reinvent environmental protection. See 60 FR 27282 (May 23, 1995). In addition, on April 22, 1997, EPA modified its guidance on Project XL, solicited new XL proposals, clarified EPA definitions, and described changes intended to bring greater efficiency to the process of developing XL projects. See 62 FR 19872 (April 22, 1997). Project XL provides a limited number of private and public regulated entities an opportunity to develop their own pilot projects to provide regulatory flexibility that will result in environmental protection that is superior to what would be achieved through compliance with current and reasonably anticipated future regulations. These efforts are crucial to

the Agency's ability to test new regulatory strategies that reduce regulatory burden and promote economic growth while achieving better environmental and public health protection. The Agency intends to evaluate the results of this and other Project XL projects to determine which specific elements of the project, if any, should be more broadly applied to other regulated entities to the benefit of both the economy and the environment.

In Project XL, participants in four categories—facilities, industry sectors, governmental agencies and communities—are offered the flexibility to develop common sense, cost-effective strategies that will replace or modify specific regulatory requirements, on the condition that they produce and demonstrate superior environmental performance. To participate in Project XL, applicants must develop alternative pollution reduction strategies pursuant to eight criteria-superior environmental performance; cost savings and paperwork reduction; local stakeholder involvement and support; test of an innovative strategy; transferability; feasibility; identification of monitoring, reporting and evaluation methods; and avoidance of shifting risk burden. They must have full support of affected Federal, state and tribal agencies to be selected.

The XL program is intended to allow EPA to experiment with untried, potentially promising regulatory approaches, both to assess whether they provide benefits at the specific facility affected, and whether they should be considered for wider application. Such pilot projects allow EPA to proceed more quickly than would be required to undertake changes on a nationwide basis. As part of this experimentation, EPA may try out approaches or legal interpretations that depart from or are even inconsistent with longstanding Agency practice, so long as those interpretations are within the broad range of discretion enjoyed by the Agency in interpreting statutes that it implements. EPA may also modify rules that represent one of several possible policy approaches within a more general statutory directive, so long as the alternative being used is permissible under the statute.

Adoption of such alternative approaches or interpretations in the context of a given XL project does not, however, signal EPA's willingness to adopt that interpretation as a general matter, or even in the context of other XL projects. It would be inconsistent with the forward-looking nature of these pilot projects to adopt such innovative approaches prematurely on a widespread basis without first finding out whether or not they are viable in practice and successful in the particular projects that embody them. Furthermore, as EPA indicated in announcing the XL program, the Agency expects to adopt only a limited number of carefully selected projects. These pilot projects are not intended to be a means for piecemeal revision of entire programs. Depending on the results in these projects, EPA may or may not be willing to consider adopting the alternative interpretation again, either generally or for other specific facilities.

EPA believes that adopting alternative policy approaches and interpretations, on a limited, site-specific basis and in connection with a carefully selected pilot project, is consistent with the expectations of Congress about EPA's role in implementing the environmental statutes (so long as the Agency acts within the discretion allowed by the statute). Congress' recognition that there is a need for experimentation and research, as well as ongoing reevaluation of environmental programs, is reflected in a variety of statutory provisions, such as sections 101(b) and 103 of the Clean Air Act. In some cases, as in this XL project, such experimentation requires an alternative regulatory approach that, while permissible under the statute, was not the one adopted by EPA historically or for general purposes.

B. Overview of the Imation XL Project

1. Introduction

In today's action, the Agency is soliciting comment on the Project XL proposed Final Project Agreement (FPA) that has been developed by the Imation XL stakeholder group, namely Imation, EPA, California Air Resources Board (CARB), Ventura County Air Pollution Control District (VCAPCD), and community representatives. Several Ventura County organizations offered valuable input and support during the development of this project, including the Environmental Coalition, the American Lung Association, and the Ventura County Economic Development Association. The proposed FPA and related public documents are available from EPA Region IX, Ventura County Air Pollution Control District and on the world wide web as described above in this preamble. In addition, EPA is today making available, for informational purposes only, a pre-draft title V permit for the Imation Camarillo facility and a draft site-specific revision to the California State Implementation Plan (SIP) for the Imation XL Project.

The Ventura County Air Pollution Control District is conducting the official comment period for the draft title V permit, and will initiate its 30-day public comment period at a later date. The draft site-specific SIP revision will be the subject of a Ventura County APCD Board Advisory Committee meeting on June 22, 1999 and a Board hearing on September 14, 1999. EPA will evaluate the proposed SIP revision after the District submits it for SIP approval, and after a period of public comment, will take final action on the proposed SIP. See additional discussion of the site-specific SIP revision and title V permit in sections II.D and II.E, respectively. Copies of these documents are also available with the proposed FPA as noted in the above section **FOR FURTHER INFORMATION CONTACT.**

The proposed FPA outlines how the project addresses the eight Project XL criteria, in particular how the project will produce, measure, monitor, report, and demonstrate superior environmental benefits. EPA seeks comment on the proposed FPA, in light of the criteria outlined in the Agency's May 23, 1995, **Federal Register** document (60 FR 27282) regarding Regulatory Reinvention (XL) Pilot Projects.[1] Those criteria are: (1) Environmental performance superior to what would be achieved through compliance with current and reasonably anticipated future regulations; (2) cost savings or economic opportunity, and/or decreased paperwork burden; (3) stakeholder support; (4) test of innovative strategies for achieving environmental results; (5) approaches that could be evaluated for future broader application; (6) technical and administrative feasibility; (7) mechanisms for monitoring, reporting, and evaluation; and (8) consistency with Executive Order 12898 on Environmental Justice (avoidance of shifting of risk burden).

2. Imation XL Project Description

Imation Enterprises Corporation, a global technology company

[1] The Imation XL project was proposed, evaluated, and accepted based on the original criteria for XL projects outlined in the Agency's May 1995 document (60 FR 27282), including the requirements for demonstration of superior environmental performance. The Agency refined the Project XL criteria with its April 1997 document (62 FR 19872), and while the Agency believes that this project also meets the slightly modified criteria put forth in the April 1997 FR document, EPA is today seeking comment on the proposed FPA only with respect to the original criteria under which this project was initially accepted. This approach is consistent with the April 1997 FR document which states that for projects where FPAs are already being developed, the guidance contained in the document does not impose new requirements or procedures.

headquartered in Oakdale, Minnesota, was formed on July 1, 1996. Imation owns and operates the plant at 350 South Lewis Road in Camarillo, California, as part of its Data Storage and Information Management Division. The facility, which was operated by Minnesota Mining and Manufacturing Company (3M) between 1963 and 1996, currently employs approximately 550 people and is the world's largest manufacturer of magnetic data storage tape. The Camarillo facility has manufactured magnetic recording products since 1963. The plant's earliest magnetic recording products included audio and video tape, video tape recorders, and high-performance instrumentation recorders. By the early 1970's the plant's focus was converted from audible range tape to data storage tape. The success of personal computers, with a subsequent increase in the use of hard disk drives, increased the need for data storage tape—especially backup systems.

In pushing data storage tape technology to higher capacities and speeds, Imation Camarillo continues to develop and improve both tape media and cartridges. In addition, Imation works with data cartridge drive and tape head manufacturers to advance recording technologies. Imation Camarillo currently manufactures four standard product lines, with a number of new products currently in development. Their four product lines are mini cartridges storing up to 2 Gbytes of information, Travan™ cartridges which have up to 20 Gbytes capacity, data cartridges storing up to 50 Gbytes of information, and single reel cartridges for Digital Information Library systems in excess of 100 Gbytes.

Magnetic tape manufacturing is a high-technology operation that requires frequent changes to plant operations. Streamlining these plant changes will provide Imation Camarillo with the advantage of being able to make modifications without delay, respond to the fast-paced market conditions in the computer data tape industry, and bring their products to market faster. This is especially important to a company such as Imation that is dedicated to producing innovative products.

One of the principal goals of this XL project is to ensure that these frequent changes in operation can occur without lengthy project-by-project reviews, but in a manner that guarantees superior environmental performance. The existing preconstruction air permitting regulations that govern modifications at the facility, specifically the minor New Source Review (NSR) and major non-attainment NSR regulations, require that most changes to Imation's manufacturing processes must be reviewed and approved in advance by the VCAPCD. Typically, the more changes that are made or the larger the change, the more time and resources are necessary for permit review. The complexity of the regulations requires a considerable effort by the facility as well as the regulators to prepare and review permit applications for process modifications.

Imation's XL project seeks to simplify the process of frequent facility modification by imposing an overall emissions cap of 150 tons per year (tpy) for volatile organic compounds (VOCs) and authorizing the facility, through a site-specific SIP revision and federally enforceable permit conditions, to carry out numerous types of modifications and new constructions without undergoing VCAPCD's major or minor NSR. In addition to the 150 tpy VOC emissions cap, Imation will ensure that these changes are carried out in a publicly transparent and environmentally protective manner by: (1) Conducting control technology assessments for proposed modifications and new constructions and applying additional control when necessary to achieve ''best available control technology'' (BACT) or ''toxics best available control technology'' (TBACT) limits; (2) using a state-of-the-art continuous emissions monitoring device for all VOC and HAP stack emissions; and (3) providing detailed monthly reports on facility emissions and operations that will be made readily available to the public.

The mechanism for authorizing Imation Camarillo to modify existing coating operations and construct new coating operations is through pre-approvals in their title V permit. Specifically, Imation's permit will pre-approve specific changes that would subject the facility to New Source Performance Standards (NSPS) at 40 CFR part 60, subparts SSS (Standards of Performance for Magnetic Tape Coating Facilities), VVV (Standards of Performance for Polymeric Coating of Supporting Substrates Facilities), RR (Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations), TT (Standards of Performance for Metal Coil Surface Coating), and Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels), a Maximum Achievable Control Technology (MACT) standard at 40 CFR part 63, subpart EE (National Emission Standards for Magnetic Tape Manufacturing Operations), and VCAPCD's SIP-approved Rules 71.2 (Storage of Reactive Organic Compound Liquids) and 74.3 (Paper, Fabric, and Film Coating Operations).

Specific facility changes that would subject Imation to these standards and regulations are being written into the title V permit as alternative operating scenarios (AOSs). Imation's pre-draft title V permit contains AOSs for both equipment modifications and new equipment construction, but only as such modification or construction is subject to one or more of the standards and regulations noted above. Title V permit alternative operating scenarios typically provide permitted facilities some flexibility by allowing the facility to switch from one set of operating conditions (scenario) to another. A simple example is a facility switching from one type of fuel to another. AOSs may be written into title V permits provided the permit clearly identifies the different possible scenarios under which the facility can operate, and contains appropriate conditions to assure compliance with all requirements that apply to each scenario. Permitted facilities with AOSs are further required to maintain an on-site log and to record in the log, contemporaneously with any change in scenario, the permitted scenario under which they are operating.

EPA will ensure that the AOSs in Imation's title V permit meet these requirements. In Imation's pre-draft title V permit, the AOSs range in complexity from switching raw materials to constructing and operating new equipment. Use of AOSs in a title V permit as a means of pre-approving new equipment construction is one of the unique experimental aspects of this project. EPA believes that such advance approval is warranted on an experimental basis in this case because of the general similarity of the various potentially applicable standards, the unique operating conditions at the Imation Camarillo facility, and the ability to reasonably anticipate these pre-approved changes. See section II.E of this preamble for additional discussion of the use of AOSs in Imation's title V permit.

All of the federal and state standards addressed by Imation's pre-approvals regulate coating (and related) operations which emit VOCs and HAPs, and the pre-approved operations will be identical or very similar to the existing coating operations at the facility. As for the operation of the facility, Imation maintains the areas where VOC and HAP-emitting coating operations are conducted under a condition of total enclosure (100 percent capture of all organic compounds). These total

enclosures, which are vented to a highly-efficient solvent recovery unit (SRU), will allow Imation to conduct various types of coating and related activities in compliance with the VOC/HAP control standards of all relevant NSPS, MACT, and District standards. In addition, several continuous emissions monitoring systems (CEMS) are in place at the facility that will provide further assurance that existing and new operations at the facility are complying with all applicable standards. Any construction outside the existing total enclosures is required by the proposed permit to meet the same rigorous conditions now in place at the facility, including 100% capture of organic compounds within a permanent total enclosure, use of a minimum 95% efficient control device (either the existing SRU or another control device which provides this level of emissions control, such as a thermal or catalytic oxidizer), and continuous emissions monitoring.

3. Environmental Benefits

As noted above, EPA's initial FR document (May 23, 1995) describing the criteria for evaluating XL projects set forth a standard that projects chosen as XL pilots should be able to achieve environmental performance that is superior relative to what would have been achieved through compliance with otherwise applicable requirements. In April 1997, EPA refined its definition of superior environmental performance, adding a two-tiered test that project sponsors and the Agency need to consider when developing and evaluating potential XL pilot projects. Although the Imation XL project was proposed, evaluated, and accepted based on the original criteria for demonstration of superior environmental performance, the Agency believes that this project also meets the more refined definition put forth in the April 1997 FR document (62 FR 19873, April 23, 1997). This XL Project creates some significant environmental benefits that exceed the baseline of performance that would have reasonably occurred in the absence of the project.

Under this project, Imation must meet capture and control efficiencies for VOCs and HAPs that go beyond the requirements of the regulations to which they are subject. For all HAP and VOC emissions, Imation must meet the requirements of the magnetic tape manufacturing maximum achievable control technology (MACT) standard (See 40 CFR part 63, subpart EE), even though some facility operations are subject to less stringent standards. In addition, Imation must conduct BACT/TBACT analyses for most emission-related changes at the facility and apply additional control if BACT/TBACT is determined to be more stringent than their existing control. This requirement could, for example, result in the installation of a thermal or catalytic oxidizer in order to provide even more stringent control technology for VOCs and HAPs than is required by the MACT standard.

Another requirement of the project is that Imation must use an advanced Extractive Fourier Transform Infrared (FTIR) Spectrometry Continuous Emission Monitoring System (CEMS) to monitor all coating-related stack emissions. An FTIR–CEMS allows the facility to speciate and quantify all organic emissions from the stack on a continuous basis. The capabilities of the FTIR–CEMS are well beyond those required by all applicable requirements, and the speciation provided by this equipment allows Imation to optimize the operation of the existing SRU. Moreover, the FTIR–CEMS requirement also applies to the monitoring of emissions from any new control device installed under this project, and its use in such cases would likewise optimize performance. The optimization of VOC and HAP control and destruction that results from use of an FTIR–CEMS translates directly into reduced emissions of these pollutants.

An additional, potential environmental benefit associated with this project involves some of the VOC emission reduction credits (ERCs) donated by Imation to the District. The District will either retire the ERCs or sell them to companies who have been screened according to their environmental track record. The environmental benefit would result from the reduction of VOC emissions represented by retiring the ERCs from the air, or from emission reductions associated with pollution control projects that the District plans to fund with any proceeds from the sale of these ERCs. The types of projects that would be funded with the ERC proceeds are likely to be ozone precursor reduction projects. As noted below, there will be a stakeholder group formed to assist the District in determining appropriate projects to fund with any ERC sale proceeds. The potential emissions reductions associated with retiring the ERCs or through funding of high priority pollution control projects with the ERC sale proceeds would provide an additional environmental benefit that would not be realized had Imation merely sold the credits themselves or otherwise used them for their own economic benefit.

Finally, EPA believes it is important to address the issue of superior environmental performance under this project given Imation's current VOC emission level (30 tpy) as compared to the maximum VOC emission level allowed under the terms of the FPA (150 tpy). First, current utilization of the Imation facility is well below historical utilization patterns, which suggests that VOC emissions of 30 tpy are not representative of normal facility operation. Imation is actually operating the facility at about 25–30 percent of its existing capacity, due to business and market considerations. Second, EPA has suggested in its most recent guidance on determining superior performance for XL Projects (62 FR 19872, April 22, 1997) that for projects which include new facilities that have not yet been built or expansion of existing facilities for additional production (as does this project), such determination needs to consider how the project compares to the level of performance representative of industry practice, instead of focusing on a benchmark of current environmental loadings. This acknowledges that economic growth and expansion can occur in an environmentally superior manner, when emissions from such expansion are stringently controlled, even if overall emissions do not decrease. Such is the case with this project, which although not resulting in a decrease in overall VOC emissions, will result in superior environmental performance for the reasons described above in this section, especially including the application of the most stringent VOC control technology to any expansion of the facility.

4. Stakeholder Involvement

The Imation XL project enhances the involvement of the community and other stakeholders in understanding and evaluating environmental impacts of the Imation Camarillo facility. As outlined in the FPA, an Imation XL Project Stakeholders Group will be formed to evaluate implementation of the XL project during the initial five-year term. Stakeholders will have a unique opportunity to participate in the ongoing evaluation of the XL project and to recommend necessary changes to the project. Evaluation by the Stakeholders Group is not limited to commenting on already implemented aspects of the XL project; it will also include commenting on the ongoing activities under the project. However, the Stakeholders Group is not established under the project for purposes of evaluating or determining the facility's compliance with legal

requirements, such as the enforceable terms and conditions of the facility's title V operating permit. Rather, assuring compliance with all legally enforceable requirements is the responsibility of the appropriate regulatory agencies, VCAPCD and EPA.

In addition to evaluating the implementation of the XL project, the Stakeholders Group serves as a critical link between the community, the regulatory agencies, and the facility. The Group will advise Imation on any local community concerns, provide feedback to the community on implementation of the project, and maintain an ongoing dialogue with Imation to ensure transparency of facility operations related to Project XL and continued superior environmental performance.

The Project Stakeholders Group will consist of five (5) to ten (10) members in total, including one representative each from EPA, VCAPCD, and Imation as well as other interested participants that represent a balance of interests among neighbors, nearby business owners, local environmental organizations or other nonprofit groups, academic institutions, members of the public health community, etc. All members will serve a 5-year term commencing at the time of FPA signing.

The entire Group will meet on at least an annual basis and may meet more frequently as warranted by project developments. During the annual meetings, presentations will be made by Imation on progress and results of the XL project to date. The meetings will be interactive with discussion of results and suggestions made by the Project Stakeholders Group.

The Project Stakeholders Group will prepare an annual report evaluating the implementation of the XL project. It is anticipated that the Stakeholders Group will, as part of its annual evaluation of the XL project, examine the monthly reports which have been submitted by the facility under the title V operating permit and review jointly with the facility any significant concerns. Other aspects of the annual review may include facility or regulatory agency reports and general Stakeholder Group discussion of some or all of the following topics: the applicability of any newly promulgated regulations; the results of the internal audit of the facility's Environmental Management System (EMS), including how the EMS has impacted environmental performance; implementation of the facility's title V permitted AOSs, including a review of the on-site AOS logs and the overall experience with the permitted mechanisms for implementing AOSs; and the Group's satisfaction with the overall stakeholder process, including the availability of information pertinent to the XL Project. The Stakeholder Group's annual report will be made available to the public.

In addition to the Stakeholders Group, the general public may also have an interest in monitoring Imation's XL progress. This will be accomplished in several ways. First, the date and time of all Stakeholder Group meetings will be published in the newspaper at least two weeks in advance and these meetings will be open to all interested parties. Second, as a condition of the FPA and their proposed title V permit, Imation will provide EPA and the VCAPCD with a monthly report of facility operations that will also be made readily available to the public. The monthly report, whose specific content requirements are described in Imation's proposed title V permit, will include: (1) Actual/calculated air emissions of all regulated air pollutants for each month, with a 12-month rolling average of air emissions for each of the pollutants, and a comparison to the annual facility caps; (2) a description of any emission-related modifications to the facility that occurred over the past month, as well as any planned modifications for the upcoming two months; and (3) the results of any control technology analyses or tiered health risk assessments conducted as a result of proposed facility modifications. These monthly reports (as well as the annual reports) will be available for public review at the Ventura County Air Pollution Control District, in the Camarillo Public Library, and on the Internet. A contact name and number at Imation, EPA Region IX, and VCAPCD will be provided for answering any questions related to this XL project.

A second stakeholders group (the ERC Advisory Committee) has already been formed to advise on the distribution of some of the ERCs donated to the District by Imation. VCAPCD formed the ERC Advisory Committee to develop criteria to be used for determining the use of these ERCs. The criteria address the type of business/industry that will be allowed to purchase the ERCs (e.g., companies with good environmental track records). The Advisory Committee consists of local community members along with public officials and industry representatives in order to provide a balanced perspective. Another stakeholder group, likewise comprised of a balance of perspectives and interests (and including EPA as a participant), will participate in recommending to the VCAPCD Board measurable clean air projects to be funded by the income generated as a result of the sale of the ERCs.

The stakeholder processes described above for project implementation represent a continuation of the opportunities for stakeholder involvement during development of the project. EPA expects that the signatories to the FPA will fully consider concerns and issues raised by all the stakeholders before reaching decisions on project changes.

Of course, elements of the stakeholder and general public participation process described here do not supersede any other public participation right, including but not limited to, District Hearing Board procedures for appealing permit decisions.

5. Evaluation of the Project

As noted above in section I.B.4 (Stakeholder Involvement), this XL project will be reviewed annually to evaluate whether the project is meeting its objectives. At the conclusion of the initial five-year term of this project, a more comprehensive Project XL evaluation will examine the extent to which both short-term and long-term goals have been achieved. This evaluation will also examine the appropriateness and success of specific components of the project, such as the pollutant-specific plant-wide applicability limit (PAL) and emission cap levels, pre-approving new equipment under an alternative operating scenario, the capture and control efficiencies, the overall environmental benefit/pollution reduction, the reduction of compliance costs and burdens, the empowerment of local stakeholders and the level of community participation, any regulatory or policy flexibilities granted, and other elements of the XL project. The results of this review will help assess whether innovations piloted by this project are viable alternatives for other sources. It will also provide a basis for suggestions to improve the FPA and title V permit upon renewal, and the Agency's overall XL Program.

At the end of the FPA's five-year term, the Project Stakeholders Group will meet to evaluate the renewal of the Project, and the potential for transferability of the regulatory approaches it tests. At that time, the stakeholders will also review any necessary changes to the project.

II. Clean Air Act Requirements

A. Summary of Regulatory Requirements

Under this XL project, Imation will comply with all current and future

environmental standards to which its activities are subject. The one regulatory change that will be proposed for this project is a revision to the California State Implementation Plan (SIP). EPA will soon be proposing approval of a site-specific SIP revision for the Imation Camarillo facility. As noted above, a draft of the site-specific SIP revision is being made available by EPA today for informational purposes. The draft SIP revision proposes to establish an alternative approach that would ensure that new and modified emission sources at Imation would not be subject to the VCAPCD New Source Review (NSR) program, so long as Imation keeps its emissions within a source-wide cap. A key element of the draft SIP revision, and this XL project, is the authorization of a plant-wide applicability limit (PAL) for volatile organic compounds (VOCs). The VOC PAL, a voluntary VOC emissions cap accepted by Imation, is based on actual emissions and provides Imation with the flexibility to add and modify emissions units below the PAL level without triggering traditional new source review requirements. Additional details and requirements imposed under the draft site-specific SIP are described in section II.D of this preamble.

This project also involves an innovative part 70 permitting approach. Imation's pre-draft title V permit contains several pre-approved alternative operating scenarios (AOSs) for the construction of new process equipment and the modification of existing units. Specific AOSs pre-approve construction and modification that would subject the facility to a number of different New Source Performance Standards (NSPS), VCAPCD rules, and a Maximum Achievable Control Technology (MACT) standard. Imation's compliance with these multiple potentially applicable standards will be assured by their meeting the most stringent requirements of all of these standards for any equipment newly installed or modified under a pre-approved AOS. EPA and VCAPCD identified the most stringent requirements using a streamlining exercise, conducted in accordance with the guidelines of EPA's White Paper Number 2 for Improved Implementation of the part 70 Operating Permits Program (March 5, 1996). Imation's pre-draft title V permit both describes the reasonably anticipated alternative scenarios under which the facility is authorized to operate, and identifies the applicable requirements for each such scenario. As described in more detail in section II.C of this preamble, Imation's compliance with the most stringent requirements identified in the streamlining assures compliance with all applicable requirements. EPA is today making the pre-draft title V permit available for informational purposes only.

B. New Source Review Requirements

The New Source Review (NSR) program is a preconstruction review and permitting program applicable to new or modified major stationary sources of air pollutants regulated under the Act. In areas not meeting health-based National Ambient Air Quality Standards (NAAQS) the program is implemented under the requirements of part D of title I of the Act for ''nonattainment'' NSR. The nonattainment NSR provisions of the Act are a combination of air quality planning and air pollution control technology program requirements for new and modified stationary sources. See section 173(a) of the Act. In addition, the Act contains certain other nonattainment NSR permitting requirements that supplement those in section 173. These supplemental nonattainment NSR requirements, which apply only in ozone nonattainment areas, vary in stringency according to the severity of the ozone nonattainment classification (e.g., marginal, moderate, serious, etc.). See section 182 of the Act.

The Imation Camarillo facility is a major stationary source located in an area that does not meet the ozone NAAQS and, thus, the facility is subject to the nonattainment NSR program under part D of title I of the Act. The area in which Imation is located is classified as severe nonattainment for ozone. Below, EPA describes how the proposed project at Imation Camarillo satisfies the statutory nonattainment NSR permitting requirements and the special rules for ozone nonattainment areas in sections 173(a) and 182, respectively, of the Act.

For existing major sources, the current regulations that implement the nonattainment NSR provisions of the Act restrict major NSR applicability to only ''major modifications'' at the source (i.e., physical or operational changes at the source that would result in a significant net emissions increase of any pollutant regulated by the Act). See 40 CFR 51.165(a)(1)(v). Typically, determinations of major NSR applicability are made using a case-by-case assessment of facility modifications. Modifications trigger major NSR if they result in a net emissions increase exceeding specified significance levels, determined on a pollutant-by-pollutant basis. In severe ozone nonattainment areas, major NSR is triggered if the net emissions of volatile organic compounds (VOCs) increases by 25 tons, when aggregated with all other net increases in VOC emissions from the source over a period of 5 consecutive years. Increases in net emissions of VOC from a source, resulting from a physical or operational change, that total less than 25 tons, when aggregated over 5 years, are considered ''de minimis.'' See section 182(c) of the Act.

As part of EPA's effort to streamline the often complicated assessment of major NSR permitting applicability, EPA proposed that plant-wide applicability limits (PALs) be allowed under certain conditions. See 61 FR 38249 (July 23, 1996) (Prevention of Significant Deterioration and Nonattainment New Source Review; Proposed Rule). A PAL is a ''federally enforceable plant-wide emissions limitation established for a stationary source to limit the allowable emissions of a source to a level such that major NSR is not required for changes under the emissions limitation.'' *Id.* at 38264. EPA believes PALs, which must be established based on a facility's actual emissions, can offer facilities some flexibility by excluding changes at a facility from major NSR so long as the facility stays within its emissions cap.

The Imation XL Project involves an emissions cap for VOCs of 150 tpy (based on actual emissions from the Imation Camarillo facility) which is being treated like a PAL. Although Imation's current emissions are below 150 tpy, the definition of ''actual emissions'' at 40 CFR 51.165(a)(1)(xii) allows the reviewing authority (in this case, VCAPCD) to use a different time period for establishing a source's actual emissions than the most recent two-year period, upon determination that such period is more representative of normal source operation. VCAPCD determined, based on several years of underutilization of the Imation facility, that the 1991–1992 period is more representative of normal source operation. The Imation VOC PAL is thus being set at 150 tpy, a level that is lower than actual VOC emissions from the facility in the 1991–1992 period, when the facility emitted an average of 165 tpy of VOCs.

As EPA has proposed, generally, in its NSR Reform Proposal (see 61 FR 38258, July 23, 1996), major NSR will not be required for changes at Imation Camarillo that result in emissions less than the 150 tpy PAL. However, this XL Project has several other provisions that make the Imation PAL more protective of the environment than what would be required under EPA's proposed PAL

regulations. Most importantly, in addition to the emissions cap, all new and modified emissions units must apply California BACT. Accordingly, there is not only assurance that the plant is emitting less than the PAL requirement of 150 tpy overall, but also each emissions unit is subject to the same level of control technology that would be required under major NSR.[2] In addition, Imation has agreed to install TBACT on all new and modified emissions units where HAPs are emitted. Finally, regardless of the stringency of emissions control or the fact that VOC emissions will not exceed the PAL, Imation will not construct new emissions units or modify existing ones if such construction or modification would exceed a Ventura County APCD defined health risk level.

For this aspect of the XL project, EPA is interpreting the Clean Air Act to consider all changes made under the 150 tpy VOC PAL as de minimis. As noted above, CAA section 182(c)(6) provides that for severe nonattainment areas, any physical change in, or change in the method of operation of, a stationary source shall not be considered de minimis for purposes of determining the applicability of the permit requirements (major NSR permitting) unless the increase in net emissions of the air pollutant does not exceed 25 tons. For purposes of this XL project, EPA believes that changes at the Imation Camarillo facility (located in a severe ozone nonattainment area) that result in VOC emission increases below the PAL are not considered net emission increases; rather, a net emission increase will only occur at the facility if the VOC PAL of 150 tpy is exceeded. Because the 150 tpy VOC PAL is a condition of the permit, and assuming that Imation does not violate its permit by exceeding 150 tpy of VOC emissions, there will be no emissions changes that result in a net emissions increase. Therefore, pursuant to section 182(c)(6), all emissions changes below the PAL will be considered de minimis because they will never trigger the 25 ton limit for net emissions increases. In accordance with CAA section 182(c)(8), changes that result in de minimis increases from sources such as Imation, that have the potential to emit in excess of 100 tpy, are not subject to the nonattainment (major) new source review permitting requirements at section 173(a) of the Act.

Section 110(a)(2)(C) of the Act requires state programs to institute their own preconstruction review program, generally referred to as ''minor NSR.'' VCAPCD's NSR program (see VCAPCD Rule 26) requires new source review permitting for ''any new, replacement, modified, or relocated emissions unit which would have a potential to emit any * * * Reactive Organic Compounds.''[3] Such permitting under Rule 26 would typically require BACT for any ROC emissions (no threshold) and offsets for ROC emissions from facilities with emissions over 5 tpy. In order to provide Imation flexibility with regard to Rule 26, VCAPCD will propose a source-specific SIP revision that will apply only to the operations at the Imation Camarillo facility. The source-specific SIP revision would exempt Imation from the requirements of Rule 26, but require the source to remain below the PAL of 150 tpy of ROC emissions, apply California BACT for facility modifications, and follow specified procedures for adding new equipment or modifying existing equipment. The requirements contained in the source-specific SIP revision, in conjunction with Imation's transfer of ROC emission reduction credits (ERCs) to the District, would assure that any new construction or equipment modification allowed under the source's title V permit would be carried out in a manner that is at least as environmentally protective as what would have been required under Rule 26. See additional discussion of the SIP revision in section II.D of this preamble.

C. Compliance with New Source Performance Standards (NSPS) and Maximum Achievable Control Technology (MACT) Standards for Existing and Future Activities at Imation Camarillo

1. Current Situation at Imation Camarillo

40 CFR part 60 contains New Source Performance Standards (NSPS) for new and modified equipment in specific source categories. 40 CFR part 63 contains Maximum Achievable Control Technology (MACT) Standards for certain sources of hazardous air pollutants (HAPs). Magnetic tape manufacturing operations are regulated by both an NSPS (40 CFR part 60, subpart SSS) and a MACT standard (40 CFR part 63, subpart EE). Presently, only one of the four magnetic tape coating lines at Imation Camarillo is subject to the NSPS at SSS. The other three coating lines at Imation are not subject to any NSPS. In addition, because Imation is subject to a standard of performance under 40 CFR part 60, the associated General Provisions (subpart A) from part 60 also apply. The EE MACT is not an applicable standard for any coating operations at the facility because Imation is not a major source of HAPs. Imation's status as a non-major source of HAPs is based on their existing actual HAP emissions being less than 50 percent of the major source thresholds of 25 tons per year of total HAP and 10 tons per year of any single HAP. Imation's title V operating permit will include federally enforceable emission caps of less than 25 tons per year of total HAP and less than 10 tons per year of any single HAP.

2. Future Activities at Imation Camarillo

At some future date, Imation plans to relinquish non-major HAP source status. Upon that date, the HAP caps established in Imation's title V operating permit will no longer apply and Imation Camarillo will be subject to the MACT at 40 CFR part 63, subpart EE and associated requirements in the part 63 General Provisions (40 CFR part 63, subpart A). Imation also expects to trigger additional NSPS applicability by modifying existing coating operations and/or constructing new coating operations (subject to the NSPS at SSS or one of several other coating-related NSPS). For example, Imation anticipates modifying one or more of the existing coating operations not now subject to an NSPS to make them subject to subpart SSS or constructing a new coating operation that would be subject to subpart SSS (such operations would also be subject to part 63, subpart EE, once Imation is a major source of HAP). In addition, as a unique aspect of this XL project, Imation's title V permit will contain pre-approvals for construction and subsequent modification of equipment subject to the following other NSPS at 40 CFR part 60 and VCAPCD rules: subpart VVV (Standards of Performance for Polymeric Coating of Supporting Substrates Facilities); subpart RR (Standards of Performance for Pressure Sensitive Tape and Label Surface Coating Operations); subpart TT (Standards of Performance for Metal Coil Surface Coating); subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels); VCAPCD Rule 71.2 (Storage of Reactive Organic Compound Liquids) and VCAPCD Rule 74.3 (Paper, Fabric, and Film Coating Operations). These pre-approvals, as described further in section II.E of this preamble, are being written into Imation's title V permit as alternative operating scenarios (AOSs) and are contingent on there being terms

[2] California BACT, as defined in VCAPCD rules, is equivalent to federally defined lowest achievable emissions rate (LAER).

[3] The VCAPCD term reactive organic compound (ROC) is functionally equivalent to EPA's term volatile organic compound (VOC).

and conditions in the permit assuring compliance with all applicable requirements of each relevant standard, including all monitoring, recordkeeping, and reporting requirements. Imation will assure compliance with newly triggered NSPS and MACT standards as described below.

3. Streamlining Analysis of Multiple Applicable Requirements

The federal new source performance standards and hazardous air pollutant standard that currently apply to existing operations, or will apply to new or modified coating facilities emitting VOC or HAP at the Camarillo site, have been streamlined into a single set of requirements that assures compliance with all.[4] The streamlining exercise, conducted pursuant to the guidelines in EPA's White Paper Number 2, showed that current applicable requirements (40 CFR part 60, subpart SSS) and future or potential applicable requirements (40 CFR part 63, subpart EE, 40 CFR part 60, subparts Kb, RR, TT, and VVV) can be met by a single, distilled set of requirements. The requirements essentially reduce to the pertinent sections of 40 CFR part 63, subpart EE with some slight modification (for example, to account for the fact that subpart EE does not address VOC emissions), and a few selected additions from subsumed standards. The streamlining also demonstrated that the requirements of the General Provisions of part 60, subpart A can be met by complying with the part 63 General Provisions. Therefore, the requirements in part 60, subpart A sections 60.7, 60.8, 60.11, 60.12, 60.13, 60.18, and 60.19 are subsumed under the part 63 General Provisions.

In order to both address the future applicability of the EE MACT and to simplify compliance with the multiple current and potential future applicable requirements, Imation's title V permit will contain conditions to assure compliance with the most stringent emission standards from the streamlining analysis, as well as the necessary monitoring, recordkeeping, and reporting requirements identified by the streamlining analysis. Imation's title V permit will also contain conditions necessary to meet the requirements identified by the streamlining of the parts 60 and 63, General Provisions. All of the conditions necessary to meet the requirements identified by the streamlining will be contained in the title V permit as specific, federally enforceable requirements, and are briefly described in the sections that follow.

In a few instances, the compliance monitoring and performance testing approaches of the standards to which Imation would become subject upon implementation of an AOS do not fit well with the operational scenarios at the Imation facility. In those instances, as described below, this project relies on alternative monitoring schemes and performance test waivers where technically warranted. Such alternatives and waivers are authorized according to the General Provisions of 40 CFR part 63, subpart A and 40 CFR part 60, subpart A. Specifically, the provisions at 40 CFR 60.13(i), 63.7(e), and 60.8(b) allow alternative monitoring schemes for purposes of compliance demonstration, and performance testing waivers where a source has demonstrated by other means to the Administrator's satisfaction that an affected facility is in compliance with a standard. Formal approval of the alternative monitoring and performance test waivers described below for this project are delegated to the permitting authority, the VCAPCD.

4. Compliance with Specific NSPS and MACT Standards

Imation's method of compliance with the NSPS and MACT standards to which it is currently subject (SSS NSPS) and to which it may become subject in the future (EE MACT, and VVV, RR, TT, and Kb NSPS) lies totally within the current regulatory framework. As described below for Imation's facility, and as contained in the standard itself, one method of compliance with the emissions control requirements of subpart SSS relies upon the total enclosure of all affected coating operations and the venting of the resulting mixture of coating operation emissions to a single control device. Continuous monitoring of the single control device assures compliance with the standard by all affected operations. In addition to subpart SSS, this method of compliance is also written in to the EE MACT and the VVV NSPS. Thus, Imation can demonstrate compliance with these two standards (if/when they become applicable) using the same compliance method as they currently rely upon to meet the requirements of SSS.

Two other potential future applicable standards (RR and TT NSPS) do not contain this method of compliance demonstration. However, as noted previously, the General Provisions of 40 CFR part 60 provide the authority to approve alternative monitoring and performance test waivers, which in this case allows Imation to demonstrate compliance with RR and TT (if/when they become applicable) using the same method as they currently rely upon to meet the requirements of SSS. The sections below detail the technical rationale that supports the use of such alternative monitoring and performance test waivers.

Assuring compliance with Kb (if/when it becomes applicable to solvent storage tanks at Imation Camarillo) will not rely on a demonstration like that described above (i.e., total enclosure of all affected operations, etc.). Instead, all storage tanks will have a closed vent system with emissions ducted directly to a 95% efficient control device, as is required under the EE MACT. See discussion below of the streamlining analysis conducted to demonstrate that, for solvent storage tanks, compliance with the EE MACT assures compliance with Kb.

a. *Assuring Compliance with the Currently Applicable Requirements of the NSPS at Subpart SSS.* Imation's Superior Environmental Performance stems in part from their commitment to totally enclose/capture 100% of VOC and HAP emissions from all coating operations and control captured emissions using a highly efficient solvent recovery unit—SRU—(or other similarly efficient device) demonstrated to achieve at least 95% emission reduction. Their existing total enclosures capture 100% of the emissions from multiple coating operations within the production building and route all the emissions to the SRU. As a result, individual coating operations are not controlled separately but rather contribute to an emissions mixture containing the emissions from all coating operations within the total enclosures. The existing SRU receives the combined emissions from all active coating operations. As noted above, the following detailed explanation of how Imation currently meets the requirements of the NSPS at SSS using their unique capture and control set-up is particularly important because the same technical approach is relied upon to ensure compliance with other NSPS. (See section II.C.4.c of this preamble.)

As a result of Imation's control setup as described above, it is not possible to measure inlet and exit emissions from the control device (and thus control device efficiency) for any one coating operation on an ongoing basis. The VOC (and HAP) emissions from the single existing coating operation subject to

[4] The streamlining analysis conducted during the development of Imation's pre-draft title V permit included several applicable VCAPCD SIP rules. Imation's compliance with these District rules, as demonstrated by the streamlining analysis, is discussed in section II.D of this preamble.

subpart SSS are part of the mixture of emissions including the other VOC/HAP sources. In such situations, section 60.713(b)(2) applies requirements for determining the capture efficiency for VOC emissions from an affected facility under subpart SSS (i.e., what fraction of emissions makes it to the control device). Section 60.713(b)(2) indicates that where the emissions from an affected coating operation and other VOC sources are ducted to a common control device, the owner or operator must determine the emissions capture efficiency for each individual affected coating operation. These requirements apply where there is no total enclosure of emission sources. However, Imation uses a permanent total enclosure to capture emissions. Where a total enclosure exists around the affected coating operation, such a determination is made alternatively according to section 60.713(b)(5), which requires demonstration of a total enclosure around each coating operation, and does not require the determination of individual capture efficiency for each coating operation. Imation has already demonstrated compliance with the total enclosure requirement of subpart SSS for the one subject coating operation by showing that a total enclosure exists around the operation (the enclosure meets the criteria in EPA Method 204—Criteria for and Verification of a Permanent or Temporary Total Enclosure (section 5)); the total enclosure will be maintained continually.

Although subpart SSS generally requires determining emissions capture efficiency on an individual affected facility basis (except when a total enclosure is employed), control device efficiency is to be determined for mixed emission streams when ''all emission sources'' are connected to the device. See section 60.713(b)(3). The owner or operator is not forced to shut down the other VOC emission sources to test the control device efficiency on individual affected facility emissions. Thus, compliance with the required 93% VOC control standard at each SSS affected facility is demonstrated by showing that the common emission control device provides a 95% control efficiency when receiving the mixture of VOC emissions from all SSS affected facilities (housed in a total enclosure) and all other sources of VOC routed to the device.[5] The implicit assumptions in this method of demonstrating compliance with the VOC emission standard for an individual affected facility in subpart SSS are as follows: (1) An emission control device will control the same (and similar) chemicals equally, regardless of their point of emission (i.e., control device X controls chemical Y at Z efficiency whether chemical Y is emitted by affected facility 1, 2, 3, etc.); (2) the ''other sources of VOC'' ducted to the common emission control device likely have chemical constituents that are the same as or similar to those in the emissions from the affected facility (since they are related operations) and, therefore, the control device performance does not vary on individual emission streams; and (3) performance testing the control efficiency of the newly affected facility emissions only (assuming such emissions contain the same or similar chemical constituents as other operations controlled by the common emission control device) is not necessary to assure compliance with the standard at the newly affected facility (instead compliance can be demonstrated with all VOC sources connected to the common control device).

Imation has performance tested the existing SRU and has demonstrated a >95% emission reduction with all VOC and HAP emission sources connected. Monitoring of continuous compliance at the one coating operation currently subject to Subpart SSS is being demonstrated through Imation's maintenance of the total enclosure and use of an FID–CEMS (flame ionization detector-continuous emission monitoring system) to measure VOC concentrations in both inlet and outlet of the SRU, per section 60.714(c)(1).

b. *Assuring Compliance with Future Requirements under the MACT at Subpart EE and the NSPS at Subparts SSS and VVV.* In the future, Imation will become a major source of HAP, thereby triggering applicability of the MACT standard at subpart EE. Once this occurs, all magnetic tape coating operations at the facility will be subject to the standards at subpart EE. Much like the NSPS at subpart SSS, EE allows for the total enclosure of all emission points and the ventilation of the total enclosure(s) to a common control device operating at 95% or higher efficiency. Imation will demonstrate initial compliance with the MACT standard by demonstrating that all HAP-emitting coating operations are totally enclosed, and that the enclosure is vented to the SRU which is operating at a minimum control efficiency of 95% as monitored at the inlet and outlet of the SRU using the FID-CEMS. See section 63.705(c)(4).

In addition, Imation anticipates modifying one or more of the existing coating operations not now subject to an NSPS to make them subject to subpart SSS or constructing a new coating operation that would be subject to subpart SSS (such operations would also be subject to part 63, subpart EE, once Imation is a major source of HAP). Imation will ensure compliance with subpart SSS and part 63, subpart EE for such operations by maintaining a total enclosure around the operation(s) and controlling emissions by at least 95% as monitored at the inlet and outlet of the SRU using the FID-CEMS.[6]

Imation also anticipates modifying one or more of the existing coating operations or constructing a new coating operation to produce polymeric coatings on supporting substrates. Such modified or new operation(s) would be subject to part 60, subpart VVV (Polymeric Coating of Supporting Substrates). Subpart VVV contains standards and compliance provisions that are nearly identical to those in subpart SSS and part 63, subpart EE (See section 60.743(a)(1)), including provisions for mixed VOC streams, use of a total enclosure, and a 95% efficient control device. Imation would assure compliance with subpart VVV through maintaining the total enclosure around the subject coating operation(s) and reducing emissions by at least 95% as monitored at the inlet and outlet of the SRU using the FID-CEMS (or using a different 95% efficient control device and appropriate monitoring). Imation's pre-draft title V permit contains the requirements of part 63, subpart EE and includes the streamlining analysis demonstrating that compliance with

[5] Subpart SSS contains a standard of 93% control of VOC applied at each affected facility. At the time that subpart SSS was promulgated, the Agency assumed that use of a total enclosure with a 95% efficient control device could yield as low as a 93% level of actual VOC control at the affected facility (because of the possibility that a total enclosure would not actually capture 100% of emissions). The Agency now believes that a total enclosure, meeting the requirements of Method 204, will capture 100% of emissions. Thus, Imation's use of a Method 204 compliant total enclosure around their coating operations in conjunction with a 95% efficient control device will achieve an actual control level of 95% at each affected facility, thereby exceeding the standard as written at subpart SSS.

[6] For future activities, Imation may utilize a device other than the existing SRU to control VOC and HAP emissions (e.g., the BACT analysis may dictate that Imation install a thermal or catalytic oxidizer to control emissions at a level beyond 95%). Although this section refers to assuring compliance by reducing emissions using the SRU and monitoring emission reduction at the inlet and outlet of the SRU, Imation may also comply with these standards through the use of a different control device, as specified in the AOSs in their pre-draft title V permit. Any such device must meet a minimum 95% efficiency, and must be appropriately performance tested and continuously monitored in accordance with 40 CFR part 63, subpart EE.

these requirements will assure compliance with part 60, subparts SSS and VVV.

c. *Assuring Compliance with Future Requirements under the NSPS at Subparts RR and TT.* In addition to the changes described above, Imation is anticipating modifications or new construction of facilities that potentially would trigger applicability of NSPS in subparts RR (Pressure Sensitive Tape and Label Coating) and/or TT (Metal Coil Surface Coating). Such changes could create an emission stream from the total enclosure containing a mixture of VOC and HAP from affected facilities subject to the MACT standard and two or more different NSPS, or from affected facilities subject to the MACT standard, different NSPS, and other VOC/HAP sources not subject to any NSPS or MACT. Unlike the MACT standard at EE and the NSPS at SSS and VVV, 40 CFR part 60, subparts RR and TT do not specifically address such mixed emission stream situations and how compliance is to be demonstrated for any one affected facility. However, it is reasonable to assume that compliance with the VOC standards by affected facilities subject to these NSPSs can be demonstrated in a manner similar to that for operations subject to part 63, subpart EE and part 60, subparts SSS and VVV, by extending the assumptions and rationale described above to these other two NSPS.

Imation can demonstrate compliance for an individual affected facility subject to subparts RR- or TT by maintaining a total enclosure around the facility and reducing the captured emissions from this facility and all other sources of VOC and HAP by at least 95% as monitored at the control device. EPA believes such a demonstration will be adequate for each RR- and TT-affected facility based on the following. First, the total enclosure captures 100% of VOC/HAP emissions from manufacturing operations. As part of Imation's initial compliance demonstration for the MACT standard, the facility will demonstrate that there is a total enclosure around all coating-related operations that captures all VOC and HAP emissions, and Imation will be required to monitor to assure that such operations remain within a total enclosure. Second, the 95% efficient control device delivers a high enough control efficiency to meet any one of the standards (when combined with the 100% capture of VOC/HAP) and the control device response on an individual or mix of solvents will not vary according to the type of affected facility emitting the solvent. This is a reasonable assumption considering that: (1) The control device already has demonstrated >95% control efficiency and will be required to continue to achieve at least 95% overall reduction continuously (as measured by the FID-CEMS) on the mixed stream, whereas the two potentially applicable NSPS require only 90% VOC reduction, and (2) where the emission streams from the modified or constructed facilities are similar to (i.e., use the same types of solvents as) those already demonstrated to be controlled by at least 95%, the control device can be expected to deliver the same level of control (See this discussion above for compliance with subpart SSS). Finally, emissions of new solvents (not previously tested in the control device) from new or modified operations will be subject to a performance test. Imation will be required to test the control device's performance on operations utilizing new solvents (those that have not been previously tested in the control device) by conducting a performance test whereby the efficiency of the control device is measured when only the equipment utilizing a representative coating containing the new solvent is connected to the device. This test must show that at least 95% control of emissions containing the new solvent is achieved.

In summary, the concept of exhausting emission streams from two or more process lines within a total enclosure through a single control device that controls the mixed streams from the lines, and demonstrating compliance with individual process line VOC/HAP control standards by the efficiency of the common control device when receiving such mixed streams appears in 40 CFR part 63, subpart EE and part 60, subparts SSS and VVV. For this XL project, the Agency is extending this approach to two other NSPSs (subparts RR and TT), where there will also be a requirement for 100% capture of VOC (and HAP) from the different process lines. Such extension is technically warranted due to the points described above, including the total capture and >95% control requirements, and the expected consistency of control by the control device on process solvents regardless of the emitting source. Imation's pre-draft title V permit contains the requirements of part 63, subpart EE and includes the streamlining analysis demonstrating that compliance with these requirements will assure compliance with part 60, subparts RR and TT.

d. *Assuring Compliance with Future Requirements under the NSPS at Subpart Kb.* 40 CFR part 60, subpart Kb contains standards of performance for volatile organic liquid storage vessels. Imation currently has numerous volatile organic liquid storage vessels, however, none are subject to the NSPS at Kb because of their relatively small size (all are less than 5,000 gallons). In the future, Imation may, in accordance with the conditions of their title V permit, install additional storage tanks with a capacity of greater than 5,000 gallons. Any such tanks would be subject to the requirements of part 60, subpart Kb. In addition, once Imation relinquishes their HAP limits and becomes subject to the EE MACT, all HAP-containing volatile organic liquid storage tanks will be subject to that standard, regardless of size.

As part of the streamlining analysis conducted in the development of Imation's pre-draft title V permit, the requirements of the NSPS at Kb were streamlined against the tank-specific requirements of the EE MACT standard. The analysis demonstrated that compliance with the requirements of the MACT for all storage tanks at Imation (regardless of size or VOC/HAP content) would assure compliance with the requirements of the NSPS at Kb. Therefore, in order to assure compliance with potential future applicability of the NSPS at Kb, the requirements that pertain to control of emissions from storage tanks under the EE MACT standard (use of a closed vent system with 95% overall control of emissions) have been written in to Imation's pre-draft title V permit as specific, federally enforceable requirements

e. *Assuring Compliance with New NSPS and MACT Standards.* Imation Camarillo will be subject to the requirements of regulations promulgated after the date the Final Project Agreement (FPA) is executed. If Imation demonstrates to EPA's and VCAPCD's satisfaction that it can achieve greater environmental benefit either through the existing terms of the FPA, or through an alternative strategy, and that doing so will satisfy statutory and regulatory requirements and the criteria for the XL program, the Agencies intend to initiate steps to allow such alternative compliance, including where necessary proposing a site-specific rule. Opportunities for public/stakeholder participation will be provided in connection with such changes consistent with the principles of Project XL and the public participation guidelines in the FPA. Imation's proposals will have the twin goals of achieving superior environmental performance, while ensuring that the installation of new or modified coating equipment or the

development of new products will not be delayed.

One potentially applicable regulation on the horizon is the MACT standard for the source category ''Paper and Other Web Coatings.'' The Paper and Other Web Coatings MACT is expected to be promulgated by EPA in November 2000. This standard is likely to apply to some of the activities for which Imation will receive pre-approval in their initial title V permit. Upon promulgation, EPA and VCAPCD will make a determination as to the applicability of the new standard to pre-approved activities contained in Imation's title V permit. If the standard is applicable, it will be necessary to re-open the permit in order to add appropriate requirements from the new Paper and Other Web Coatings MACT (assuming Imation's permit term has more than three years remaining on it upon MACT promulgation). However, in such case, it is the intention of all parties to attempt to maintain in the revised permit the same degree of flexibility afforded Imation in their initial permit if all Project XL elements continue to be met by this facility.

5. Applicability of the Preconstruction Review Requirements Under 40 CFR 63.5

Section 112(i)(1) of the CAA prohibits construction of a new major source, or reconstruction of an existing major source, that is subject to a standard under 112, unless EPA (or its designee) has determined, prior to construction, that the source will comply with the standard. 40 CFR 63.5 contains regulations promulgated to implement section 112(i)(1) of the Act. The preconstruction requirements contained at 40 CFR 63.5 apply to construction of a new major affected source, or to reconstruction either of a major affected source or of a major source such that it becomes a major affected source.

For Imation Camarillo, the requirements of 40 CFR 63.5 do not apply to any activity implemented under a pre-approved alternative operating scenario in Imation's title V permit. None of the pre-approved activities specified in the pre-draft permit involve construction of a new major affected source, reconstruction of a major affected source, or reconstruction of a major source such that it becomes a major affected source. The pre-draft permit does authorize construction of new magnetic tape coating equipment, however, this facility (once the HAP limits are relinquished) will already be a major affected source (subject to 40 CFR part 63, subpart EE) and the construction of additional magnetic tape coating equipment will be considered a part of this existing major affected source; it will not be considered a new major affected source.[7] In addition, pre-approved scenarios in the pre-draft permit do not allow any activity that would constitute ''reconstruction'' of magnetic tape coating sources (the existing affected source), based on the definition of reconstruction contained at 40 CFR 63.2.

40 CFR 63.5 preconstruction review requirements would apply only if there is construction or reconstruction of a source at Imation Camarillo that is subject to a standard promulgated under 40 CFR part 63, but that is not identified as an alternative operating scenario in the permit. Such construction or reconstruction is not pre-approved in Imation's pre-draft title V permit.

D. State Implementation Plan Requirements

A key element of the Imation XL project is the site-specific California State Implementation Plan (SIP) revision. EPA plans to evaluate and take action on the site-specific SIP revision under a procedure called parallel processing, whereby EPA proposes rulemaking action concurrently with the State's procedures for amending its regulations. See 40 CFR part 51, appendix V, 2.3. The SIP revision, which will only apply to the operations at Imation Camarillo, is a critical element of the XL Project at Imation as it will ensure that operations at the Imation facility that are implemented in accordance with the XL project are not in conflict with federally enforceable SIP requirements.

The draft SIP revision is comprised of several of the most critical terms and conditions from the Imation XL Project FPA, a document that represents the intentions of all parties to the agreement but that is not legally enforceable. By incorporating these terms and conditions into a VCAPCD rule that the VCAPCD Board adopts and which is approved into the SIP, the main tenets of the FPA will be made enforceable by EPA and the State. Generally, the draft SIP revision authorizes the establishment of a plant-wide applicability limit (PAL) at the Imation facility, institutes several unique requirements and procedures for operations at the facility, and exempts specified Imation activities from two VCAPCD rules, most notably VCAPCD Rule 26 (New Source Review). EPA and VCAPCD agree that such revision of the SIP on a source-specific basis for this XL Project is an appropriate exercise of regulatory flexibility, and will result in environmental performance that is at least equivalent to what would be achieved under the existing SIP. A more detailed description of the contents of the draft site-specific SIP revision is provided below.

The draft SIP revision would exempt Imation Camarillo from two VCAPCD rules, however, a number of important requirements from these rules remain intact through their inclusion in the draft SIP revision. For example, Imation Camarillo would be exempt from the VCAPCD's NSR program, yet the requirement to apply appropriate control technology to equipment installed or modified at the facility has been carried over as a key element of the draft SIP revision. Under the draft revision, Imation would be required to conduct a Best Available Control Technology (BACT) analysis for new construction or modifications under this project and to apply new or additional controls (e.g., a thermal or catalytic oxidizer) if the existing controls at the facility did not qualify as BACT. Also, for HAP-emitting new or modified equipment, the SIP revision requires Imation to conduct a Toxics Best Available Control Technology (TBACT) analysis and apply identified controls if such controls are not already in place. The proposed SIP's BACT/TBACT requirement provides an assurance that any equipment that is modified or newly installed as part of this project at Imation Camarillo will have no less degree of emissions control than what it would have had under the VCAPCD's current NSR program.

Another important element of the draft SIP revision is a requirement that Imation Camarillo conduct a tiered health risk assessment prior to implementing any project that would increase emissions of an existing HAP or result in the emission of a HAP not previously emitted by the facility. Moreover, the assessment must demonstrate that the aggregate risk from the facility, factoring in both the proposed new HAP emissions and the existing HAP emissions, will not exceed specific human health risk trigger levels established by the VCAPCD. Although this requirement is not found in any of

[7] 40 CFR 63.2 defines affected source as ''. . . the stationary source, the group of stationary sources, or the portion of a stationary source that is regulated by a relevant standard . . . established pursuant to section 112 of the Act.'' In addition, 40 CFR part 63, subpart EE states that the requirements apply to, ''each new and existing magnetic tape manufacturing operation located at a major source of hazardous air pollutant (HAP) emissions.'' Subpart EE further defines ''magnetic tape manufacturing operation'' as ''all of the emission points within a magnetic tape manufacturing facility that are specifically associated with the manufacture of magnetic tape.''

the SIP rules from which Imation Camarillo would be exempted (SIP rules address emissions of criteria pollutants and generally do not contain requirements targeted specifically at HAPs), the tiered health risk assessment is a requirement agreed to by all parties and is written into the FPA for this project. Inclusion of the tiered health risk assessment requirement in the proposed SIP makes it a condition that is enforceable by both EPA and VCAPCD. In addition, it assures that emissions from any Project XL-related new construction or equipment modifications at Imation Camarillo will result in risk levels that are acceptable under VCAPCD guidelines.

The draft SIP revision also contains a fairly detailed set of procedures that Imation Camarillo must follow in order to implement the pre-approved activities that are at the core of this XL project. These procedures are important because Imation would not be subject to the VCAPCD new source review permitting program for most new construction and equipment modifications at the facility. Under typical NSR permitting, Imation would be required to apply to the District for an Authority to Construct (ATC) and would negotiate with the District over the details of their proposed project, prior to moving forward with construction. Once constructed, Imation would then need to apply to the District for a Permit to Operate (PTO) the new equipment, once again negotiating with the District to reach agreement on the parameters of operation in order to assure that the equipment is operated in accordance with all applicable standards and regulations. The ATC and PTO approval processes would require a period of public and EPA notice and review.

The procedures in the draft SIP revision maintain some similar steps, but allow for a much more streamlined process leading to new construction, equipment modification, and operation by Imation Camarillo. The key elements of the procedures in the draft SIP revision are: a requirement for Imation to provide, through their Project XL-mandated monthly report, at least 30 days advance notification of any new construction or equipment modifications; requirements for VCAPCD approval of any tiered health risk assessment or BACT/TBACT analysis conducted pursuant to a proposed new construction or equipment modification (unless the facility's existing control device(s) represent BACT/TBACT and the estimated risk is over an order of magnitude lower than the District's level of concern, approval of these analyses must be gained prior to commencement of any new construction or equipment modifications); a requirement to provide operating and engineering details to VCAPCD prior to commencing construction of certain new control devices; and a requirement for Imation to apply for minor modifications to their title V permit in specific instances where they have installed a new control device. These procedures will allow Imation to take advantage of the flexibilities inherent in this project, while ensuring that a sufficient amount of public notification and an adequate level of oversight by VCAPCD and EPA are still in place.

The draft SIP revision would impose numerous requirements on the Imation Camarillo facility that would be in force in lieu of VCAPCD's NSR program. However, for most of the VCAPCD SIP requirements, Imation would merely comply with the requirements as they exist in the SIP. Some of these SIP requirements that Imation would continue to meet under the project are the requirements for non-VOC criteria pollutants, standards for their industrial boilers, regulations governing solvent cleaning operations, and a number of generally applicable SIP requirements such as those for opacity, transfer of ROC liquids, and several short-term activities such as abrasive blasting and asphalt roofing operations. In a few instances, Imation would meet applicable SIP requirements by complying with the EE MACT. The streamlining analysis discussed in section II.C.3 of this preamble provides a demonstration of how compliance with specific requirements of the EE MACT assures compliance with the VCAPCD SIP rules identified in the analysis.

E. Title V Operating Permit

1. Introduction

As part of this XL project, Imation Camarillo is obtaining a title V operating permit, pursuant to the applicable VCAPCD title V program (see VCAPCD Rule 33—part 70 Permits). Although the VCAPCD will provide a separate opportunity for public notice of the draft title V permit for Imation, as is required under their approved program, a pre-draft version of the title V operating permit is available for preliminary review in the docket for today's proposal (and is available on the world wide web as described in the preamble above).

This XL Project is experimenting with pre-approving, in the title V permit, new construction and equipment modifications at Imation Camarillo. Specific new construction and modification activities will be described in Imation's title V permit as alternative operating scenarios (AOSs). The significance to Imation of this innovative permitting approach is that it will create flexibility for the facility to make a limited set of preapproved changes under their title V permit. These changes, implemented as AOSs, will not require a permit revision in most instances, nor the time delays often associated with the permit revision process. This ability to undertake preapproved changes without delay will enable Imation to be more responsive to changing market conditions. From a regulatory perspective, Imation has provided the details necessary for the permitting authority to define reasonably anticipated AOSs and to create permit terms and conditions that assure compliance with all applicable requirements. From an environmental perspective, Imation has agreed to have the most stringent requirements from all potentially applicable standards incorporated into the terms of its title V permit. In many cases, the requirements that Imation would be subject to for a specific AOS are more stringent than the current regulatory structure would require.

40 CFR part 70 and VCAPCD Rule 33.4(B) provide for the establishment in title V operating permits of terms and conditions for reasonably anticipated operating scenarios at a source.[8] A source may then preapprove alternative operating scenarios in its permit and switch among these scenarios in response to operational demands, without obtaining a permit revision to account for the previously approved new operating scenarios and their different applicable requirements. All title V permits, including those implementing alternative scenarios, must contain terms and conditions sufficient to assure that each operating scenario will comply with all applicable requirements and will meet the requirements of part 70. Pursuant to section 70.6(a)(9), the source must identify such scenarios in its permit

[8] The VCAPCD title V program describes alternative operating scenarios in their title V program rules at VCAPCD Rule 33.4(B), which provides, in part:

The owner or operator of any stationary source required to obtain a part 70 permit may submit a description of all reasonably anticipated operating scenarios for the stationary source as part of the part 70 permit application. The operating scenario descriptions shall contain emission information for each scenario and sufficient information for the District to develop reasonable permit conditions defining each scenario.

application and the permitting authority must approve the scenarios for inclusion in the permit. The permit terms and conditions necessary to implement the alternative operating scenarios must also require the source to record contemporaneously in an on-site log the scenario under which it is operating, upon changing from one permitted scenario to another. The contemporaneous record of the present operating scenario that the source maintains on-site serves to document for important inspection and enforcement purposes that the source is in compliance with the source's permit terms and conditions.

The determination of when alternative scenarios are ''reasonably anticipated'' and would meet the requirements of section 70.6(a)(9) (or VCAPCD Rule 33.4(B)) is not amenable to a rigid legal formula that can dictate through general guidance what types of permit terms and conditions will ensure that a source's future operations comply with these requirements. Instead, there must be legal and practical considerations that inform this determination within EPA's reasonably broad discretion to do so. The Agency has identified certain preliminary legal boundary considerations and conditions for implementing reasonably anticipated operating scenarios as part of this XL project, pending further experience with pilot projects and permits and further guidance or rulemaking on the subject.

The structure and nature of title V permitting determine how permit terms and conditions may be developed to reasonably anticipate alternative operating scenarios. The part 70 regulations govern the content requirements for permit applications and permits in sections 70.5 and 70.6, respectively, and these sections govern how reasonably anticipated AOSs must be addressed in permit applications and permits as well. For example, all part 70 permit applications must contain information ''for each emissions unit at a part 70 source,'' which includes a description of the source's processes and products for each alternate scenario identified by the source (see 40 CFR 70.5(c) and (c)(2)). Section 70.6(a)(9) in turn makes clear that a source must identify in its application each reasonably anticipated operating scenario for which it intends to include permit terms and conditions. For this specific project, Imation was required to identify the new or modified emissions units that are part of their reasonably anticipated AOSs.

2. Compliance with the Permit Application Requirements

As noted above, part 70 permit applications must contain specific information ''for each emissions unit at a part 70 source.'' 40 CFR 70.5(c) contains the minimum permit application requirements. As stated in EPA's White Paper for Streamlined Development of part 70 Permit Applications, July 10, 1995 (White Paper I), ''Applications should contain information to the extent needed to determine major source status, to verify the applicability of part 70 or applicable requirements, to verify compliance with applicable requirements, and to compute a permit fee (as necessary).'' (*Id.* at 6) The White Paper further articulates how part 70 allows permitting authorities (in this case, VCAPCD) considerable flexibility to make decisions regarding the completeness of permit applications and their adequacy to support initial title V permit issuance. (*Id.* at 2) EPA and VCAPCD have determined that the information provided by Imation as part of their initial title V application, and through subsequent submittal of supplemental information, completely satisfies the permit application content requirements under 70.5(c) for existing emissions units and for reasonably anticipated AOSs. The following is a brief discussion of Imation's compliance with the requirements of section 70.5(c), focused specifically on the information they provided to address reasonably anticipated AOSs.

40 CFR 70.5(c)(2) requires a description of the source's processes and products, including any associated with AOSs at the source. Imation has provided the SIC codes for all existing equipment and all new and modified equipment contained in their AOSs, as is specifically required by section 70.5(c)(2).

40 CFR 70.5(c)(3) requires emission-related information for the source as well as for specific emissions units. In particular, section 70.5(c)(3)(i) requires identification of ''all emissions of pollutants for which the source is major, and all emissions of regulated air pollutants.'' Imation has identified, for existing emissions units and for any new or modified emissions units under the reasonably anticipated AOSs, that they are a major source of VOCs and that they emit NO_X, SO_X, PM, CO, and HAPs in non-major quantities. Section 70.5(c)(3)(i) also requires that a permit application ''describe all emissions of regulated air pollutants emitted from any emissions unit.'' EPA's White Paper I states that this can be a qualitative description of all significant emissions units i.e., that numeric estimates are not required. (*Id.* at 6) Based on this, and the previously noted guidance on the extent and purpose of information to be provided in an application, EPA and VCAPCD have determined that Imation has met this requirement for existing emissions units and for new or modified emissions units under the reasonably anticipated AOSs. Imation has provided lists of all existing emissions units, as well as the specific emissions units that comprise the coating operations contained in their reasonably anticipated AOSs, and they have qualitatively described the emissions from all of these units, namely VOCs and HAPs for emissions units that are part of the existing, new, and modified coating operations (including the ancillary equipment) and NO_X, SO_X, PM, CO, and VOC emissions from the gas-fired boilers. Finally, section 70.5(c)(3)(i) provides that the permitting authority may request additional emissions information to verify which requirements are applicable to the source. VCAPCD and EPA have determined that no additional emissions information is required because the applicability of the requirements of all relevant standards (both currently applicable requirements and requirements applicable to the reasonably anticipated AOSs) is not dependent on emissions information beyond the qualitative information provided by Imation in their permit application.

40 CFR 70.5(c)(3)(ii) requires the source to identify and describe all points of emissions described in section 70.5(c)(3)(i) ''in sufficient detail to establish the basis for fees and applicability of requirements of the Act.'' As already noted, Imation provided lists of existing units and units that are contained in their reasonably anticipated AOSs. Imation has further provided a description of each type of emissions unit, in many cases describing the purpose of different pieces of equipment. For emissions units under the reasonably anticipated AOSs that are subject to standards that regulate down to one or more individual pieces of constituent equipment (e.g., magnetic tape coating and polymeric coating) as opposed to wholly regulating an entire coating line as a single entity, Imation clearly identified the constituent pieces and provided upper-bound estimates of the number of constituent pieces that may be added to the facility under a reasonably anticipated AOS. These details for the specific units subject to such standards

were provided by Imation as additional information to clearly establish the requirements applicable to the reasonably anticipated AOSs at their facility. VCAPCD-levied permit fees are based on overall facility emissions, which in this case are measured by the FTIR–CEMS. Thus, no additional detail on specific emissions points, whether for existing emissions units or for units under the reasonably anticipated AOSs, is necessary to establish the fee basis.

40 CFR 70.5(c)(3)(iii) requires information on ''emissions rate in tpy and in such terms as are necessary to establish compliance consistent with the applicable standard reference test method.'' White Paper I states that EPA interprets the tpy estimates to not be required at all where they would serve no useful purpose, where a quantifiable emissions rate is not applicable, or where emission units are subject to a generic requirement. White Paper I at 7. EPA and VCAPCD have determined that the tpy estimates are not required because a quantifiable emissions rate is not applicable to any individual emissions unit. Rather, all the relevant standards (both currently applicable standards and standards applicable to the reasonably anticipated AOSs) are written in terms of control efficiency (based on inlet/outlet concentrations) rather than overall emissions rate.

The only applicable requirement described in terms of emissions rate is the overall site emissions cap (PAL) of 150 tpy. This applicable requirement is not emissions unit-specific, but applies to the facility as a whole. White Paper I states that where a PAL or other plantwide emissions limit would be established or defined in a part 70 permit, ''more emissions information would presumptively be required to verify emissions levels and monitoring approaches.'' (*Id.* at 7) Imation has met this added requirement through the provision of continuous emissions monitoring data collected by the source. These data have been deemed sufficient to verify VOC emission levels and to meet the intent of the regulatory requirement at 40 CFR 70.5(c)(3)(iii) and the White Paper I interpretation of this requirement. For future compliance with the plantwide VOC emissions rate, Imation is using the FTIR–CEMS, which provides continuous and highly accurate data on VOC emissions.

40 CFR 70.5(c)(3)(iv) requires the submission of information about fuels, fuel use, raw materials, production rates, and operating schedules, to the extent such information is needed to determine or regulate emissions. VCAPCD and EPA have determined that such information is not needed to determine or regulate emissions associated with the reasonably anticipated AOSs, however, Imation has still provided some of this information for new and modified equipment contained in the alternative scenarios.

Pursuant to the requirements of section 70.5(c)(3)(v), Imation has identified and described its existing air pollution control equipment and the control equipment contained in the reasonably anticipated AOSs, as well as the compliance monitoring devices for the equipment. Imation's existing solvent recovery unit (SRU) is monitored by two FID–CEMS and the FTIR–CEMS. Other VOC/HAP air pollution control devices described in Imation's reasonably anticipated AOSs include a thermal oxidizer, a catalytic oxidizer, and a new SRU. These control devices would be continuously monitored by an FTIR–CEMS, and either continuous combustion temperature monitors (for the oxidizers) or FID–CEMS (for the SRU).

Imation has met the requirements of the remainder of section 70.5(c)(3) in their permit application by addressing the limitations on source operation affecting emissions and the work practice standards for all regulated pollutants at the source (see section 70.5(c)(3)(vi)), by providing all necessary information required by any applicable requirement (section 70.5(c)(3)(vii)), and by providing all necessary calculations for the information in their application (section 70.5(c)(3)(viii)).

Imation has also met the requirements of sections 70.5(c)(4), (5), (6), (8), (9), and (10), as applicable to the existing operations and operations described in their AOSs. Unlike the requirements in section 70.5(c)(3), where a determination of sufficient permit application content may be subject to various interpretations and has been the subject of specific EPA policy guidance, the requirements in these parts of the regulation are very straightforward. For example, section 70.5(c)(6) requires the source to explain any proposed exemptions from otherwise applicable requirements. Imation has fulfilled this requirement (they have no proposed exemptions from otherwise applicable requirements), as well as the remaining requirements of sections 70.5(c)(4), (5), (8), (9), and (10).

40 CFR 70.5(c)(7) requires the source to submit additional information as determined to be necessary by the permitting authority to define alternative operating scenarios identified by the source pursuant to section 70.6(a)(9). EPA and VCAPCD have determined that the information provided by Imation is sufficient and that no additional information is necessary to define alternative operating scenarios identified by the source.

Imation's compliance with the regulatory requirements of section 70.5(c) for permit application content, for both existing equipment and for new and modified equipment contained in their reasonably anticipated AOSs, provided the necessary information for EPA and VCAPCD to develop a title V permit for the source which identifies all applicable requirements and which contains terms and conditions sufficient to assure that each operating scenario will comply with all applicable requirements and will meet the requirements of part 70. As previously noted, a pre-draft copy of the Imation title V permit is available today as part of this document for informational purposes.

3. Overview of the Permit Content Requirements

Along the same lines as the requirements under section 70.5(c), section 70.6 requires that all part 70 permits include emissions limitations and standards, monitoring, recordkeeping, reporting, compliance and other requirements to assure compliance with all applicable requirements. Section 70.6(a)(9) again makes clear that the permit terms and conditions governing alternative scenarios must meet these requirements. Applicable requirements generally fix a source's compliance obligations on an emissions unit or activity, control equipment, process, or combination thereof. Permitting alternative operating scenarios requires the ability to reasonably anticipate future emissions units, future operational details, and the compliance obligations under each applicable requirement associated with each operational state, as necessary to assure compliance with each applicable requirement.

The requirement to ensure that the terms and conditions of each alternative scenario meet all applicable requirements has been simplified somewhat in this project by conducting a comprehensive streamlining analysis, in accordance with White Paper II. See section II.C of this document. This simplifies matters by identifying the most stringent requirements of the five NSPS standards, one MACT standard and District Rule that Imation might trigger, and imposing these most stringent requirements as a single, uniform set of requirements that apply to each alternative scenario (as well as to the current operational scenario). This single, uniform set of requirements

includes emissions limitations and standards, monitoring, recordkeeping, reporting, compliance and other requirements to assure compliance with all applicable requirements for each reasonably anticipated AOS. By requiring that Imation meet the most stringent of these requirements the title V permit for Imation is able to assure compliance with all applicable requirements and the requirements of part 70 and the District's title V program in accordance with CAA section 504(a).

Moreover, the permit terms and conditions governing each alternative operating scenario must assure compliance with all part 70 and applicable requirements at all times. This means that the permit terms and conditions must assure compliance with all relevant requirements at the time of initial permit issuance and at the time that changes to alternative operating scenarios are undertaken in the future. Upon a source's change from one operating scenario to another, the terms and conditions of the permit must continue to fully and accurately reflect the source's compliance obligations under all requirements applicable to the change. Imation's title V operating permit clearly states that if Imation changes to an operating scenario that was not provided for in its permit, or if a change undertaken by Imation triggers compliance obligations that are not fully and accurately reflected in the permit, then they will be subject to the permit revision, permit reopening, or section 70.4(b) notification provisions, as applicable, under the part 70 regulations and VCAPCD rules prior to making the change.

4. Permitting Reasonably Anticipated Alternative Operating Scenarios

The permitting of established operating scenarios at a part 70 source that are fully known, identified and expected is straightforward. Such situations are accounted for in part 70 permits through terms and conditions that specify the emissions units and activities, provide required citations to applicable requirements, and supply the additional range of permit provisions required in a complete title V permit. Reflecting current equipment and activities, existing operating configurations, and presently applicable regulatory requirements, these operating scenarios present no difficulty to incorporating into an operating permit sufficient terms to meet the permit content requirements of part 70.

The preapproval and permitting of reasonably anticipated AOSs is somewhat different in that their associated emissions units and activities, operational configurations, and applicable requirements may not be known with the same specificity as previously established operating scenarios. Nonetheless, in order to be included in the permit as alternative operating scenarios, the source must provide sufficient specificity for those scenarios to allow the permitting authority to determine the applicable requirement(s) and establish permit terms and conditions assuring compliance with those applicable requirements and the requirements of part 70. The EPA believes that it is a reasonable interpretation of section 70.6(a)(9) to require only that permit terms and conditions reasonably anticipate the emissions units and activities, operational configurations, compliance obligations, and other relevant information associated with each alternative operating scenario, so long as the permit terms and conditions assure compliance with relevant applicable requirements at all times. Conversely, there may be new or different requirements that attach to an operating scenario at the time that the source changes to that scenario, or other material differences from the permitted operating scenario may have arisen, such that the change and its regulatory requirements are not covered by the permit. If the permit does not reflect those requirements because they were not previously established, then the source, as provided for under the part 70 regulation, must account for all requirements applicable to that operating scenario, whether through a permit revision or advance notification or in response to a permit reopening.

It is helpful to distinguish further among categories of AOSs, on the basis of whether new versus existing process equipment or control devices are involved, and on the basis of the specificity of the equipment identification, operational configurations, and linkages to applicable requirements in the permit. Of the two categories of alternative operating scenarios described below, EPA is experimenting with the pre-approval of equipment modifications and new equipment construction that would trigger one or more specified NSPSs, the MACT standard for Magnetic Tape Manufacturing Operations, and a VCAPCD SIP rule.

First, there are alternative operating scenarios for existing emissions units and activities at a part 70 source, covering specifically identified operational states or configurations for specified emissions units. In its simplest form, this first category is exemplified by an emissions unit such as a fossil fuel-fired boiler that has two fuel burning options, which are each subject to a different applicable requirement with different monitoring obligations. The task of reasonably anticipating the terms and conditions of an alternative operating scenario such as this is furthered by the relative ease of specifying the emissions unit and its activities, operational configurations and conditions, and associated applicable requirements. A source's past operating experience as well as future operational certainty, founded upon existing emissions units and activities, will make permitting of such alternative scenarios more like the task of permitting a source's current operating scenario.

A second category of alternative operating scenario, which is the subject of experimentation in this XL project, covers specific new and modified emissions units and control devices that have not been constructed or modified at the time the operating scenario is established in the permit, but that may be preapproved in the title V permit. The following is a description of the specific new and modified emissions units and control devices that are being pre-approved as part of this category of AOS under the Imation XL Project.

5. Description of the Alternative Operating Scenarios for Imation Camarillo

The new and modified process equipment pre-approved in this project includes four types of surface coating operations and liquid storage tanks used to support these operations. Magnetic tape coating is the only one of the four surface coating types currently conducted by Imation. The other three types, polymeric coating, pressure sensitive tape and label surface coating, and metal coil surface coating are similar to magnetic tape coating in that they all involve a VOC-based coating applied to a supporting web substrate.[9] These operations differ in terms of the substrate material to which the coating is applied, the coating material itself, and the final product being manufactured.

Generally, all of the pre-approved coating types are continuous coating operations where the web substrate is unwound from a roll or coil, coated at

[9] Paper, Fabric, and Film Coating operations, which are defined and regulated by a VCAPCD SIP rule, are also pre-approved under this project. However, these operations are not typically distinct from the surface coating types listed above (i.e., magnetic tape, polymeric, and pressure sensitive tape and label coating operations are all also considered ''Paper, Fabric, and Film Coating Operations'').

one or more coating stations, dried/cured in an oven, and then rewound onto the same roll or coil. All operations require ancillary process equipment such as the liquid storage tanks noted above, other tanks, kettles, and mills for handling, mixing, and otherwise preparing the coating solutions for use from raw materials. It is anticipated that some of the ancillary equipment will support operations of more than one coating type. For example, if tetrahydrofuran—THF—is used as a carrier solvent for both magnetic tape and polymeric coating operations, then a single THF storage/holding tank could be used to feed both types of coating line.

All such pre-approved new or modified coating operations, as well as all new or modified ancillary equipment that is not directly hard-piped to the 95% efficient control device, must be installed within a permanent total enclosure (providing 100% capture of emissions) and the captured emissions delivered to the 95% efficient control device. These are the capture/control requirements that are also in place under this project for existing process equipment (four magnetic tape coating lines and all mix preparation equipment).

An additional aspect of the reasonably anticipated AOSs under this project for which Imation is also receiving pre-approval, is the construction and operation of specific devices to control emissions from the new or modified process equipment described above. Specific control devices include a new thermal or catalytic oxidizer, a new SRU (and associated steam stripper, if necessary), and a baghouse or fabric filter for particulate control within the permanent total enclosure. Although these devices are part of the reasonably anticipated AOSs for this facility, and can be constructed and initially operated without first revising the title V operating permit, the project contains several safeguards described below to ensure that these devices will be operated in accordance with all applicable requirements. The reasonably anticipated AOSs in Imation's permit will allow VOC and HAP emissions from new or modified process equipment to be controlled by the existing control set-up at the facility (the existing total enclosure and SRU), or by one of the three VOC/HAP air pollution control devices listed above that has been determined, through a VCAPCD-approved analysis, to meet CA BACT (same as federally defined LAER) and/or Toxics-BACT, whichever is most stringent.

6. Analysis of Factors Considered in Defining Appropriate Permit Terms for Imation's Alternative Operating Scenarios

The permit terms needed to approve alternative operating scenarios to assure compliance with all applicable requirements and to be reasonably anticipated may, in general, be expected to vary by source category, the different types of emissions units and operating scenarios present at sources, and the inherent uncertainty of predicting future operating conditions and market demands. In particular, the authorizing permit limits might vary based on several factors which primarily include, but are not necessarily limited to: the types and specific terms of the applicable requirement(s); the complexity of the facility; whether the type or quantity of emissions will change widely; whether different pollution control devices will be needed; the ability of the permitting authority to develop practicably enforceable permit terms for alternative scenarios and to define the limitations of the control and monitoring approaches; the potential for future technology advances (where such advances are linked to the nature of the applicable requirements); and the presence of discretion in determining the applicability and/or the compliance status of the change. These factors are not always present, are often interdependent, and can range widely in their ability to affect whether compliance with the applicable requirements can be assured and whether operating scenarios can be reasonably anticipated.

In determining the permit terms and conditions needed to approve the AOSs under the Imation XL Project, EPA and VCAPCD considered all of the factors listed above. Below is a brief discussion of several of these factors as they pertain to the Agencies' determination that Imation's AOSs are reasonably anticipated and that compliance with all applicable requirements can be assured by the terms and conditions in their title V operating permit.

One major factor is the type of applicable requirements that attach to the AOSs and the specific terms associated with these applicable requirements. For this project, reasonably anticipated AOSs involve activities subject to several types of applicable requirement. However, as previously noted, all of the requirements associated with every applicable standard that applies or will apply to the reasonably anticipated AOSs and the current operating scenarios have been streamlined into a single set of applicable requirements, using EPA's guidance on streamlining multiple applicable requirements from White Paper II. The requirements essentially reduce to the emissions standards, limitations, monitoring, recordkeeping, reporting, and compliance requirements of the MACT for Magnetic Tape Manufacturing Operations. Thus, regardless of which reasonably anticipated AOS is implemented, there will be no difference in applicable requirements.

In addition, the application of the streamlined set of requirements to activities under reasonably anticipated AOSs should be very straightforward for the facility given their past operating experience. The specific requirements are very similar to those that Imation Camarillo has been operating under for a number of years (e.g., total enclosure of coating operations with emissions routed to a single control device), and the emissions units to which the requirements will need to be applied for any of the alternative scenarios will be very similar to those already operating at the facility. In fact, this general similarity amongst emissions units in the current operating scenario and in the alternative scenarios (and, therefore, the similarity of the multiple standards which apply to the different scenarios) is what allows the streamlining of six federal standards into a single set of applicable requirements.

For example, the requirements for control of emissions from coating lines, whether the lines are for magnetic tape, polymeric, pressure sensitive tape and label, or metal coil coating, are identical—95% VOC and volatile HAP control, accomplished by housing the entire line (unwind/rewind station, coater(s), drying oven(s)) in a permanent total enclosure which is routed to a 95% efficient control device. The application of these requirements to new or modified equipment under any of the reasonably anticipated AOSs will be the same, and will be the same as the application of these requirements to Imation's four existing coating lines.

Another significant factor in evaluating the terms necessary to implement Imation's AOSs is the complexity of the facility. Imation Camarillo is not an extremely complex facility. As described above, it is a manufacturing facility utilizing surface coating operations. The operations defined in Imation's AOSs are all types of surface coating. Surface coating of continuous web substrates involves unwinding the web, passing it through coating stations, then through an oven, and then rewinding it back on to the roll

from which it was unwound. This manufacturing operation relies upon support equipment such as tanks, mixers, and kettles for preparing the coatings, and all coatings are directly plumbed to the coating stations. All the emissions units associated with a particular coating operation (except for some closed-vent tanks whose emissions are piped directly to the control device) are within a permanent total enclosure whose room air is routed through a single point of control. Some have likened the operational set-up at Imation Camarillo to a black box, with a single emission point. The reasonably anticipated AOSs allow for the addition of the same or similar types of surface coating lines within the existing black box, as well as the creation of one new black box (permanent total enclosure), also with a single point of emissions, and subject to the identical rigorous parameters of the existing black box.

A third factor for consideration is whether the type or quantity of emissions will change widely under the AOSs. This is particularly important where emission of a new compound or exceedance of a specified emissions threshold might trigger new requirements or modify compliance obligations under an alternative scenario. In this case, the type of emissions from the facility is not expected to change widely from the existing emissions profile. The emissions from units defined in the AOSs will be very similar to the emissions associated with the current operating scenario, namely, VOCs (some of which are HAPs) used as carrier solvents in the surface coating process. As described previously, the aggregate quantity of emissions could increase somewhat as a result of the implementation of an AOS, however, the applicable requirements and their application to existing, new, and modified equipment, are not dependent on the overall quantity (or type) of emissions, as long as the 150 tpy VOC cap is not exceeded.

An additional factor is whether different pollution control devices will be needed to control emissions associated with alternative scenarios. The existing solvent recovery unit (SRU) is highly efficient and should provide the necessary level of VOC and HAP emissions control (at least 95%) for any emissions units associated with Imation's reasonably anticipated AOSs. However, under some circumstances a different pollution control device may be needed. One circumstance is if the BACT/TBACT analysis, which Imation must conduct for any proposed emissions unit construction or modification, demonstrates that a different control device must be utilized to control emissions from the proposed new or modified units. Another circumstance is if the existing SRU has reached its maximum capacity for handling facility emissions. In the event that Imation proposes to install a different control device, in accordance with a specified AOS, several additional safeguards are in place. These safeguards, such as requiring specific pre-construction VCAPCD reviews and minor permit modifications subsequent to control device performance testing, are established as key terms in the operating permit for assuring compliance, and are described more fully below.

A final factor in establishing permit terms for reasonably anticipated AOSs for the Imation XL Project is the ability of the permitting authority, VCAPCD, to develop practically enforceable permit terms for AOSs. The nature of the requirements that apply to Imation's AOSs and the means by which the facility has elected to meet these requirements enhances VCAPCD's ability to develop permit terms for the AOSs that are enforceable as a practical matter. For example, the emissions limitation for each coating line is the same (95% control) so there is no question as to which limitation applies to which line. Furthermore, all coating lines must be located within a permanent total enclosure. The enclosure is vented through a single point to the 95% efficient control device, that is continuously monitored (using appropriate CEMS/CMS) to ensure that an overall control efficiency of 95% is maintained. The control and monitoring approaches are straightforward and apply in the same manner to each alternative scenario.

The consideration of all these factors by EPA and VCAPCD informed the agencies' development of the permit terms and conditions needed to approve Imation's alternative scenarios. In addition, 40 CFR 70.6(a)(9) affords permitting authorities the latitude to impose any necessary permit terms and conditions to assure that alternative operating scenarios meet all applicable requirements and the requirements of part 70. Such terms and conditions may go beyond compliance obligations strictly incorporated from applicable requirements being implemented pursuant to the alternative scenario.

7. Safeguards for Alternative Operating Scenario Implementation to Assure Compliance with all Applicable Requirements

The VCAPCD has determined that in order to assure that Imation's alternative operating scenarios meet all applicable requirements, the following safeguards, which are contained in the title V operating permit as specific, enforceable requirements, are necessary to assure compliance. First, there is a safeguard to assure that any proposed new VOC/HAP control device represents BACT/TBACT for controlling the proposed new or modified emissions units. For any modifications or new construction implemented as an AOS, Imation must conduct a BACT/TBACT analysis for the proposed change, and VCAPCD must approve the analysis. The analysis must be approved prior to commencement of construction if the analysis indicates that a new control device (either a thermal oxidizer, catalytic oxidizer, or new SRU) must be installed, or prior to commencement of operation if the existing SRU meets BACT/TBACT. This will assure that the most stringent controls are applied at the facility, and will prevent the possibility of the facility installing a control device that the permitting authority subsequently deems inadequate for meeting the necessary level of VOC/HAP emissions control.

Second, there are safeguards in the implementation of scenarios which include new VOC/HAP control devices to ensure that permit terms are updated based on documented performance testing. For AOSs involving construction of a new catalytic oxidizer or new SRU (including restarting the warehoused SRU on-site), Imation is required to apply for a minor permit modification once performance testing of the new device is complete. One purpose of the minor permit modification is to establish the specific operating conditions for the device that were demonstrated through performance testing to provide the necessary level of VOC/HAP control efficiency (minimum 95% or higher if required by BACT/TBACT results). This will assure that Imation's specific, enforceable operating parameter commitments for these devices are completely and accurately defined in the permit.

For AOSs involving construction of a new thermal oxidizer, Imation is required to apply for a minor permit modification once performance testing of the new device is complete, if the operating parameters contained in the initial title V permit (minimum 1500

degrees F and 0.5 second residence time) do not result in the necessary level of VOC/HAP control efficiency (minimum 95% or higher if required by the BACT/TBACT results). Also, if performance testing of the new thermal oxidizer demonstrates the need for more stringent operating conditions (i.e., higher temperature and/or longer residence time), then Imation is required to operate the device at those conditions while their permit modification is pending.

Third, VCAPCD has built into the AOS implementation process several opportunities to intervene prior to the execution of the preapproved alternative operating scenarios, if such intervention is necessary to assure compliance with applicable requirements. The terms of the permit contain a requirement for Imation to provide advance notification of any proposed AOS implementation at least 30 days prior to commencement of the pre-approved change (i.e., prior to commencement of any construction). This notification is provided through the permit-mandated monthly report to the Agencies and the public. In addition, for AOSs involving construction of a new catalytic oxidizer or new SRU (including restarting the warehoused SRU on-site), Imation must provide to VCAPCD the proposed operational details for the device, and appropriate engineering calculations that support the proposed operating conditions at least 30 days prior to commencement of operation of the new device. This is in addition to the previously referenced requirement for VCAPCD approval (prior to construction) of the analysis demonstrating that the proposed new VOC/HAP control device represents BACT/TBACT for controlling new or modified emissions units.

8. Opportunity for EPA and Public Review of Proposed Alternative Operating Scenario Terms and Conditions

In addition to permitting authority review, in this case the VCAPCD, part 70 permits are subject to public and EPA review to ensure that the permit terms and conditions assure compliance with all applicable requirements and the requirements of part 70. An essential consideration in determining whether permit terms and conditions reasonably anticipate operating scenarios is whether the permit provides sufficient information and opportunity for the public and EPA to determine and comment in a meaningful fashion whether the terms and conditions of reasonably anticipated operating scenarios meet, and will continue to meet, all applicable requirements and part 70 requirements. While EPA has participated closely in the development of the permit terms and conditions to date, and will have additional opportunities to review and comment on all aspects of the permit as it is finalized by the VCAPCD, the public will also have an opportunity to review and comment on the permit prior to its finalization. This opportunity will occur when VCAPCD provides its 30-day public notice of the draft permit. In addition, a pre-draft version of the title V operating permit is being made available as part of today's document. The pre-draft permit, made available for informational purposes, contains descriptions of the reasonably anticipated AOSs, including limits on the extent of future construction and on the emissions from new and modified units. It includes a comprehensive streamlining analysis which identifies the most stringent requirements of all current and potential future applicable standards, and contains permit terms and conditions to assure compliance with these most stringent applicable requirements.

Permit terms and conditions reflecting alternative operating scenarios, like all part 70 permit terms and conditions, are subject to the possibility of EPA objection and public petition under section 505(b) of the Act. In addition, operating permits are subject to the possibility of reopening by permitting authorities or EPA under sections 502(b)(5) and 505(e) of the Act. Permit terms and conditions of alternative operating scenarios that fail to reasonably anticipate future operating scenarios, emissions units and activities, and their associated compliance obligations may be subject to EPA objection, public petition, or reopening for cause. Failure by permitting authorities to submit information necessary for the public and EPA to review proposed permits adequately constitutes grounds for an EPA objection under section 70.8(c)(3)(ii). However, as noted previously, EPA believes the information necessary for the review of alternative operating scenarios should be guided by the principle that permit terms and conditions must reasonably, but not perfectly, anticipate alternative operating scenarios.

9. EPA's Regulatory Interpretation of Advance Approvals for the Imation XL Project

The EPA, in August 1994, proposed to allow use of the concept of alternative operating scenarios under section 70.6(a)(9) to provide advance approval to construct and operate new or modified units subject to NSR and section 112(g) (referred to as ''advance NSR''). (59 FR 44460, 44472, Aug. 29, 1994). Under the proposal, advance NSR would have allowed permitting authorities to establish the applicable NSR or section 112(g) requirements before a reasonably anticipated project or class of projects was constructed or modified, and then include that project's requirements in the part 70 permit for the facility. As a result, the project would be ''preapproved'' by the permitting authority, without the need for a later part 70 permit revision since the part 70 permit would already contain the relevant construction and operation requirements for the project.

In August 1995, EPA further clarified its advance NSR proposal by proposing to add a definition of advance NSR to section 70.2, and by explaining that, in EPA's view, a change subject to an advance approval scenario would not be a change under section 502(b)(10) of the Act (60 FR 45530, 45544–45545, Aug. 31, 1995). Rather, it would constitute a switch to an alternative operating scenario under section 70.6(a)(9). As the 1995 preamble noted, this interpretation would have two advantages. First, it would allow the use of advance NSR for title I modifications, and avoid the limitation that changes made under section 502(b)(10) cannot be title I modifications. Second, and more important, the 7-day advance notification under section 502(b)(10) which attaches to each change made under that section would not apply to changes under the advance NSR approval. Consequently, where the State operating permit program allows for advance approval, and the permitting authority approves an alternative scenario containing advance approval, the part 70 permit could allow a source to make the approved change without an advance notice or a part 70 permit revision.

Although the Agency has not finalized revisions to the part 70 regulations to adopt the proposed amendments to sections 70.2 and 70.6(a)(9) discussed above, the Agency is prepared to interpret the existing part 70 regulations for purposes of this XL project to enable alternative operating scenarios to encompass advance approvals in the limited manner described in this document. In other words, for purposes of the approach described in this section, EPA believes that it is a reasonable interpretation of existing section 70.6(a)(9) to cover the advance approval of the new and modified emissions units and control devices described in this document,

within the scope of alternative operating scenarios that may be included in part 70 permits. The concept of ''reasonably anticipated operating scenarios'' is expansive enough to encompass not only existing equipment that may operate under a different operating scenario reasonably anticipated to occur, but also to encompass new and modified equipment housed in a permanent total enclosure, subject to 100% capture and at least 95% control device efficiencies, and subject to the most stringent applicable requirement streamlining provided for in this project. In addition, there must be a reasonable anticipation as to the limits of the advance approval. The limits in this project include future construction of a maximum of six new coating lines during the permit's term, limitation of the types of new construction and modification that may be implemented under an AOS, and the permit's restriction of the source to one new total enclosure housing pre-approved coating activities. As an additional element of the reasonable anticipation of operating scenarios, the permit provides upper-bound estimates of the number of constituent pieces of equipment (e.g., mills, mixing vessels, storage tanks) that may be constructed under specified AOSs.

The Agency is prepared to advance these interpretations under the current regulations prior to any final action on the part 70 revisions that might adopt the proposed amendments, for purposes of this experimental XL project. As previously noted, adoption of alternative approaches or interpretations in the context of a specific XL project does not signal EPA's willingness to adopt that interpretation as a general matter. Depending on the results of this project, as well as the results of other experimental and pilot projects implemented by EPA, the Agency may or may not be willing to adopt an alternative approach or interpretation again, either generally or for other specific facilities. The EPA solicits comment on these interpretations and their application in this project. In addition, members of the public will have the opportunity to comment on the approach discussed above, as well as the title V permit application and permit for the Imation Camarillo Plant, when the draft permit is made available by VCAPCD for a 30-day public comment period.

III. Other Requirements

Environmental Management System (EMS) and Multi-Media Pollution Prevention Reporting

As an additional element of this XL project, Imation Camarillo is developing an EMS modeled after International Standard ISO 14001. The EMS identifies all aspects of the plant's environmental management program and is a tool for ensuring continuous improvement with respect to controlling the environmental impacts associated with the Camarillo plant's activities. In terms of innovation, this project can be used to learn how an EMS can improve the pollution prevention opportunities that are identified within a plant, how the systems management approach is useful in helping a company meet and go beyond compliance, and how the training of employees to implement an effective EMS results in a reduction of environmental risks.

Imation Camarillo will also report a waste ratio number annually that represents the results of pollution prevention measures taken at the facility on an annual basis since 1990. The waste ratio shall be calculated based on the mass of the facility's actual waste output in all media and the mass of products and byproducts produced at the facility. Reporting of the waste ratio as a measure of pollution prevention activities at Imation Camarillo is one of the voluntary elements of this XL project.

Dated: June 23, 1999.

Laura Yoshii,

Acting Regional Administrator, Region IX.

[FR Doc. 99–17633 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6375–8]

Notice of Availability of Draft Summary of Class V Injection Well Study (EPA Working Draft)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability and request for comments.

SUMMARY: EPA and the Sierra Club entered into a modified consent decree on January 28, 1997 (D.D.C. No. 93–2644). In accordance with the second action required by this decree, EPA is completing a study of all Class V wells not included in the July 28, 1999 proposed rulemaking on high-risk Class V injection wells (63 FR 40586). The purpose of this document is to seek public comment on the draft summary of this study, which provides general information on the study approach and results, to ensure that the information is accurate, complete and current.

DATES: EPA must receive public comment, in writing, on the draft Class V study by August 12, 1999.

ADDRESSES: Send written comments to the UIC Class V, W–99–12 Comment Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 401 M Street, SW, Washington, DC 20460. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency; 401 M Street, SW, EB57, Washington, DC 20460. Comments may be submitted electronically to ow-docket@epamail.epa.gov.

Please submit all references cited in your comments. Facsimiles (faxes) cannot be accepted. Send one original and three copies of your comments and enclosures (including any references). Commenters who would like EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope.

The draft study summary is available for review in the Water Docket at the above address. For information on how to access docket materials, please call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Standard Time, Monday through Friday. If you would like copies of the summary contact the U.S. Environmental Protection Agency; Office of Water Resource Center; RC–4100; 401 M Street, SW; Washington, DC 20460 or call (202) 260–7786. The summary is also available on the EPA, Office of Ground Water and Drinking Water, Underground Injection Control web site: http://www.epa.gov/OGWDW/uic/cl5study.html.

FOR FURTHER INFORMATION CONTACT: For general information, contact the Safe Drinking Water Hotline, toll free 800–426–4791. The Safe Drinking Water Hotline is open Monday through Friday, excluding federal holidays, from 9:00 a.m. to 5:30 p.m. Eastern Standard Time. For technical inquiries, contact Anhar Karimjee, Underground Injection Control Program, Office of Ground Water and Drinking Water (mailcode 4606), EPA, 401 M Street, SW, Washington, DC, 20460. Phone: 202–260-3862. E-mail: karimjee.anhar@epa.gov.

SUPPLEMENTARY INFORMATION: For the Class V study, EPA grouped Class V wells into the following 23 categories:

Agricultural Drainage Wells include all wells receiving agricultural runoff. This includes improved sinkholes and

abandoned drinking water wells receiving agricultural runoff, wells that recharge aquifers with agricultural tail waters, and wells used to drain flood irrigation.

Storm Water Drainage Wells are shallow injection wells designed for the disposal of rain water and melted snow. These wells typically drain paved areas such as streets and parking lots, or roofs. Improved sinkholes and abandoned drinking water wells receiving storm water runoff are considered to be storm water drainage wells.

Wells Used to Drain Fluids from Carwashes Where No Engine or Undercarriage Washing is Performed include floor drains in bays of coin-operated manual carwashes where people use hand-held hoses to wash only the exterior of cars, trucks, and other vehicles. These kinds of carwashes are sometimes referred to as ''wand washes,'' as opposed to ''tunnel washes'' or ''rollover washes'' where automatic washing equipment is used.

Large-Capacity Septic Systems are used to dispose of sanitary waste through a septic tank, used by a multiple dwelling, business establishment, community, or regional business establishment for the injection of wastes. Systems serving single families and non-residential systems serving less than 20 persons are not included.

Wells Used to Inject Fluids from Food Processing Operations are any type of system that accepts food processing wastewater and releases it into or above USDWs. This includes systems used to dispose of wastewaters generated from the preparing, packaging, or processing of food products (e.g., slaughterhouses, seafood or poultry processing facilities, etc.), not septic systems used solely for the disposal of sanitary waste.

Sewage Treatment Effluent Wells are used by privately or publicly owned treatment works (POTW) to inject treated or untreated domestic sewage through a vertical well or a leachfield. Aquifer Recharge wells, Aquifer Storage and Recovery Wells, Subsidence control wells, and Salt water Intrusion Barrier wells injecting treated or untreated wastewater are considered Sewage Treatment Effluent wells for the purposes of this study.

Wells Used to Inject Fluids from Laundromats Where No Onsite Dry Cleaning is Performed or Where No Organic Solvents are Used for Laundering include drains that lead to drywell (open holes) or septic systems at coin-operated laundromats that do not have onsite dry-cleaning services.

Spent Brine Return Flow Wells are used to dispose of the spent brine which results from the extraction of minerals, halogens and other compounds from fluids. These wells are commonly associated with manufacturing facilities that produce specialty chemicals such as boron, bromine, magnesia, or their derivatives.

Mine Backfill Wells are wells which inject water, sand, mill tailings, or other mining byproducts in order to control subsidence caused by mining, to dispose of mining byproducts, or to fill sections of a mine.

Aquaculture Wells dispose of water used for cultivation of marine and freshwater animals and plants.

Solution Mining Wells inject leaching solutions (lixiviants) in order to remove an ore mineral from its original geological setting. The saturated solution is then extracted by a production well, and the target mineral is harvested for processing. Copper, gold, salt, silver, and uranium may all be mined by solution mining processes.

In-Situ Fossil Fuel Recovery Wells are used for in-situ recovery of lignite, coal, tar sands, and oil shale. The wells inject water, air, oxygen, solvents, combustibles, or explosives into underground or oil shale beds to liberate fossil fuels, so they can be extracted for surface use. Underground coal gasification (UCG) and in-situ oil shale retorting are two processes which use in-situ fossil fuel recovery injection wells.

Special Drainage Wells include a variety of wells such as potable water tank overflow, construction dewatering, swimming pool drainage, and mine dewatering wells. These drainage wells receive fluids that cannot be classified as agricultural, industrial, or storm water.

Experimental Wells are used to test new technologies. Wells will not be classified as experimental if the technology can be considered under an established well subclass. For example, a well used for bioremediation will be classified as an aquifer remediation well.

Aquifer Remediation Wells are wells used to clean up, treat, or prevent contamination of underground sources of drinking water (USDWs). Treated ground water (pump and treat), bioremediation agents, or other recovery enhancement materials may be injected into the subsurface via Class V wells. These wells may be associated with RCRA or CERCLA projects.

Geothermal Electric Power Wells dispose of spent geothermal fluids following the extraction of heat for the production of electric power.

Geothermal Direct Heat Return Flow Wells dispose of spent geothermal fluids following the extraction of heat used directly (without conversion to electric power or passed through a heat exchanger) to heat homes, swimming pools, etc.

Heat Pump/Air Conditioning Return Flow Wells reinject ground water that has been passed through a heat exchanger in order to heat or cool buildings. A heat pump takes thermal energy from the ground water and transfers it to the space being heated. When cooling is required, the heat pump removes heat from a building and transfers it to the ground water. For the purposes of the study, only open loop heat pump/AC return flow wells are considered.

Salt Water Intrusion Barrier Wells are used to inject fluids to prevent the intrusion of salt water into an aquifer. These wells may have secondary purposes such as aquifer recharge.

Aquifer Recharge Wells are used to inject fluids to recharge an aquifer. These wells may have secondary purposes such as salt water intrusion prevention, subsidence control, or aquifer storage and recovery (ASR).

Aquifer Storage and Recovery (ASR) Wells are used to inject fluids for later recovery and use. These wells may have a secondary purpose such as aquifer recharge.

Wells Used to Inject Noncontact Cooling Water That Contains No Additives and Has Not Been Chemically Altered are used in conjunction with cooling systems designed to maintain constant separation of the water from process chemicals.

Subsidence Control Wells are used to control land subsidence caused by ground water withdrawal, or over pumping of oil and gas. These wells may have secondary purposes such as aquifer recharge.

Although the Class V study is ongoing and the final methods and results have not yet been fully documented, the draft summary has been compiled and placed in the public docket for review and comment. Based on a workgroup of EPA and State UIC representatives, the Class V study design has two components: (1) An information collection effort for the 23 Class V well categories listed above; and (2) inventory models to estimate the number of storm water drainage wells and large-capacity septic systems.

Data Collection

The information collection for the draft study consisted of four activities: a literature review, State and EPA Regional data collection, request to the public for data, and peer review.

In order to begin the State and EPA Regional data collection process, EPA

prepared an Information Collection Request (ICR), approved by OMB (OMB #240–0194) on July 31, 1998. EPA then sent nearly 700 questionnaires to contacts identified for each State, territory, and Indian Land. EPA supplemented the information from the questionnaire through telephone interviews, on-site file searches, and information from other sources.

EPA additionally sought information from the public through: the National Drinking Water Advisory Council (63 FR 66168, 64 FR 18903); two notices in the **Federal Register** (64 FR 1108, 64 FR 1007); presentations at meetings of the Ground Water Protection Council; an Internet Web site (http://www.epa.gov/OGWDW/uic/cl5study.html); and, the July 28, 1998 proposed rule (60 FR 44652).

Well-specific reports were drafted for each well type covered in the study. Although the reports are tailored to the particular issues relevant to the well type, all of the reports address the following basic topics: (1) Well purpose and fluids released; (2) the extent to which the fluids released exceed drinking water standards at the point of injection; (3) generalizations about the characteristics of the underground zone receiving fluids from the wells; (4) contamination incidents or studies, if any; (5) vulnerability of the wells to spills or illicit discharges; (6) prevalence of the wells; and (7) existing State and federal controls.

Most reports have undergone extensive peer and EPA workgroup review (or are currently under review). EPA coordinated peer reviews of draft reports for each of the types of wells studied to ensure technical accuracy and completeness of the documents. Technical experts were located through various sources including the Ground Water Protection Council and three **Federal Register** notices seeking peer sources including the Ground Water Protection Council and three **Federal Register** documents seeking peer reviewers (64 FR 1007–1008). It should be noted that some peer review comments have not yet been addressed and are not reflected in the summary being made available through this document.

Inventory Models

Because States believe that their inventories on storm water drainage wells and large-capacity septic systems are inaccurate, EPA constructed inventory models to predict the national inventories for these two well types. Due to the limited information available, EPA developed the inventory models by analyzing data collected from visits to a sample of census tracts.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 99–17772 Filed 7–12–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 6, 1999.

A. Federal Reserve Bank of San Francisco (Maria Villanueva, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. EverTrust Financial Group, Inc., Everett, Washington; to become a bank holding company by acquiring 100 percent of the voting shares of Everett Mutual Bank, Everett, Washington, and Commercial Bank of Everett, Everett, Washington.

Board of Governors of the Federal Reserve System, July 7, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–17680 Filed 7–12–99; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 99-16859) published on pages 36016 and 36017 of the issue for Friday, July 2, 1999.

Under the Federal Reserve Bank of New York heading, the entry for Rome, MHC, Rome New York, is revised to read as follows:

A. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Rome, MHC, Rome, New York; to become a bank holding company by acquiring 51 percent of the voting shares of Rome Bancorp, Inc., Rome, New York, and thereby indirectly acquire The Rome Savings Bank, Rome, New York.

In connection with this application, Rome Bancorp, Inc., Rome, New York, also has applied to become a bank holding company by acquiring 100 percent of the voting shares of The Rome Savings Bank, Rome, New York.

Comments on this application must be received by July 26, 1999.

Board of Governors of the Federal Reserve System, July 7, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–17681 Filed 7–12–99; 8:45 am]

BILLING CODE 6210–01–F

GENERAL SERVICES ADMINISTRATION

Public Meeting and Intent To Prepare an Environmental Impact Statement

AGENCY: General Services Administration, National Capital Region; Department of Transportation.

ACTION: Correction of the time and location of meeting for the proposed lease acquisition of a new or renovated headquarters for the Department of Transportation in the Central Employment Area (CEA) of Washington, DC.

SUMMARY: The time and location of the meeting is corrected to read as follows.

TIME AND LOCATION OF MEETING: The public meeting will be held: At 7:00 p.m., Thursday, July 29, 1999 at the General Services Administration, 1st Floor Auditorium (D Street Entrance), 7th & D Streets, SW, Washington, DC 20407.

The Notice of Public Meeting and Intent to Prepare an Environmental Impact Statement was published in the **Federal Register** on June 30, 1999 at 64 FR 35168.

FOR FURTHER INFORMATION CONTACT: Mr. John Simeon, General Services Administration, (202) 260–9586.

Dated: July 2, 1999.

Anthony E. Costa,

Assistant Regional Administrator, Public Buildings Service.

[FR Doc. 99–17752 Filed 7–12–99; 8:45 am]

BILLING CODE 6820–BR–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Hine's Emerald Dragonfly (Somatochlora hineana) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces availability for public review of a draft recovery plan for the Hine's emerald dragonfly (*Somatochlora hineana*), a species that is federally listed as endangered under the Endangered Species Act of 1973, as amended (Act). This species occurs on public and private land in Illinois, Michigan, and Wisconsin. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan received by September 13, 1999 will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor, Chicago, Illinois, Field Office, 1000 Hart Road, Suite 180, Barrington, Illinois 60010, telephone (847) 381–2253. Written comments and materials regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received will be available for public inspection by appointment during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Louise Clemency at the above address, or telephone at (847) 381–2253, x215.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the federally threatened and endangered species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria which when met would result in a determination that the species no longer needs the protection of the Act, and provide estimates of the time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires public notice and opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into consideration in the course of implementing approved recovery plans.

The Hine's emerald dragonfly was listed as endangered on January 26, 1994. It inhabits marshes, sedge meadows, wet prairies and fens that have small ground water fed streams and occur in areas of dolomite bedrock. Fragmentation and destruction of habitat are believed to be the main reasons for this species' endangered status and continue to be the primary threats to its recovery. The species also seems to be vulnerable to off-site impacts to the ground water that feeds the habitat. The Hine's emerald dragonfly currently occurs at nine sites in the lower DesPlaines River valley in Illinois, at eleven sites in Door County, Wisconsin, and at seven sites in the Hiawatha National Forest in Mackinac County, Michigan. The Hine's emerald dragonfly has apparently been extirpated from Indiana and Ohio.

Recovery will be achieved and this species may be removed from the list of threatened and endangered plants when at least six viable populations, each composed of at least three subpopulations supporting 500 reproductive adults, are being protected and managed for the dragonfly. Site protection will be accomplished through negotiating cooperative agreements with landowners and working with land managers. Other recovery activities will include managing habitat, restoring populations, monitoring populations to detect trends, research, surveys, and conducting a general information program for the public.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by September 13, 1999 will be considered prior to approval of the plan. Comments should be sent to the Field Supervisor, Chicago, Illinois, Field Office, at the above address.

Authority: The authority for this action is the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 6, 1999.

Charles M. Wooley,

Program Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. 99–17676 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of an Environmental Assessment and Receipt of Applications for Incidental Take Permits for the Delhi Sands Flower-loving Fly Associated With Industrial Developments on the Angelus Block Company Site, City of Rialto, San Bernardino County, California

AGENCY: Fish and Wildlife Service.

ACTION: Notice of availability.

SUMMARY: This notice advises the public that Angelus Block Company, Inc., Edward Antonini Residuary Trust, and E–Z Mix, Inc. (Applicants) have applied to the Fish and Wildlife Service for the approval of a Habitat Conservation Plan and issuance of incidental take permits pursuant to section 10(a)(1)(B) of the Endangered Species Act, 1973, as amended (Act). The Applicants propose to develop various industrial facilities, including: a sacking plant and facility for concrete, pre-blended mortar, asphalt and associated materials; a paver production plant; and a concrete block plant within various lots on the property. Except for those lots within the approximately 30.5-acre on-site Conservation Area, the other lots are

expected to be sold to other industrial users for development. The Applicants seek permits for a period of 30 years that would authorize incidental take of the endangered Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) associated with the construction, development, and maintenance of industrial facilities on approximately 65 acres of the 96-acre site. The permit applications include a Habitat Conservation Plan and an Implementation Agreement, both of which are available for public review and comment. The Service also announces the availability of an Environmental Assessment for the proposed issuance of the incidental take permits. All comments on the Environmental Assessment and permit applications will become part of the administrative record and will be available to the public.

DATES: Written comments should be received on or before August 12, 1999.

ADDRESSES: Written comments should be addressed to the Field Supervisor, Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California 92008. Comments may be sent by facsimile to telephone (760) 431–9624.

FOR FURTHER INFORMATION CONTACT: Mary Beth Woulfe, Fish and Wildlife Biologist, at the above address or call (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Availability of Documents

You may obtain copies of the documents for review by calling the Service's Carlsbad Fish and Wildlife Office at the above referenced telephone number. Documents also are available for public inspection, by appointment, during normal business hours at the above address.

Background

Section 9 of the Act and its implementing regulations prohibit the ''taking'' of threatened or endangered species. Take means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect listed animal species, or attempt to engage in such conduct (16 USC 1538). Harm may include significant habitat modification where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, and sheltering [50 CFR 17.3(c)]. The Service, however, may issue permits to take endangered and/or threatened wildlife species incidental to, and not the purpose of, otherwise lawful activities. Regulations governing permits for endangered and/or threatened species are found at 50 CFR 17.22 and 17.32.

Under the proposed action, construction, development, and maintenance activities would directly impact the Delhi Sands flower-loving fly by removing about 65 acres of habitat on the 96-acre parcel. The permit applications include a Habitat Conservation Plan and an Implementation Agreement that define the responsibilities of all of the parties under the Plan. The Applicants' Habitat Conservation Plan describes consideration of alternatives to the action and provisions for minimization and mitigation of impacts.

The Applicants propose to dedicate about 30.5 acres of on-site Delhi Sands flower-loving fly habitat to a land manager/conservation organization to be managed and preserved in perpetuity. A 5-acre mitigation bank would be established in the 30.5-acre Conservation Area. Proceeds from the sale of credits would off-set the management endowment cost. The incidental take permit would also address any take that may occur due to management and maintenance activities within the Conservation Area. This action would compensate for the loss of habitat resulting from the project and would benefit the long-term conservation of the Delhi Sands flower-loving fly.

The Habitat Conservation Plan was prepared by the Applicants' representatives and reflects the opinions of the Applicants; whereas, the Environmental Assessment was prepared by the Service and reflects our opinions regarding the proposed action. This fact will account for the differences in opinion and analysis reflected in the Habitat Conservation Plan and the Environmental Assessment.

The Applicants considered going forward without receiving a section 10(a)(1)(B) incidental take permit under the Act. The Service sought and was granted a preliminary injunction by the United States District Court of Los Angeles that prohibited Angelus Block Company, Inc. from proceeding with their planned development. The Service and representatives from Angelus Block Company, Inc. worked out a settlement agreement regarding this injunction that resulted in finalizing the Habitat Conservation Plan.

The Habitat Conservation Plan and the Environmental Assessment considered four alternatives to the proposed project: (1) Abandonment of the industrial facility projects (the ''No Project'' alternative); (2) abandonment of the industrial facility projects and establishment of a Delhi Sands flower-loving fly habitat mitigation bank; (3) participation in the San Bernardino Valley-wide Multiple Species Plan; and (4) development of 83 acres, dedication of a 13.4-acre Conservation Area, habitat restoration, and an endowment fund for maintenance and management of the Conservation Area. The Applicants also considered the redesign of the industrial facilities and establishing a 24-acre Conservation Area including a mitigation bank. This alternative was within the full range of alternatives considered, and therefore, was not further analyzed by the Service in its Environmental Assessment.

Under the first alternative the Angelus Block facilities would not be constructed on the Site, nor would the remaining lots be used for other industrial uses or sold to other industrial users. Although this alternative would result in no impact by development of the Project Site, the Applicants would not take any measures to enhance the site or establish permanent on-site conservation that is expected to have long-term benefits for the Delhi Sands flower-loving fly.

Under the second alternative the Project Site would not be developed and the Site would be used as a habitat mitigation bank for Delhi Sands flower-loving fly. Establishment of a Delhi Sands flower-loving fly habitat mitigation bank on the Site could possibly result in protection of approximately 73 acres of Delhi Sands flower-loving fly habitat. The success of the mitigation bank would be primarily dependent on the ability and willingness of others to purchase Delhi Sands flower-loving fly habitat credits arising from establishment of a bank on Site. The certainty that such would actually occur is not known.

Under the third alternative the Applicants would mitigate for any potential take of the Delhi Sands flower-loving fly by participating in a larger geographic scale, multiple species Habitat Conservation Plan under development by local jurisdictions for a portion of San Bernardino County, as opposed to their own site-specific Habitat Conservation Plan. Under this alternative, the Applicants would need to delay construction of their project until the San Bernardino Valley-Wide Multiple Species Habitat Conservation Plan is complete.

Under the fourth alternative about 83 acres would be developed, a 13.4-acre conservation area would be dedicated to a conservation organization, Delhi Sands flower-loving fly habitat would be restored in the conservation area, and a long-term maintenance endowment

would be provided for the conservation area. The conservation area would be used for the recovery and long-term conservation of the Delhi Sands flower-loving fly. This alternative would result in construction within approximately 60 acres of potential Delhi Sands flower-loving fly habitat. Impacts to the Delhi Sands flower-loving fly would be greater than the proposed project and there would be less benefit to the species.

This notice is provided pursuant to section 10(a) of the Endangered Species Act and Service regulations for implementing the National Environmental Policy Act of 1969 (40 CFR 1506.6). The Service will evaluate the permit applications, the Habitat Conservation Plan, Environmental Assessment, the associated documents and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Endangered Species Act. If we determine that the requirements are met, we will issue permits for the incidental take of the Delhi Sands flower-loving fly. A final decision on permit issuance will be made no sooner than 30 days from the date of this notice.

Dated: July 7, 1999.

Elizabeth H. Stevens,

Deputy Manager, California/Nevada Operations Office, Fish and Wildlife Service, Sacramento, California

[FR Doc. 99–17743 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–320–1820–00]

Resource Advisory Council Meeting; Northeast California Resource Advisory Council; Susanville, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the authorities in the Federal Advisory Committees Act (Pub. L. 92–463) and the Federal Land Policy and Management Act (Public Law 94–579), the U.S. Bureau of Land Management's Northeast California Resource Advisory Council will meet Friday, Aug. 13, 1999, at the BLM Eagle Lake Field Office, 2950 Riverside Dr., Susanville, CA.

SUPPLEMENTARY INFORMATION: The meeting begins at 9 a.m. in the conference room of the BLM Eagle Lake Field Office. Agenda items include discussion of off-highway vehicle management, grass banking, noxious weeds, the recreation fee demonstration project, sage grouse management, and a status report on BLM wilderness study areas in northeastern California and northwestern Nevada. Public comments will be taken at 10 a.m. Depending on the number of persons wishing to speak, a time limit could be set. The entire meeting is open to the public as well.

FOR ADDITIONAL INFORMATION: Contact Tim Burke, BLM Alturas Field Manager, at (530) 233–4666.

Joseph J. Fontana,

Public Affairs Officer.

[FR Doc. 99–17763 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–01; N–45098]

Termination of Segregative Effect, and Opening Order for a Portion of Airport Lease N–45098, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates a segregative effect on a portion of Airport Lease N–45098, held by Humboldt County. The land will be opened to the operation of the public land laws, including location and entry under the mining laws, subject to valid existing rights.

EFFECTIVE DATE: July 21, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Figarelle, Realty Specialist, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445, or 775–623–1500.

SUPPLEMENTARY INFORMATION: The segregative effect for Airport Lease N–45098, also known as the Denio Junction Airport, was made on January 15, 1987, then amended on September 23, 1987 and July 21, 1988. The public lands affected by the above segregative actions, are described as follows:

Mount Diablo Meridian, Nevada

T. 47 N., R. 30 E.,
Sec. 9: W½SW¼SW¼NE¼, W½W½SE¼, W½SE¼SW¼SE¼;
Sec. 16: NW¼, W½W½NE¼, W½E½NW¼NE¼, W½NE¼SW¼NE¼, NW¼SE¼SW¼NE¼, NW¼NE¼NE¼SW¼, N½NW¼NE¼SW¼, N½NE¼NW¼SW¼, NW¼NW¼SW¼;
Sec. 17: S½S½SE¼NE¼, N½N½NE¼SE¼.

Totalling 310 acres more or less in Humboldt County.

The segregation was made pursuant to the Act of May 24, 1928 (49 U.S.C. 211–214) as amended by the Act of August 16, 1941 (55 Stat. 621).

The segregative effect is hereby terminated for all public lands encumbered by Airport Lease N–45098, except the following described lands:

Mount Diablo Meridian, Nevada

T. 47 N., R. 30 E.,
Sec. 9: W½SW¼SE¼, W½SE¼SW¼SE¼;
Sec. 16: NW¼NE¼, N½SW¼NE¼, SW¼SW¼NE¼, E½SE¼NW¼, SW¼SE¼NW¼, SE¼SW¼NW¼.

Totalling 135 acres more or less in Humboldt County.

At 9 a.m. on July 21, 1999, the land encumbered by Airport Lease N–45098, except the lands described above, will be opened to location and entry under the United States mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on July 21, 1999, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 30, 1999.

Terry A. Reed,

Field Manager, Winnemucca.

[FR Doc. 99–17682 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1430–01; N–59006]

Termination of Segregative Effect, and Opening Order for Proposed Exchange, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This action terminates the land exchange segregation, dated March

26, 1997, for Proposed Exchange N–59006. The land will be opened to the operation of the public land laws, including location and entry under the mining laws, subject to valid existing rights.

EFFECTIVE DATE: July 21, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Figarelle, Realty Specialist, Winnemucca Field Office, 5100 E. Winnemucca Blvd., Winnemucca, Nevada 89445, or 775–623–1500.

SUPPLEMENTARY INFORMATION: Upon notation to the public land office records, on March 25, 1997, the public lands described below were segregated from all other forms of appropriation under the public land laws including location and entry under the mining laws. On June 21, 1999, the exchange proponent notified the Bureau of Land Management, that he no longer wanted to pursue the proposed exchange. The segregation is hereby terminated on the following described lands:

Mount Diablo Meridian, Nevada

T. 43 N., R. 32 E.,
Sec. 4: SE¼SW¼;
Sec. 9: NE¼NE¼, S½NE¼, NW¼NW¼, E½SW¼, SE¼;
Sec. 17: NW¼SW¼;
Sec. 18: SE¼NE¼SE¼, NE¼NE¼SE¼;
Sec. 31: SE¼NE¼, SE¼SW¼NE¼, NE¼SW¼NE¼.
T. 47 N., R. 31 E.,
Sec. 21: E½NE½, SE¼NW¼, E½SW¼, NE¼SE¼, SW¼SE¼;
Sec. 22: W½SW¼;
Sec. 26: S½NW¼, E½SW¼;
Sec. 27: SE¼NE¼, NE¼NW¼;
Sec. 28: NW¼NE¼;
Sec. 35: NW¼NE¼, NE¼NW¼.
Totalling 1,280 acres in Humboldt County.

At 9 a.m. on July 21, 1999, the land encumbered by Proposed Exchange N–59006, will be opened to the operation of the public land laws, including location and entry under the mining laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on July 21, 1999, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 30, 1999.

Terry A. Reed,

Field Manager, Winnemucca.

[FR Doc. 99–17683 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Federal Oil and Gas Royalty-in-Kind Pilot Programs

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of intent.

SUMMARY: This is to give notice that the Minerals Management Service (MMS) intends to adhere to certain practices in exercising the options available to the Secretary of the Interior to take the government's royalty share of production in kind from Federal oil and gas leases. In particular, we would like to set forth the background and a general outline of how we are proceeding and what is expected of lessees and operators in connection with MMS's royalty-in-kind (RIK) projects. The purpose of these projects is to test the feasibility and examine the revenue effects of different ways of taking and disposing of RIK production. We welcome any comments you may have on the information provided in this Notice.

DATES: Comments must be submitted on or before September 13, 1999.

ADDRESSES: If you wish to comment, you may submit your comments by any one of several methods. You may mail comments to Bonn Macy, Special Assistant to the Director, Minerals Management Service, 1849 C Street, NW, MS 4230, Washington, DC 20225. You may also comment via the Internet (E-mail) to Bonn.Macy@mms.gov. Please submit Internet comments as a WordPerfect 6.0 or an MS Word 97 document (earlier versions of these formats are acceptable) avoiding the use of special characters and any form of encryption. Please also include your name and return address and phone number in your Internet message. If you do not receive a confirmation from the system that we have received your Internet message, contact Bonn Macy directly at (202) 208–3827.

FOR FURTHER INFORMATION CONTACT: Mr. Bonn J. Macy, Minerals Management Service, 1849 C Street, NW, MS 4230, Washington, D.C. 20240–0001; telephone number (202) 208–3827; fax (202) 208–3918; e-mail Bonn.Macy@mms.gov.

COMMENTS: Written comments on this notice should be addressed to Mr. Bonn J. Macy at the address given in the Addresses section of the notice.

SUPPLEMENTARY INFORMATION: The contents of this Notice will be discussed at a Public meeting held on July 20, 1999, in Houston, Texas. Please refer to the **Federal Register** Notice published July 1, 1999, for further information. We will post public comments after the comment period closes on the Internet at http://www.rmp.mms.gov. You may arrange to view paper copies of the comments by contacting Bonn Macy, Special Assistant to the Director, Minerals Management Service, (202) 208–3827, FAX (202) 208–3918.

Background

The Department of the Interior has managed mineral leasing on Federal lands since the Mineral Leasing Act was passed in 1920 (30 U.S.C. 181, *et seq.* (1994) (MLA). Under the terms of standard Federal oil and gas leases, the government is entitled to a share (royalty) of production removed or sold from the lease. The terms ''in value'' and ''in kind'' refer to the manner in which a mineral owner (lessor) receives the royalty share from the producer (lessee). Like most other royalty owners, the U.S. Government has, for the most part, historically received its royalty share ''in value,'' that is, in cash as a percentage of the sales proceeds received by the lessee.

For most onshore Federal leases, the MLA provides in relevant part at 30 U.S.C. 192 that all royalty accruing to the United States under any oil or gas lease or permit under this chapter on demand of the Secretary of the Interior shall be paid in oil or gas.

For most offshore leases, the Outer Continental Shelf Lands Act, as amended (OCSLA) provides in relevant part at 43 U.S.C. 1353(a)(1) (1994) that, with some minor exceptions, all royalties or net profit shares, or both, accruing to the United States under any oil and gas lease issued or maintained in accordance with this subchapter, shall, on demand of the Secretary, be paid in oil or gas.

Section 2 of a typical onshore Federal lease form provides in part that ''Lessor reserves the right to specify whether royalty is to be paid in value or in kind.'' (October 1992, Form BLM–3100–11). By section 6 of the offshore lease form, the lessor reserves ''the right to

determine whether royalty will be taken in the amount or the value of production.'' (February 1971, Form MMS–2005, and subsequent versions).

Over the years, the Secretary's authority to take RIK has rarely been used. One exception has been the ongoing RIK program that MMS currently operates for certain ''eligible refiners'' as authorized by specific provisions of the MLA at 30 U.S.C. 192 (1994) and the OCSLA at 43 U.S.C. 1353(b)(2) (1994). Also, during Calendar Year 1995, MMS operated a voluntary RIK pilot in which we took and sold by competitive bid at the lease approximately 45.6 billion cubic feet of natural gas from 14 lessees covering 79 leases in the Gulf of Mexico. This initial pilot provided valuable experience with the operational aspects of working with producers and marketers, as well as useful information on the revenue implications of taking gas in kind.

As a general matter, the collection of royalties in cash as a percentage of the value of production has worked well in most cases. However, as will be discussed below, there are a number of reasons that make it worthwhile now to examine whether the government should receive at least some of its royalties ''in kind'' by taking physical volumes of oil or gas for sale to the public or for transfer to other Federal agencies.

First, dramatic changes in the energy industry have been occurring over the past 10 to 15 years that may present opportunities for MMS to provide greater certainty and simplify its royalty management programs. Rapidly changing market structures over this period have resulted in product price volatilities and the expansion of active trading in markets across the country with the corresponding development of representative spot prices.

Traditional long-term contracts between producers and pipeline and refiner purchasers have been increasingly replaced by short-term trading by new market participants, such as brokers and resellers. Further, many sellers now regularly use futures markets for risk management and obtain real-time market information directly using personal computers and telecommunications links.

For natural gas, these structural changes have been facilitated by the Federal Energy Regulatory Commission's deregulation of the natural gas transportation industry and the evolving deregulation of retail natural gas and electricity markets.

The challenges presented by these evolving market structures, the ''unbundling'' of gas transportation services, and changing business practices overall present unique opportunities for us to reexamine the way we manage the revenues earned from the public's oil and gas assets.

Members of Congress, representatives from industry, the public, and State and other Federal agencies have urged MMS over the last few years to consider the potential advantages that might be achieved by taking Federal oil and gas royalties in kind. Over this time, MMS's own examination of RIK suggests that these potential benefits may exist in select cases where conditions favorable to RIK exist.

MMS's stakeholders have focused on a number of possible benefits. As an alternative to the royalty system based on the percent of proceeds, a successfully targeted RIK program might provide improved certainty, administrative efficiencies, and other cost savings. Fulfillment of the royalty obligation by the delivery of physical volumes of oil or gas could decrease the need for extensive reporting, verification, and auditing of lessee sales proceeds. This could benefit industry as well as government and the public. A second possible benefit is that, in select circumstances, taking product in kind and selling to the market directly might yield more revenues for the public than taking a percentage of a given lessee's sale price. In other cases, we might be able to take RIK and transfer it for direct consumption in other Federal agencies and realize real savings in Federal energy costs.

In response to these possibilities and the interest in them, MMS has structured several pilot projects to demonstrate whether taking royalties in kind can actually deliver the potential benefits to the taxpayer. The agency has solicited participation from affected States and consulted with industry in their development.

Currently, we have an oil RIK program operating in conjunction with the State of Wyoming involving 3400 bbls. of royalty crude oil per day, and a small pilot underway with the State of Texas General Land Office (GLO). The GLO program uses production from natural gas leases in the 8(g) zone off the coast of Texas in the Gulf of Mexico. A natural gas pilot in the Federal waters of the Gulf of Mexico will begin in October 1999 and could involve as much as 800 million cubic feet of gas per day over a 3-to 4-year period. Through the experience gained by these pilot projects, we hope to acquire a better understanding of the key factors that determine RIK success.

For example, the pilots could demonstrate that the RIK option works best where leases have certain production characteristics, and where regional markets or transportation arrangements are particularly suited to RIK, as well as demonstrate which methods used to market the RIK production provide the greatest benefit. Depending on the logistics and efficiencies involved, certain production may be more attractive if consumed directly by the government.

Hands-on experience with these pilot projects should give us a good basis for determining whether or not RIK is viable for the Federal Government, and, if so, how, when, and where it makes sense to exercise the Secretary's RIK option.

The authorizing provisions of the MLA and the OCSLA and the relevant lease provisions effectively give the Secretary complete discretion to elect to take the royalty share of production from an oil and gas lease in kind.

Both the MLA and the OCSLA provide that RIK production so taken may either be sold to the public (including to eligible refiners) under certain prescribed terms or be retained or transferred to agencies of the Federal Government.

Public sales of onshore RIK production must be made by an offer for sale ''upon notice and advertisement on sealed bids or at public auction'' (30 U.S.C. 192 (1998)) and offshore RIK production must be sold ''by competitive bidding for * * * not less than its fair market value.''(43 U.S.C. 1353 (b)(1) and (b)(2) (1998)).

Public Auctions and Competitive Bidding

One objective of the pilots is to evaluate the relative merits of different bidding methods so we can identify the most effective and appropriate ways for the government to secure a competitive market price for our public assets, as we are required to do by law. In offering RIK production for sale to the public, we intend to consider using any bidding procedure or format that brings us the best return in open and competitive sales.

To assure conformity with the statutory terms ''public auction'' and ''competitive bidding,'' we would require a bidding format that affords equal access for all qualified potential purchasers and leads to sales made in response to the highest or best bid.

In most cases, we intend to announce the availability of royalty production for sale by advertisement of a ''notice of availability.'' Over the past several years, MMS has found that use of its Internet Home Page is an effective means to rapidly disseminate

information to the oil and gas industry and to the public at large. We continue to use this communication method as well as placing public notices in industry trade journals, on commercial electronic bulletin boards, and other media. In certain cases, especially for sales of natural gas, MMS may invite companies to apply for prequalification as a potential purchaser. Subsequent notices of availability would be sent to prequalified companies.

A notice of availability will identify the production to be made available to the public, the general terms and procedures for any sale, and will include bidder qualification information to determine who may bid in a given sale. Ordinarily, any person would be permitted to bid who is eligible under the terms and conditions specific to the particular bid offering at hand. In this regard, we expect that each notice of availability or solicitation to prequalify as a potential purchaser will prescribe certain minimum financial qualifications for participation in the bidding, and indicate the procedure for prequalifying as a buyer before any sale. Potential buyers may prequalify at any time, but must be prequalified in order to bid for RIK production.

Lessee/Operator Responsibilities

In any situation involving the taking of RIK production, the managing operator of the property will be an active participant in the transaction.

Essentially, the lessee or operator is required to satisfy its royalty obligation by delivery of a volume of ''royalty production''—that is, the royalty share to which the Federal Government is entitled to take as a royalty—in the form of physical volumes. The amount of royalty oil, gas, or other products that MMS takes in kind in partial or full satisfaction of a lessee's royalty or net profit share obligations will be determined by whatever lease interest the lessee holds under an applicable mineral leasing law. Generally, royalty production equals that portion of production from or allocated to a Federal lease multiplied by that lease's royalty rate.

When we decide to take RIK from a property, we will give the lessee and operator adequate advance notice sufficient to minimize disruption to the operator's planning for transportation and sales of its share of the production stream. This will generally mean a 30-day prior written notice before we would begin taking or stop taking RIK production from a property.

Unless further experience dictates otherwise, it is our present intention that where we decide to take a lease's royalty production in kind, we will take all such royalty production from the lease in kind until we give notice to the contrary.

In the pilots operated to date, we have set out the terms under which we expect to conduct specific RIK transactions in a ''Dear Operator Letter'' to all affected parties. The ''Dear Operator Letter'' generally prescribes terms of delivery, methods for resolving imbalances, and lessee reporting and communication requirements. This approach, together with public meetings held in advance of particular sales and close coordination with operators, has worked well by anticipating and resolving specific problems.

A primary responsibility of the operator will be to deliver the royalty production to MMS in ''marketable condition'' as is currently required by the lease and regulations for payment of royalties in value. Accordingly, royalty production delivered by an operator must be in a condition that would be accepted by a purchaser under a sales contract typical for the field or area. This has long been considered an obligation imposed by the terms of Federal leases and is reflected in the royalty value regulations at 30 CFR Part 206, including the definition of ''marketable condition'' set forth at 30 CFR 206.151. It will continue to be the lessee's obligation to perform and bear all costs of gathering, dehydration, separation, compression, sweetening, or other processes that MMS will require in connection with the delivery of RIK production.

It is also expected that the operator will deliver royalty production to the lessor at the same frequency that it is produced and moved through the royalty meter, without interruption, unless specifically approved by MMS.

In general, natural gas taken in kind must be delivered on a daily basis, unless other arrangements are approved by MMS. This is consistent with industry practice so that purchasers are able to make necessary transportation and other arrangements. Approval for less than daily delivery of natural gas may be provided on a case-by-case basis. We do recognize that in some cases, it may be necessary to delay delivery of crude oil for as long as a month to permit aggregation of saleable quantities of production from lower-producing properties.

Operators are also expected to use the same measurement and reporting standards applicable to the payment and reporting of royalties in value as prescribed in the existing regulations at 30 CFR 202 for RIK oil and gas.

It is also expected that lessees, operators, or others dealing in royalty production would retain all related records for a period of 7 years after the records are generated unless MMS notifies the record holder that a longer retention period is required. That is the same period currently applicable to lessees paying royalties as a percentage of value under 30 U.S.C. 1724(f).

Offshore Fair Market Value

The RIK provisions of the OCSLA direct that the public sale of offshore RIK production must be made for not less than its ''fair market value.''

As a generic term, ''fair market value'' is generally considered by economists to be the price received by a willing and knowledgeable seller not obligated to sell from a willing and knowledgeable buyer not obligated to buy. For offshore RIK sales, however, the OCSLA prescribes a very specific definition of that term. Section 1331(o) of 43 U.S.C. (1994) defines ''fair market value'' for purposes of RIK sales to be essentially the average unit price received for production from the same lease or, in some circumstances, from leases sold in the same region during the period.

The 43 U.S.C. 1331(o) (1994) definition states that the term ''fair market value'' means the value of any mineral (1) computed at a unit price equivalent to the average unit price at which such mineral was sold pursuant to a lease during the period for which any royalty or net profit share is accrued or reserved to the United States pursuant to such lease, or (2) if there were no such sales, or if the Secretary finds that there were an insufficient number of such sales to equitably determine such value, computed at the average unit price at which such mineral was sold pursuant to other leases in the same region of the Outer Continental Shelf during such period, or (3) if there were no sales of such mineral from such region during such period, or if the Secretary finds that there are an insufficient number of such sales to equitably determine such value, at an appropriate price determined by the Secretary.

Under this statutory definition, the first applicable paragraph (1) of the provision seems to require that offshore RIK production taken by the Secretary must be sold for at least as much as the average unit price for which the lessee sold the nonroyalty share of production from that lease.

In cases where there were no other sales from the same lease or where the Secretary finds that there were an insufficient number of such sales to equitably determine such a value, the

fair market value floor may be computed under the next paragraph, paragraph (2). That paragraph provides that fair market value may be computed with reference to average unit prices in sales from ''other leases in the same region.'' Finally if a value cannot be equitably determined under paragraphs (1) or (2), an appropriate price may be determined by the Secretary. In operating the RIK pilot projects that involve public sales of offshore production, we intend to comply with the OCSLA requirement not to sell RIK production for less than its fair market value as defined by that statute. However, we anticipate that there may well be instances in which it may be impractical or otherwise inequitable to determine actual average prices from a lease or region during the same period in which an RIK sale is to be made. Strict conformance with paragraph (1) of the definition would require knowing at the time of the RIK sale what the lessees' actual concurrent sales prices were for the nonroyalty share of production from the lease. Applying paragraph (2) of the definition would also require instantaneous knowledge of the sales prices of other lessees in the region.

In theory, we could require that all RIK purchase prices be subject to post-sale adjustments when the lease price information becomes available to MMS. In our view, this would be excessively burdensome to all concerned and would effectively discourage, if not eliminate, participation in RIK sales. If bidders did participate, they would necessarily bid a lower price for the royalty production than they would otherwise because of the risk of post-sale adjustment, particularly if this adjustment could be made well after the actual sale. It is clear that such a process would not only be inequitable to potential purchasers, but could not effectively capture a fair market value as that term is intended and conventionally understood.

In those instances where it is not possible, practical, or equitable to determine—contemporaneous with an RIK sale—average prices from a lease or the region, we believe we can reliably estimate these values very closely. These close estimates would allow us to proceed under paragraph (3) of the OCSLA ''fair market value'' definition to ''determine such value, at an appropriate price determined by the Secretary'' in a way that assures consistency with the intent not to sell RIK production for less than the price obtained by the lessee for its share.

In preparation for each sale of royalty oil or gas from identified Federal leases, MMS would develop a reference price for each specific lease that is consistent with the OCSLA ''fair market value'' requirement. To establish this reference price, MMS would analyze the pricing relationships for sales in the area and/or market centers appropriate for sales of production from those leases. One source of data for the analysis would be actual historical prices for royalty purposes for the identified leases, or if none are available, from leases in the same area. Other data used in the analysis could include published index prices and bids MMS may have received on other offerings of its royalty oil or gas from that area, as well as the many other factors that could influence the determination of fair market value. These might include: responses to other sales of similar Federal royalty production, seasonality, infrastructural changes (temporary and permanent), and other variable market conditions.

Our analysis of pricing relationships in the market would produce an estimate of the price the lessee will receive. This would form the basis for the lease's reference price. During a sale, this lease reference price would serve as our reserve price, below which bids to purchase RIK production from the lease would be considered inadequate.

To verify that the pricing relationship between lessees' sales prices and the market continues, MMS will require occasional reporting by lessees of sales prices on leases from which MMS is taking production in kind. These reported prices would only be used for information and analytical purposes, are necessary to assure that we continue to receive fair market value for RIK sales, and will not be available for any other use.

Transfer of RIK Oil and Gas to Other Federal Agencies

As authorized by statute, we also plan to transfer royalty production taken in kind to other Federal agencies for direct consumption by the government. The Federal Government's energy requirements are large and are in excess of its royalty share of oil and gas production.

While geography and logistics prevent efficient implementation in all locations where oil and gas are consumed, there are enormous opportunities to build energy supply relationships within the Federal Government. These internal supply relationships have the potential to generate significant synergies and lower the total cost of energy consumed by the Federal Government.

For onshore, the MLA provides in 30 U.S.C. 192 that the Secretary may offer RIK for sale ''except whenever in his judgment it is desirable to retain the same for the use of the United States * * *'' The OCSLA provides specific authority to the Secretary at 43 U.S.C. 1353(a)(3) to transfer RIK production to other Federal agencies, stating that, title to any royalty, net profit share, or purchased oil or gas may be transferred, upon request, by the Secretary to the Secretary of Defense, to the Administrator of the General Services Administration, or to the Secretary of Energy, for disposal within the Federal Government.

We have already developed and implemented innovative arrangements involving the transfer of RIK crude oil to the Department of Energy for the Strategic Petroleum Reserve and transfer of natural gas to the General Services Administration (GSA) for use in Federal facilities. We plan to further explore the potential associated with direct, internal consumption of royalty oil and gas production taken in kind, and expand our relationship with GSA and other Federal agencies as appropriate.

The general principles set forth here are intended to allow flexible operation of RIK programs to adapt the technique efficiently to the wide range of conditions that exist in Federal oil and gas producing areas. MMS firmly believes our approach is market-responsive, consistent with best industry practices, economically and administratively efficient, and minimally disruptive to lessees and operators. We welcome comments from the public on any and all aspects of this notice.

Dated: July 8, 1999.

Walter D. Cruickshank,

Associate Director for Policy and Management Improvement.

[FR Doc. 99–17788 Filed 7–12–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review; Comment Request

July 6, 1999.

The Department of Labor (DOL) has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). A copy of each individual ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor, Departmental Clearance Officer, Ira Mills ({202} 219–5096 ext. 143) or by E-Mail to Mills-Ira@dol.gov.

Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for BLS, DM, ESA, ETA, MSHA, OSHA, PWBA, or VETS, Office of Management and Budget, Room 10235, Washington, DC 20503 ({202} 395–7316), within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: Pension and Welfare Benefits Administration.

Title: Employee Benefit Plan Claim Procedures under the Employee Retirement Income security Act of 1974 (ERISA).

OMB Number: 1210–0053.

Frequency: On occasion.

Affected Public: Individuals or households; business or other for-profit; not-for-profit institutions.

Number of Respondents: 6,690,345.

Number of Responses: 63,317,000.

Total Burden Hours: 504,000.

Total Annualized capital/startup costs: $0.

Total annual costs (operating/maintaining systems or purchasing services): $54,520,000.

Description: ERISA section 503 and regulations at 29 CFR 2560.503–1 require employee benefit plans to establish procedures for notification on claim denials, disclosure of reasons, and notice of opportunity to obtain review of the denial.

Ira L. Mills,

Departmental Clearance Officer.

[FR Doc. 99–17665 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–29–M

DEPARTMENT OF LABOR

Labor Advisory Committee for Trade Negotiations and Trade Policy; Renewal

The Secretary of Labor and the United States Trade Representative have taken steps to renew the Labor Advisory Committee for Trade Negotiations and Trade Policy. The Committee and subcommittees will be chartered pursuant to section 135(c)(1–2) of the Trade Act of 1974 (19 U.S.C. 2155(c)(1–2)), as amended by section 1103 of the Trade Agreements Act of 1979, Public Law 96–39, 93 Stat. 308, the Omnibus Trade and Competitiveness Act of 1988, Public law 100–418, 102 Stat. 1107 (1988) and Executive Order No. 11846, March 27, 1975 (19 U.S.C. 2111 nt).

The Labor Advisory Committee for Trade Negotiations and Trade Policy consults with, and makes recommendations to the Secretary of Labor and to the United States Trade Representative on issues of general policy matters concerning labor and trade negotiations, operations of any trade agreement once entered into, and other matters arising in connection with the administration of the trade policy of the United States.

The Committee will meet at irregular intervals at the call of the Secretary of Labor and the United States Trade Representative. The Steering Subcommittee will meet bi-monthly. Other subcommittees may meet on an ad hoc basis.

For further information contact: Jorge Perez-Lopez, Director, Office of International Economic Affairs, Bureau of International Labor Affairs, Frances Perkins Building, Department of Labor, Room S–5325, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone: (202) 219–7597.

Signed at Washington, DC, this 2nd day of July, 1999.

Alexis M. Herman,

Secretary of Labor.

[FR Doc. 99–17664 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–38–M

DEPARTMENT OF LABOR

Bureau of International Labor Affairs

International Child Labor Program; Solicitation for Grant Application: Develop and Publicize Factual Information About Child Labor, its Use and Solutions to the Problem of Child Labor Worldwide

AGENCY: Bureau of International Labor Affairs (ILAB) International Child Labor Program.

ACTION: Notice.

SUMMARY: The purpose of this SGA is to award grants to one or more private, nonprofit organizations for the purpose of developing and publicizing factual information about the use of child labor, creating innovative partnerships to address child labor, and organizing a public dialogue about best-practice solutions to the problem of child labor worldwide. The grant or grants will be administered by the International Child Labor Program (ICLP) of the Bureau of International Labor Affairs (ILAB).

DATES: The closing date for receipt of a completed application in response to the SGA will be no later than 4:45 p.m. on July 30, 1999.

FOR COMPLETE APPLICATION SEND WRITTEN REQUEST TO: Lisa Harvey, Department of Labor, Procurement Services Center, Room N–5416, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone Number (202) 219–9335.

Signed at Washington, DC this 7th day of July, 1999.

Lawrence J. Kuss,

Grant Officer.

[FR Doc. 99–17778 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–28–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection; ETA 203, Characteristics of the Insured Unemployed; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the proposed revision of the collection of the ETA 203, Characteristics of the Insured Unemployed. A copy of the proposed

information collection request (ICR) can be obtained by contacting the office listed below in the **ADDRESSEES** section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before September 13, 1999.

ADDRESSES: Cynthia Ambler, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Ave. NW., Washington, DC, 20210. Phone number: 202–219–6209 x129. Fax: 202–219–8506. (These are not toll free numbers.) E–mail: amblerc@doleta.gov.

FOR FURTHER INFORMATION CONTACT: Cynthia Ambler, U.S. Department of Labor, Employment and Training Administration, Room S–4231, 200 Constitution Ave. NW., Washington, DC, 20210. Phone number: 202–219–6209 x129. Fax: 202–219–8506. (These are not toll free numbers.) E–mail: amblerc@doleta.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The ETA 203, Characteristics of the Insured Unemployed, is a once a month snapshot of the demographic composition of the claimant population. It is based on those who file a claim in the week containing the 19th of the month which reflects unemployment during the week containing the 12th. This corresponds with the BLS total unemployment sample week. Aggregate data is collected on sex, race/ethnic group, age, industry, and occupation.

II. Current Actions

This report continues to be needed as it is the only source of demographic information on the insured unemployed. The revision being proposed will convert the industry classification to be reported from the current Standard Industry Classification (SIC) to the North American Industry Classification System (NAICS) and will convert occupation reporting from the current Dictionary of Occupational Titles (DOT) to the Standard Occupational Classification (SOC) system. The proposed revision will make this reporting conform to standards being adopted throughout government.

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Extension with change.

Agency: Employment and Training Administration.

Title: Characteristics of the Insured Unemployed.

OMB Number: 1205–0009.

Agency Number: ETA 203.

Affected Public: State Government.

Cite/Reference/Form/etc: ETA 203.

Total Respondents: 53.

Frequency: Monthly.

Total Responses: 636.

Average Time per Response: .34.

Estimated Total Burden Hours: Continuing reporting is 212 hours per year. Adjusting computer programs once is estimated at 24 hours per state or 1,272 hours total.

Total Burden Cost (capital/startup): $31,800.

Total Burden Cost (operating/maintaining): $15,900.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 7, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service.

[FR Doc. 99–17779 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; Independent Contractor Register

AGENCY: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed.

Currently, the Mine Safety and Health Administration (MSHA) is soliciting comments concerning the proposed extension of the information collection related to the Independent Contractor Register. MSHA is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

A copy of the proposed information collection request can be obtained by contacting the employee listed below in the Addressee section of this notice.

DATES: Submit comments on or before September 13, 1999.

ADDRESSES: Send comments to Theresa M. O'Malley, Program Analysis Officer, Office of Program Evaluation and Information Resources, 4015 Wilson Boulevard, Room 715, Arlington, VA 22203–1984. Commenters are encouraged to send their comments on a computer disk, or via E-mail to tomalley@msha.gov, along with an original printed copy. Ms. O'Malley can be reached at (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

FOR FURTHER INFORMATION CONTACT: Theresa M. O'Malley, Program Analysis Officer, Office of Program Evaluation and Information Resources, U.S. Department of Labor, Mine Safety and

Health Administration, Room 719, 4015 Wilson Boulevard, Arlington, VA 22203–1984. Mrs. O'Malley can be reached at TOMalley@msha.gov (Internet E-mail), (703) 235–1470 (voice), or (703) 235–1563 (facsimile).

SUPPLEMENTARY INFORMATION:

I. Background

Independent contractors performing services or construction at mines are subject to the Federal Mine Safety and Health Act. 30 CFR 45.4(b) requires the mine operator to maintain a written summary of information concerning each independent contractor present on the mine site. The information includes the trade name, business address, and telephone number; a brief description of the work to be performed; MSHA identification number, if any; and the contractor's address of record. This information is required to be provided for inspection and enforcement purposes by the mine operator to any MSHA inspector upon request.

II. Current Actions

The information obtained from the contractors is used by MSHA during inspections to determine proper responsibility for compliance with safety and health standards.

Type of Review: Extension.

Agency: Mine Safety and Health Administration.

Title: Independent Contractor Register.

OMB Number: 1219–0040.

Affected Public: Business or other for-profit.

Cite/Reference/Form/etc: 30 CFR 45.4.

Total Respondents: 14,235.

Frequency: On occasion.

Total Responses: 92,527.

Average Time per Response: 0.1333 hours (8 minutes).

Estimated Total Burden Hours: 12,334.

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): $200,396.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: July 8, 1999.

Theresa M. O'Malley,

Chief, Records Management Branch.

[FR Doc. 99–17780 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–43–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. NRTL–2–93]

Entela, Inc., Correction of Recognition

AGENCY: Occupational Safety and Health Administration, (OSHA), Labor.

ACTION: Notice.

SUMMARY: This notice corrects the expansion of recognition recently granted to Entela, Inc.

EFFECTIVE DATE: This correction becomes effective on July 13, 1999.

FOR FURTHER INFORMATION CONTACT: Bernard Pasquet, Office of Technical Programs and Coordination Activities, NRTL Program, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N3653, Washington, D.C. 20210, or phone (202) 693–2110.

SUPPLEMENTARY INFORMATION:

Notice of Final Decision

The Occupational Safety and Health Administration (OSHA) is correcting the expansion of recognition granted to Entela, Inc. (ENT), on March 9, 1999 (64 FR 11501). OSHA recognizes an organization as a Nationally Recognized Testing Laboratory (NRTL), and processes applications related to such recognitions, following requirements in Section 1910.7 of Title 29, Code of Federal Regulations (29 CFR 1910.7), and in Appendix A to this section. This correction notice falls outside the requirements of this section, and will be the only notice that OSHA will publish on this matter.

In the March 9 notice, OSHA expanded the recognition of ENT to include additional test standards. One of the test standards for which ENT requested recognition (see Exhibit 15) is UL 2161 Neon Transformers and Power Supplies. However, the NRTL Program staff excluded this test standard from ENT's expansion pending publication of the resolution of a comment, concerning this test standard, received on a notice for another NRTL (see 64 FR 33913, 6/24/99). If publication of the resolution has already occurred, OSHA would have recognized ENT for the standard in the March 9 notice.

The NRTL Program staff has recommended to the Assistant Secretary that OSHA correct the recognition of ENT to include the UL 2161 (Neon Transformers and Power Supplies) test standard. Based on the recommendation of the staff, the Assistant Secretary is hereby correcting the recognition of ENT to include this additional standard. All other terms and conditions of ENT's recognition as an NRTL remain the same.

Signed at Washington, D.C. this 29th day of June, 1999.

Charles N. Jeffress,

Assistant Secretary.

[FR Doc. 99–17666 Filed 7–12–99; 8:45 am]

BILLING CODE 4510–26–M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Information Collection Activities: Submission to OMB for Revision to a Currently Approved Information Collections; Comment Request

AGENCY: National Credit Union Administration (NCUA).

ACTION: Request for comment.

SUMMARY: The NCUA intends to submit the following information collections to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). These information collections were originally published on April 29, 1999. No comments were received.

DATES: Comments will be accepted until August 12, 1999.

ADDRESSES: Interested parties are invited to submit written comments to NCUA Clearance Officer or OMB Reviewer listed below:

Clearance Officer: Mr. James L. Baylen (703) 518–6411, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428, Fax No. 703–518–6433, E-mail: jbaylen@ncua.gov.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Officer, James L. Baylen, (703) 518–6411.

SUPPLEMENTARY INFORMATION: Proposal for the following collections of information:

OMB Number: 3133–0143.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 760 Loans in Areas Having Special Flood Hazards.

Description: Federally insured credit unions are required by statute and by

proposed 12 CFR part 760 to file reports, make certain disclosures and keep records. Borrowers use this information to make valid purchase decisions. The NCUA uses the records to verify compliance.

Respondents: All federal credit unions.

Estimated No. of Respondents/ Recordkeepers: 5,500.

Estimated Burden Hours Per Response: 7 minutes.

Frequency of Response: Recordkeeping and on occasion.

Estimated Total Annual Burden Hours: 101,333.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0121.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 701.14 Notice of Change of Officials and Senior Executive Officers.

Description: The regulation directs newly chartered and troubled credit unions to provide NCUA with 30 days notice before making a management change.

Respondents: Troubled and newly chartered credit unions.

Estimated No. of Respondents/ Recordkeepers: 534.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 1,068.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0108.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 748.2 Monitoring Bank Secrecy Act Compliance.

Description: The collection is needed to allow NCUA to determine whether credit unions have established a program reasonably designed to assure and monitor their compliance with currency recordkeeping and reporting requirements established by Federal statute and Department of the Treasury regulations.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 11,127.

Estimated Burden Hours Per Response: 3 hours.

Frequency of Response: Recordkeeping.

Estimated Total Annual Burden Hours: 33,477.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0068.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 701.31 Non Discrimination Policy.

Description: This regulation requires a federal credit union (FCU) to keep a copy of the property appraisal. It also requires that a FCU using geographical factors in evaluating real estate loan applications must disclose such facts on the appraisal and state for justification. This regulation insures compliance with the Fair Housing anti-redlining requirements.

Respondents: Federally credit unions.

Estimated No. of Respondents/ Recordkeepers: 4,000.

Estimated Burden Hours Per Response: 1 hours.

Frequency of Response: Recordkeeping on occasion.

Estimated Total Annual Burden Hours: 4,000.

Estimated Total Annual Cost: N/A.

OMB Number: 3133–0142.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Title: 12 CFR 741.6(c) Requirements for Insurance.

Description: Credit Unions that submit late or inaccurate call reports are required to submit a proposal that describes how it will avoid another late or inaccurate report.

Respondents: Federally insured credit unions.

Estimated No. of Respondents/ Recordkeepers: 630.

Estimated Burden Hours Per Response: 2 hours.

Frequency of Response: Reporting and on occasion.

Estimated Total Annual Burden Hours: 1,260.

Estimated Total Annual Cost: $21,186.60.

By the National Credit Union Administration Board on July 7, 1999.

Becky Baker,

Secretary of the Board.

[FR Doc. 99–17740 Filed 7–12–99; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL PARTNERSHIP FOR REINVENTING GOVERNMENT

Action Formation of a SafeCities Network: Performance Partnerships To Reduce Gun Violence

Authority Citation

Non-statutory.

Background

All of our citizens deserve to live in safe, violence-free communities. The SafeCities Network builds upon the local, state, and federal partnerships that have helped improve the safety of our communities. SafeCities connects and supports innovative communities across the country collaborating to enhance public safety. SafeCities also seeks to minimize administrative barriers to problem solving and help communities maximize currently available federal resources.

The initiative was recommended by the Crime Mapping and Data Driven Management Task Force, a joint task force of the Department of Justice and the National Partnership for Reinventing Government. It builds upon President Clinton's directive on Deterring and Reducing Gun Crime. It was formally announced by Vice President Gore on June 21, 1999 at the ''Family Re-Union,'' an annual discussion of public policy from the perspective of families that he moderates in Nashville, Tennessee.

Announcement

The SafeCities Network announces the formation of performance partnerships between the federal government and community-based partnerships to reduce gun violence. This is our first step toward the creation of a national network of communities working together to enhance public safety for their citizens. The network will encourage communities to collaborate with each other and the federal partners to:

- Reduce gun violence;
- Promote prevention, early intervention, and enforcement;
- Address barriers at the federal, state, and local level—in ways allowable under current law—to increase the flexibility and effectiveness of resources;
- Obtain technical support and facilitate access to best practices employed in various communities; and
- Share lessons with other communities.

What Are the Benefits to Communities and Law Enforcement Agencies?

This initiative is not a grant program. In order to help communities reduce gun violence and promote public safety the SafeCities Network will:

- Connect communities and law enforcement agencies with peers working on similar issues;
- Support partners and share lessons learned via a SafeCities website;
- Give national recognition to innovative communities for their effective strategies and results;
- Link to the U.S. Attorney and ATF integrated firearms violence reduction strategy;

• Link to other federal initiatives such as the Youth Crime Gun Interdiction Initiative, Gang Resistance Education and Training Program, Weed and Seed program, Strategic Approaches to Community Safety Initiative, and Partnerships to Reduce Juvenile Gun Violence;

• Facilitate access to technical support and expertise through a federal champion;

• Support consolidated planning on the community level and provide greater flexibility in administering grant funds with related goals as allowed under current law;

• Provide assistance in assessing factors contributing to gun violence in each community and tailoring strategies and tactics to address them; and

• Help communities and local law enforcement agencies measure results and obtain expert advice in devising strategies for collecting, analyzing, and using data to achieve results.

Who Can Apply To Be a Local Partner?

Expressions of Interest can be submitted by the head of a community-based partnership, local government, network of local governments, state or local law enforcement agency, or network of state or local law enforcement agencies. Where state funds or agencies are involved or where federal funds flow through the state, there must be clear evidence of state partnership.

How Does My Community Express Interest in the SafeCities?

Potential partners should submit a brief Expression of Interest. To minimize any burden, submissions should be under ten pages in length. Communities are encouraged to use existing plans and documents wherever possible.

Selection Criteria

The National Steering Committee will select local partners based on:

• Existence of a partnership with a comprehensive plan to reduce gun violence using a balance of prevention, intervention, and enforcement strategies;

• Existence of explicit community goals or report card for public safety and a demonstrated commitment by the partners to use data to plan, implement, and evaluate strategies to reduce gun violence;

• Effective leadership and participation of key stakeholders such as federal, state, and local law enforcement officials, education officials, faith community representatives, business leaders, or other key community members;

• Readiness and commitment of partners to work together, cut red tape, coordinate operations, use current funding more effectively, and achieve better results;

• Potential impact of proposed performance partnership on the reduction of gun violence and time frame provided in the Expression of Interest; and

• Balance in terms of geography, demographic characteristics, and areas of focus.

National Partners

The SafeCities Network will be supported by a Steering Committee that will include the Office of Community Oriented Policing Services and the Office of Juvenile Justice and Delinquency Prevention of the Department of Justice, The Department of the Treasury, the Bureau of Alcohol, Tobacco and Firearms, the National Partnership for Reinventing Government, the White House Office of Management and Budget, and private sector partners.

Expressions of Interest

Expressions of Interest in partnerships must be received by close of business on August 15, 1999. They may be submitted by mail, fax or electronically to: SafeCities, National Partnership for Reinventing Government, Suite 200, 750 17th Street NW, Washington, DC 20007, Fax: (202) 632–0390, SafeCities @npr.gov

More Information

For questions or additional information, please call:

Jeff Slowikowski, Office of Juvenile Justice and Delinquency Prevention, (202) 307–5929

Malcolm Brady, Bureau of Alcohol, Tobacco and Firearms, (202) 927–7890

Pamela Johnson/Wesley Dickerson, National Partnership for Reinventing Government, (202) 694–0001

Pamela Johnson,

Deputy Director.

[FR Doc. 99–17811 Filed 7–12–99; 8:45 am]

BILLING CODE 3115–01–M

NUCLEAR REGULATORY COMMISSION

[DOCKET NO. 50–160]

Georgia Institute of Technology, Georgia Tech Research Reactor; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of a license amendment to Facility Operating License No. R–97, issued to the Georgia Institute of Technology (the licensee) that would allow decommissioning of the Georgia Tech Research Reactor (GTRR) located in Atlanta, Georgia.

Environmental Assessment

Identification of the Proposed Action

The GTRR is on the 330-acre campus of the Georgia Institute of Technology. The campus is just north of the center of downtown Atlanta in a residential and commercial area. The GTRR is in a containment building at the Neely Nuclear Research Center. The Neely Nuclear Research Center also has a high bay area, and a laboratory and office building.

The high bay area contains a hot cell facility, radio-chemistry laboratory, decontamination room and storage facility. The three-story laboratory and office building adjoins the containment building. The GTRR is designed for isolation from the rest of the Neely Nuclear Research Facility.

The heavy water moderated, cooled and reflected GTRR was licensed and first operated in 1964. The 5-megawatt thermal reactor was shut down on November 17, 1995. This shutdown was in preparation to remove the high-enriched uranium fuel. All fuel was removed by the end of February 1996, to allow conversion to low-enriched uranium fuel. Also, the reactor was defueled during the Olympic Games which were held in Atlanta, in the summer of 1996. Since that time no new GTRR fuel has been received. By letter dated July 1, 1997, the Georgia Institute of Technology informed the NRC that the GTRR would be permanently shut down. The licensee applied for a possession only status on August 7, 1997. By License Amendment No. 12 on April 2, 1998, the NRC removed the authority to operate and authorized possession of the residual radioactive materials.

The licensee submitted a decommissioning plan in accordance with 10 CFR 50.82(b) on July 1, 1998, as supplemented on February 8, 1999. Decommissioning, as described in the

plan, will consist of transferring licensed radioactive equipment and material from the site, and decontamination of the facility to meet unrestricted release criteria (this is called the DECON option). After the Commission verifies that the release criteria have been met, the reactor license will be terminated.

A ''Notice and Solicitation of Comments Pursuant to 10 CFR 20.1405 and 10 CFR 50.82(b)(5) Concerning Proposed Action to Decommission Georgia Institute of Technology Georgia Tech Research Reactor'' was published in the **Federal Register** on February 1, 1999, (64 FR 4902). It was also published in the Atlanta Journal-Constitution on February 14, 1999, and in the Georgia Technique on February 12, 1999. Comments were received from an individual and from the Georgians Against Nuclear Energy. The NRC staff plans to consider and respond to these comments.

Further, 10 CFR 51.53(d) provides that each applicant for a license amendment to authorize decommissioning of a production or utilization facility shall submit an environmental report that reflects any new information or significant environmental change associated with the proposed decommissioning activities. By letter dated May 28, 1999, the Georgia Institute of Technology provided their environmental report.

Need for the Proposed Action

The proposed action is necessary because of Georgia Institute of Technology's 1997 decision to cease operations permanently. As specified in 10 CFR 50.82, any licensee may apply to the NRC for authority to surrender a license voluntarily and to decommission the affected facility. The Georgia Institute of Technology is planning to use the area for other purposes once it is released for unrestricted use.

Environmental Impact of the Proposed Action

The Commission has completed the environmental assessment of the proposed action and concludes that the associated radiological effects of the decommissioning will be acceptable. As noted in section 3.1.5 of the Decommissioning Plan submitted on July 1, 1998, the collective total effective dose equivalent to all onsite workers for the entire decommissioning program is estimated to be 7.74 person-rem. The licensee established controls to ensure occupational exposure remains below NRC regulatory limits for decommissioning personnel. No estimated exposure to the public from the proposed action was provided, but the licensee established that decommissioning activities will not exceed 10 CFR 20.1301, ''Dose Limits for Individual Members of the Public,'' and established an As Low As Reasonably Achievable (ALARA) program to minimize exposure. Further, the only potential radiological accident scenarios involve contaminations that could occur during decontamination and decommissioning activities. These scenarios would not result in release of radioactive material outside the facility nor in occupational exposures greater than 10 CFR part 20 limits.

Occupational and public exposure may result from offsite disposal of the low-level residual radioactive material from the GTRR. The handling, storage, and shipment of this radioactive material are specified to meet the requirements of 10 CFR 20.2006, ''Transfer for Disposal and Manifest,'' 49 CFR parts 100–177, ''Transportation of Hazardous Materials,'' 10 CFR part 61, ''Licensing Requirements for Land Disposal of Radioactive Waste,'' 40 CFR part 261 ''Identification and Listing of Hazardous Waste,'' and applicable disposal site license conditions. Experience with such disposal has shown that occupational and public exposure associated with such disposal is minimal.

Based on the review of the specific proposed activities associated with the dismantling and decontamination of the GTRR, the Commission has determined that the proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, no significant radiological environmental impacts are associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, no significant non-radiological environmental impacts are associated with the proposed action.

Accordingly, the Commission concludes that no significant environmental impacts are associated with the proposed action.

Alternatives to the Proposed Action

The three alternatives to the proposed action for the GTRR are SAFSTOR, ENTOMB, and no action. SAFSTOR is the alternative in which the nuclear facility is placed and maintained in a condition that allows the nuclear facility to be safely stored and subsequently decontaminated (deferred decontamination) to levels that permit release for unrestricted use. ENTOMB is the alternative in which radioactive contaminants are encased in a structurally long-lived material, such as concrete, the entombed structure is appropriately maintained and continued surveillance is carried out until the radioactivity decays to a level permitting release of the property for unrestricted use. The no action alternative would leave the facility in its present configuration. However, the regulations in 10 CFR 50.82(b) only allow a limited time for this condition to exist.

The radiological impacts of SAFSTOR would be less because of radioactive decay prior to DECON. The ENTOMB option would result in lower radiological exposure but continued use of resources. Georgia Institute of Technology has determined that the proposed action (DECON) is the most efficient use of the existing facility, since it wants to use the space that will become available for other academic purposes. The SAFSTOR, ENTOMB and no action alternatives would entail continued surveillance and physical security measures to be in place and continued monitoring by licensee personnel.

Alternative Use of Resources

The action does not involve the use of resources different from those previously committed for construction and operation of the GTRR.

Agencies and Persons Contacted

In accordance with its stated policy, the NRC staff consulted with the State of Georgia. In response to the NRC's notice and solicitations for comments on the GTRR decommissioning, Thomas E. Hill, Manager of the Radioactive Materials Program for the Georgia Department of Natural Resources wrote, in part, that ''[w]e fully support Georgia Tech's goal of decommissioning the facility to provide for license terminations and release of the facility for unrestricted use.''

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the NRC has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated July 1, 1998, as supplemented by letter dated February 8, and May 28, 1999, which are available for public inspection at the NRC's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 2nd day of July, 1999.

For the Nuclear Regulatory Commission

Ledyard B. Marsh,

Chief Events Assessment, Generic Communications and Non-Power Reactors Branch, Division of Regulatory Improvement Programs, Office of Nuclear Reactor Regulation.

[FR Doc. 99–17747 Filed 7–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–397]

Washington Public Power Supply System, Washington Public Power Supply System, Nuclear Project No. 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–21, issued to the Washington Public Power Supply System (the licensee), for operation of the WPPSS Nuclear Project No.2 (WNP–2), located in Benton County, Washington.

Environmental Assessment

Identification of the Proposed Action

The proposed action would revise Facility Operating License No. NPF–21 to reflect the change in the licensee's name from the Washington Public Power Supply System to Energy Northwest. In addition, the facility, WPPSS Nuclear Project No. 2, will now be referred to as WNP–2.

The proposed action is in accordance with the licensee's application for amendment dated June 3, 1999.

The Need for the Proposed Action

The proposed action is required to change the operating license to accurately reflect the new name of the licensee.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes, that the name change is administrative in nature and will not affect the operation of WNP–2.

The proposed amendment will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (i.e., the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for the Washington Public Power System Nuclear Project No.2 dated December 1981.

Agencies and Persons Consulted

In accordance with its stated policy, on June 16, 1999, the staff consulted with the Washington State official, Mr. Crowley of the Department of Health, State of Washington Energy Facility Site Evaluation Council, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

On the basis of the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see the licensee's letter dated June 3, 1999, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Richland Public Library, 955 Northgate Street, Richland, Washington 99352.

Dated at Rockville, Maryland, this 6th day of July 1999.

For the Nuclear Regulatory Commission.

Jack Cushing,

Project Manager, Section 2, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–17746 Filed 7–12–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Workshop on Redefining the Role of the Division of Licensing Project Management in the Office of Nuclear Reactor Regulation

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of meeting.

SUMMARY: The NRC is sponsoring a workshop involving the Division of Licensing Project Management in the Office of Nuclear Reactor Regulation, licensing officials representing the nuclear industry, and other stakeholders external to the NRC. The purpose of the meeting is to provide a forum for constructive dialogue on the agency's efforts to redefine the responsibilities of the Division of Licensing Project Management. This meeting is open to the public and all interested parties may attend.

Discussion

The Division of Licensing Project Management (DLPM), in the Office of Nuclear Reactor Regulation (NRR), is in the process of redefining its responsibilities. Previous audits and reviews had indicated that the function of project managers needed to be reevaluated, clearly defined, and communicated. In addition, the staff is attempting to correlate the functions of DLPM with the four strategic objectives of maintaining safety, reducing unnecessary regulatory burden, increasing pubic confidence, and increasing efficiency and effectiveness. DLPM management has determined that the project managers have responsibility for the following three major program areas: (1) Licensing authority, (2) interactions, and (3) regulatory improvements. Within each area are several specific tasks and goals regarding timeliness, effectiveness, and quality. A summary of each program area is given below. DLPM is sharing

these proposed responsibilities with external stakeholders to solicit feedback so that the responsibilities can be further refined. The purpose of this workshop is for the staff to gain insights into the stakeholders views on the functions of the projects organization. Specific questions that the staff is requesting feedback on are listed at the end of this discussion.

Program Areas

Licensing Authority

Licensing Authority is the core program area for DLPM. The project manager (PM) is expected to be the single most knowledgeable member of the staff regarding the licensing agenda for a given facility. The PM is also expected to be the most informed member of the staff in matters pertaining to a facility's licensing basis and any activities undertaken to modify or change the licensing basis. The wide range of issues involving the licensing basis of power reactors require each PM to have a technical background in terms of understanding overall plant design and operating practices as well as a thorough understanding of NRC rules, processes, and licensing requirements. The PMs are therefore expected to be ''generalists'' in that they must have the ability to work on a diverse number of assignments, which may or may not be interrelated. This is especially relevant when DLPM assesses its contribution and mission in support of office level goals, noting that specific technical expertise resides in other NRR divisions. Having an adequate number of generalists results in routine efficiency gains as well as providing flexibility for and improving the responsiveness of the overall organization. The DLPM example can be readily compared to the regional projects organizations in which residents are viewed as generalists and technical specialists from the regional office or NRR are called upon, as necessary, to address specific issues or inspection needs.

Activities covered in this program area include all DLPM tasks associated with carrying out the regulatory requirements contained in Title 10 of the *Code of Federal Regulations,* Part 50 (10 CFR Part 50) with regard to specific plant activities. These tasks include (1) licensing actions that require prior NRC approval before licensees may proceed with an activity, (2) review of licensing basis documents controlled and submitted to the NRC in accordance with specific regulations or licensee administrative controls, (3) management of NRC processes associated with these activities, and (4) other licensing tasks required by regulation or established NRC procedures.

DLPM activities associated with completing licensing actions comprise the majority of the division's efforts in this program area. Evaluating and responding to licensee requests for amendments to their licenses, requests for reliefs from or alternatives to the requirements specified in the American Society of Mechanical Engineers Boiler and Pressure Vessel Code, and requests for exemptions from NRC regulations are examples of licensing action tasks. The tasks included in the mandated controls category include DLPM's reviews of Updated Final Safety Analysis Reports submitted in accordance with 10 CFR 50.71, descriptions of changes, tests and experiments submitted in accordance with 10 CFR 50.59, updates to the, Quality Assurance, Security, and Emergency plans submitted in accordance with 10 CFR 50.54, and regulatory commitments not addressed by specific NRC regulations.

Other licensing tasks include those items associated with NRR's role as the licensing authority for power reactors but not addressed by the aforementioned categories. DLPM tasks in this area include evaluating information received from licensees in response to requests for information (e.g., generic letters and bulletins), responding to petitions from parties requesting NRC actions pursuant to 10 CFR 2.206, and responding to requests for assistance from other NRC organizations made via the Task Interface Agreement (TIA) procedure.

Operating Reactor Licensing Assistants provide a comprehensive review and quality assurance of licensing correspondence. These reviews ensure licensing products comply with management directives, office letters, and rules in addition to improving uniformity and consistency of effort for all licensees.

The Agency and NRR benefit from having a designated point of contact for all licensing issues associated with each power reactor facility. The project management staff can assess a licensee's performance in the licensing area, evaluate licensees' efforts to make improvements in licensing submittals, and help evaluate key licensee activities that may or may not have a direct bearing on the licensing agenda for the plant. Specifically, requiring the PMs to maintain a sound awareness of the 50.59 process and to participate in NRC's evaluation of each licensee's program for determining which changes require NRC review and approval has a clear nexus in this program area.

In assessing products and evaluating outcomes for this area, the staff has identified products primarily in the licensing action and activity categories. These products are scrutinized by a myriad of stakeholders. NRR products continue to be closely analyzed and evaluated by the industry, individual licensees, and other stakeholders, including public interest groups. Issues of paramount concern associated with these products include assuring high quality, uniformity, consistency, and timeliness. Thus, high importance is placed in assuring all products being issued by the staff can withstand close scrutiny, and are predictable and repeatable. To this end flows the conclusion that the program area of licensing authority receives high marks when weighed against the four pillars. Specifically, licensing actions have a direct bearing on maintaining and assuring safety while also reducing unnecessary regulatory burdens. The ability to process documents in a timely manner, relying on precedents and the broad-based knowledge of plant-specific project managers, is key to ensuring effective and efficient work force outputs and the associated outcomes from this program area. Enhanced public confidence is derived from the quality of NRR products that are technically sound and defensible, completed on schedule, and well communicated to all stakeholders.

Interfaces

The DLPM interface program area covers DLPM tasks involving interactions with NRC internal and external stakeholders. These DLPM interactions include the NRC regional offices, other NRR divisions, other offices at NRC Headquarters, power reactor licensees, owners groups and other industry organizations, government organizations (local, State, and Federal), and the public. From the perspective of DLPM, the interfaces are either integral to its core activity (serving as the licensing authority for power reactor facilities), directly support the licensing authority role by providing its staff with an awareness of plant issues, or result from the project managers serving as a convenient point of contact at NRC Headquarters for plant-specific information. The interface program area presents some challenges in terms of measuring performance because many of the activities do not involve a deliverable product. Feedback from stakeholders as a measure of performance may result in some

changes in or additions to NRC processes.

Project Managers in DLPM routinely interact with their counterparts in the regional offices and with inspectors at reactor sites. A common interface with regional personnel is in the form of participation by the PM in routine status calls between the resident inspectors and the projects organization in the regional office. The PMs' participation in these calls allows DLPM to maintain an awareness of plant status, operating issues, inspection issues, and significant activities being conducted or planned by licensees. This information is used to ensure that ongoing issues are considered in the management of a plant's licensing agenda and that the NRC's inspection/assessment activities can properly account for licensing activities. The project managers also maintain an awareness of, and occasionally offer insights into, licensee performance issues through routine interactions, participation in assessment processes, and reviews of various reports.

Project Managers in DLPM act as the primary interface between NRR and licensees. The primary function of the routine interactions between DLPM and licensees is to ensure that the licensing processes are working effectively. Licensees and project managers discuss plant issues, technical positions, process or procedural matters, generic activities, future licensing submittals, and the appropriate prioritization of licensing reviews. In addition to interacting with specific licensees, DLPM has recently assumed project management and interface responsibilities for licensing activities sponsored by owners groups or other collective groups of licensees (other than the Nuclear Energy Institute).

DLPM serves as the primary interface between NRC Headquarters organizations and licensees or regional offices in matters pertaining to specific power reactor facilities. The need to communicate frequently with the regional offices and the licensees as part of their core activities enables personnel within DLPM to respond to many inquiries. This limits the numbers and types of requests for information to both the regional offices and licensees from the various organizations at NRC Headquarters. DLPM also supports other Headquarters' organizations in terms of answering questions about and coordinating activities with the licensing programs. The NRC's incident response program also calls upon the DLPM staff for support due to their knowledge of plant design features and licensing basis.

Given its licensing authority responsibility and other interface functions, DLPM is often called upon to support the NRC's interactions with the public and other external stakeholders. These activities include responding to public inquiries and supporting the NRC's allegation process. DLPM will participate in the redesign of and long-term maintenance of NRC Internet web pages that provide plant-specific information to the public.

Regulatory Improvements

The regulatory improvements program area includes tasks and activities undertaken by DLPM either at the request of licensees or in response to problems identified by NRC staff. By interacting with licensees and owners' groups in various forums, DLPM has an opportunity to address those issues that result in inefficient or ineffective use of resources and unnecessary regulatory burden. A logical role for DLPM in improving regulatory processes is drawn from the routine responsibilities that DLPM has in the licensing authority program area and the associated knowledge and skills of the DLPM staff. In general, the changes in procedures, policy, and guidance documents are undertaken to simplify existing processes associated with licensing actions and other licensing tasks. As licensee and NRC resources become more scarce, these efforts will become even more important.

The Licensing Action Task Force is currently addressing issues or processes identified by industry and the NRC staff as potential areas of improvement. The improvements being pursued include changing the request for additional information (RAI) process, developing a mechanism to address minor discrepancies in the wording of requirements in the technical specifications, refining the process for issuing changes to technical specification bases sections, enhancing the process for the staff's handling of generic or repetitive licensing actions, refining the guidance for the staff's preparation of safety evaluations, and addressing miscellaneous policy issues such as limiting the use of TIAs to address generic issues. Interactions with owners' groups are invaluable in sharing technical and process information. DLPM interactions with owners' groups and management of generic topical reports facilitates improving the working relationships between licensees and NRC, resulting in a more effective and efficient regulatory process. It is expected that industry groups will play an increasing role in resolving safety concerns by undertaking voluntary initiatives in lieu of responding to generic communications issued by the NRC. NRC resource expenditures will be reduced due to efficiency gains resulting from these interactions. Additionally, public confidence may be enhanced by the increased consistency that comes from resolving issues generically.

Licensing workshops offer a unique and invaluable way for licensees and DLPM to interact on a working level. A goal of the workshops is to improve licensing submittals and associated NRC reviews. Licensees and DLPM staff share experiences and knowledge of their own processes to improve the licensee-NRC regulatory interface. DLPM prepares revisions to existing policies, rules, and guidance documents including office letters (or provides assistance to those with the lead for these activities). DLPM's experience with the licensee-NRC interface can provide valuable insights when process changes or rules are being developed.

Questions

During the course of the July 23, 1999, public workshop, the staff would appreciate feedback from participants on the following questions. This information will be most useful as the staff proceeds with the process to define the role of the NRR/Projects licensing organization for the future.

When providing feedback on the importance of activities, it would be helpful to the staff if comments from the public could be related to the outcome goals that are used by the staff. These outcome goals are: maintaining reactor safety; reducing unnecessary regulatory burden on licensees; increasing public confidence; and increasing NRC internal efficiency and effectiveness.

1. What do you believe should be the principle role of the Projects organization?

2. Given the proposed descriptions of activities encompassed by the licensing authority, interfaces, and regulatory improvements program areas, what five activities do you consider most important for the Projects organization to perform?

3. Why do you consider the five activities identified in response to Question 2 important with respect to the staff outcome goals? If you consider these activities important for a reason not related to the staff outcome goals, what is the reason these activities are important to you?

4. Are there any activities not identified in the licensing authority, interfaces, and regulatory improvements program areas that you consider the Projects organization should perform?

5. Why do you consider the activities identified in response to Question 4 important with respect to the staff outcome goals? If you consider these activities important for a reason not related to the staff outcome goals, what is the reason these activities are important to you?

6. What types of performance indicators would be useful for the staff to employ to objectively determine its effectiveness in performing licensing activities?

7. What five activities contained in the proposed descriptions of activities encompassed by the licensing authority, interfaces, and regulatory improvements program areas do you consider least important for the Projects organization to perform?

8. Why do you consider the activities identified in response to Question 7 of less importance with respect to the staff outcome goals?

9. Identify any activities in the proposed descriptions for the licensing authority, interfaces, and regulatory improvements program areas that the Projects organization should not perform, and provide an explanation why.

10. As a customer of the licensing organization's output, the staff welcomes any additional input that you feel would be germane to the process of redefining the role of the Projects organization.

DATES: July 23, 1999, from 9 a.m. to 4 p.m.

LOCATION: Auditorium—Two While Flint North, 11545 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: Marsha Gamberoni, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Mail Stop O 13 E4, Rockville, Maryland; Telephone 301–415–3024; Internet: mkg@nrc.gov.

ADDITIONAL INFORMATION: For members of the public who are unable to attend the public workshop, the staff would welcome written comments by July 30, 1999. Comments should be sent to: Marsha Gamberoni, U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Mail Stop O 13 E4, Rockville, Maryland 20852–2738.

Dated at Rockville, Maryland, this 7th day of July 1999.

For the Nuclear Regulatory Commission.

John A. Zwolinski,

Director, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–17748 Filed 7–12–99; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

Facility Tours

AGENCY: Postal Rate Commission.

ACTION: Notice of Commission visits.

SUMMARY: The Commission has scheduled several visits to learn about mailing logistics, technology and trends and to observe operations.

DATES: July 19, 1999 through July 21, 1999.

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.

SUPPLEMENTARY INFORMATION: The Commission has scheduled the following visits: July 19, 1999—Emery Worldwide's Bethpage Priority Mail processing plant tour (Hicksville, NY); July 20, 1999—meeting with Time Warner, Inc. executives and printing facility tour; July 21, 1999—Pitney Bowes facility tours (Shelton and Stamford, CT) and briefing on new technologies.

Dated: July 8, 1999.

Cyril J. Pittack,

Acting Secretary.

[FR Doc. 99–17810 Filed 7–12–99; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23891; File No. 812–11678]

Anchor National Life Insurance Company, et al.

July 7, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of application for an order pursuant to Section 26(b) and Section 17(b) of the Investment Company Act of 1940 (''1940 Act'').

SUMMARY OF APPLICATION: Applicants seek an order of the Commission amending a prior order granted June 9, 1999 (Release No. IC–23868, File No. 812–11450) (the ''June 9 Order''), to add Phoenix Home Life Mutual Insurance Company (''Phoenix'') and the Phoenix Home Life Variable Universal Life Account (''Phoenix VUL Account'', together with Phoenix, the ''New Applicants'') to the relief granted by the June 9 Order, with respect to certain variable universal life insurance contracts issued by Phoenix through the Phoenix VUL Account. The June 9 Order approved the substitution of: (a) Shares of the Government and Quality Bond Portfolio of the Anchor Series Trust (the ''Trust'') for shares of the Fixed Income Portfolio of the Trust; and (b) shares of the Strategic Multi-Asset Portfolio of the Trust for shares of the Foreign Securities Portfolio of the Trust, each in connection with the variable annuity contracts offered by the original Variable Account Applicants, as defined below. Together, the Fixed Income Portfolio of the Trust and the Foreign Securities Portfolio of the Trust are referred to as the ''Replaced Portfolios''; together, the Government and Quality Bond Portfolio of the Trust and the Strategic Multi-Asset Portfolio of the Trust are referred to as the ''Substituted Portfolios''.

APPLICANTS: Anchor National Life Insurance Company (''Anchor National''), Variable Annuity Account One of Anchor National (''AN Account''), First SunAmerica Life Insurance Company (''First SunAmerica''), Variable Annuity Account One of First SunAmerica (''FS Account''), Presidential Life Insurance Company (''Presidential''), Presidential Variable Account One (''Presidential Account''), Phoenix, Phoenix VUL Account, and the Trust (applying for relief from Section 17(a) of the 1940 Act only). Together, Anchor National, First SunAmerica, Presidential, and Phoenix are referred to as ''Life Company Applicants''; together, AN Account, FS Account, Presidential Account, and Phoenix VUL Account are referred to as ''Variable Account Applicants''.

FILING DATE: The application was filed on July 1, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Commission's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m., on July 28, 1999, and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the Secretary of the Commission.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants: Anchor National, AN Account, First SunAmerica, FS Account, and Trust c/o Robert M. Zakem, Esq., SunAmerica Asset

Management Corporation, The SunAmerica Center, 733 Third Avenue, New York, New York 10017–3204; Applicant Presidential and Presidential Account, c/o Charles Snyder, Presidential Life Insurance Company, 69 Lydecker Street, Nyack, New York 10960; and Applicants Phoenix and Phoenix VUL Account, c/o Edwin Kerr, Esq., Phoenix Home Life Mutual Insurance Company, 1 American Row, 11th Floor, Hartford, Connecticut 06102.

FOR FURTHER INFORMATION CONTACT: Keith E. Carpenter, Senior Counsel, or Kevin M. Kirchoff, Branch Chief, Office of Insurance Products, Division of Investment Management, at (202) 942–0670.

SUPPLEMENTARY INFORMATION: Following is a summary of the application. The complete application is available for a fee from the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 [tel. (202) 942–8090].

Applicants' Representations

1. Anchor National is a stock life insurance company organized under the insurance laws of the state of California in April 1965. Anchor National redomesticated under the laws of the state of Arizona on January 1, 1996. Anchor National is an indirect wholly-owned subsidiary of American International Group, Inc. (''AIG''). Anchor National is authorized to write annuities and life insurance in the District of Columbia and all states except New York.

2. First SunAmerica is a stock life insurance company organized under the insurance laws of the state of New York on December 5, 1978. First SunAmerica is a wholly-owned subsidiary of AIG. First SunAmerica is authorized to write annuities and life insurance business in the states of New York, New Mexico, and Nebraska.

3. Presidential is a stock life insurance company organized under the laws of the state of New York in 1965. Presidential is a wholly-owned subsidiary of Presidential Life Corporation, a publicly-owned holding company. Presidential offers life insurance and annuities and is admitted to do business in forty-eight states and the District of Columbia.

4. Phoenix is a mutual life insurance company originally chartered in Connecticut in 1851 and redomiciled to New York in 1992. Phoenix is authorized under state law to sell annuities and life insurance.

5. The Variable Account Applicants are segregated investment accounts registered under the 1940 Act as unit investment trusts. Each Variable Account Applicant is further divided into divisions that correspond to the portfolios of the Trust. The AN Account, FS Account, and Presidential Account are used to fund certain variable annuity contracts issued by the corresponding Life Company Applicant. The Phoenix VUL Account is used to fund certain variable universal life insurance policies issued by Phoenix.

6. The Trust is a series type investment company, organized as a Massachusetts business trust on August 26, 1983 (each series of which is referred to individually as a ''Portfolio'' and collectively as the ''Portfolios''). The Trust consists of eleven Portfolios, each of which operates as a separate investment fund, that have differing investment objectives, policies, and sub-advisers. Shares of the Portfolios are currently available to the public only through the purchase of certain variable annuity contracts and variable life insurance policies issued by the Life Company Applicants. Sun America Asset Management Company (''SAAMCo'') acts as the Trust's investment adviser. SAAMCo is under common control with and therefore affiliated with Anchor National and First SunAmerica. SAAMCo is unaffiliated with Presidential and Phoenix. SAAMCo has retained an unaffiliated investment adviser to act as sub-adviser for all Portfolios of the Trust.

7. The Life Companies have decided to discontinue offering sub-accounts investing in the Replaced Portfolios as investment options under the Contracts and substitute shares of the Substituted Portfolios, because the Replaced Portfolios have not retained sufficient Contract owner interest. As a result, the Replaced Portfolios are dwindling in size. The Life Company Applicants believe that it no longer is economic to continue to offer the corresponding investment options under the Contracts. Moreover, the small size of the Replaced Portfolios makes it difficult to manage the assets to maximize performance.

8. The Life Companies have determined that the Substitute Portfolios are appropriate replacements for the Replaced Portfolios, because (a) The Government and Quality Bond Portfolio (Substituted Portfolio) has a similar investment objective to the Fixed Income Portfolio (Replaced Portfolio), invests in the same types of securities, i.e., fixed income securities, and has generally better performance and lower expenses; and (b) the Strategic Multi-Asset Portfolio (Substituted Portfolio) has a similar investment objective to the Foreign Securities Portfolio (Replaced Portfolio), generally invests a significant portion of its assets in foreign securities, has generally better performance, and has a similar expense ratio, which may decline as a result of the additional assets resulting from the Substitutions.

9. On June 9, 1999, the Commission issued the June 9 Order, authorizing Anchor National, First SunAmerica, Presidential, and their respective relevant separate accounts (together with the Trust, the ''Original Applicants''), pursuant to Section 26(b) of the 1940 Act, to substitute (a) shares of the Government and Quality Bond Portfolio of the Trust for shares of the Fixed Income Portfolio of the Trust; and (b) shares of the Strategic Multi-Asset Portfolio of the Trust for the shares of the Foreign Securities Portfolio of the Trust. The Order also granted relief from Section 17(a) of the 1940 Act to the extent necessary to permit certain in-kind transactions in connection with the substitutions and to permit divisions of the separate accounts of Original Applicants holding the same securities to be combined.

10. Until recently, the Original Applicants mistakenly believed that the June 9 Order covered all of the separate accounts invested in the Replaced Portfolios, and all affected contract holders. In preparing to effect the Substitution, however, the Trust discovered that an additional separate account, the Phoenix VUL Account, owned shares of the Replaced Portfolios. Approximately 75 of Phoenix's contract owners have invested a portion of their contract value in the Replaced Portfolios.

11. The New Applicants would like the relief granted by the June 9 Order to cover Phoenix and the Phoenix VUL Account, so that Phoenix's affected contact holders will have the benefit of the relief granted by the June 9 Order. The New Applicants represent that the Substitution involving the Phoenix VUL Account will be effected on the same basis as the Substitution involving the other Variable Account Applicants and that in effectuating the Substitution Phoenix will follow the procedures described in the original notice of application, dated May 14, 1999 (Release No. IC–23842) except that: (a) Phoenix initially will provide its affected contract holders with notice of the Substitution in a cover letter substantially in the form attached to the application, accompanied by a copy of the current prospectus for the Trust, which contains a description of the Substitution; and (b) Phoenix will not limit the free transfer period after the Substitution to 31 days, because under

the affected Phoenix variable life contracts the affected contract holders generally may transfer all assets, as substituted, to any other division of the Phoenix VUL Account available under their contracts without limitation or charge.

12. The New Applicants have considered the Substitution, and they believe that the Substitution is in the best interests of Phoenix's contract holders and that the Substituted Portfolios are appropriate replacements for the Replaced Portfolios.

Applicants' Legal Analysis

1. Section 26(b) of the 1940 Act provides, in pertinent part that ''[i]t shall be unlawful for any depositor or trustee of a registered unit investment trust holding the security of a single issuer to substitute another security for such security unless the Commission shall have approved such substitution.'' The purpose of Section 26(b) is both to protect the expectation of investors in a unit investment trust that the unit investment trust will accumulate the shares of a particular issuer and to prevent unscrutinized substitutions which might, in effect, force shareholders dissatisfied with a substituted security to redeem their shares, thereby incurring either a loss of the sales load deducted from initial purchase payments, an additional sales load upon reinvestment of the redemption proceeds, or both. Section 26(b) affords this protection to investors by preventing a depositor or trustee of a unit investment trust holding the shares of one issuer from substituting for those shares the shares of another issuer, unless the Commission approves that substitution.

2. Section 17(a)(1) of the 1940 Act prohibits any affiliated person of a registered investment company, or an affiliated person of such affiliated person, from selling any security or other property to such registered investment company. Section 17(a)(2) of the 1940 Act prohibits any of the persons described above from purchasing any security or other property from such registered investment company. Certain of the Substitutions will be effected partly or wholly in-kind. Moreover, after the Substitutions Phoenix will combine its divisions invested in the Replaced Portfolios with the divisions invested in the corresponding Substituted Portfolios. The combination may be deemed to involve the indirect purchase of shares of the Substituted Portfolios with portfolio securities of the corresponding Replaced Portfolios, and the indirect sale of securities of the Replaced Portfolios for shares of the Substituted Portfolios. Thus, each Portfolio would be acting as principal, in the purchase and sale of securities to the other Portfolio, in contravention of Section 17(a). The Commission has taken the interpretive position that divisions of a registered separate account are to be treated as separate investment companies in connection with substitution transactions. Phoenix could be said to be transferring unit values between their divisions. The transfer of unit values could be said to involve purchase and sale transactions between divisions that are affiliated persons. The sale and purchase transactions between divisions, could be said to come within the scope of Section 17(a)(1) and 17(a)(2) of the 1940 Act, respectively. Therefore, the combination of divisions may require an exemption from Section 17(a) of the 1940 Act, pursuant to Section 17(b) of the 1940 Act.

3. Section 17(b) of the 1940 Act provides that the Commission may grant an order exempting transactions prohibited by Section 17(a) upon application if evidence establishes that: (a) The terms of the proposed transaction, including the consideration to be paid or received, are reasonable and fair and do not involve over-reaching on the part of any person concerned; (b) the proposed transaction is consistent with the investment policy of each registered investment company concerned, as recited in its registration statement and reports filed under the 1940 Act; and (c) the proposed transaction is consistent with the general purposes of the 1940 Act. Applicants represent that the terms of the proposed transactions, as described in the application, are: reasonable and fair, including the consideration to be paid and received; do not involve over-reaching; are consistent with the policies of each investment company concerned; and are consistent with the general purposes of the 1940 Act.

4. In granting the June 9 Order, the Commission previously found that the Substitution is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act, and that the terms of the proposed transactions are reasonable and fair and do not involve overreaching, the transactions are consistent with the policy of each investment company concerned and with the purposes of the 1940 Act, and the exemption requested is necessary or appropriate in the public interest. Applicants submit that the same findings apply to the Substitutions involving variable universal life insurance contracts issued by Phoenix through the Phoenix VUL Account, and that accordingly, the proposed amendment to the June 9 Order adding the New Applicants as parties meets the applicable legal requirements.

Conclusions

Applicants submit that, for the reasons summarized above, their requests meet the standards set out in Sections 17(b) and 26(b) of the 1940 Act. Accordingly, Applicants request an order, pursuant to Sections 17(b) and 26(b) of the 1940 Act, amending the June 9 Order to include Phoenix and the Phoenix VUL Account as parties and approving the Substitutions by them.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17753 Filed 7–12–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23897; 812–11612]

Evergreen Equity Trust, et al.; Notice of Application

July 8, 1999.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit certain series of registered open-end management investment companies to acquire all of the assets and assume all of the liabilities of certain other series of the investment companies. Because of certain affiliations, applicants may not rely on rule 17a–8 under the Act.

APPLICANTS: Evergreen Equity Trust (the ''Equity Trust''), Evergreen Fixed Income Trust (the ''Fixed Income Trust''), Evergreen Municipal Trust (the ''Municipal Trust''), Evergreen Select Equity Trust (the ''Select Equity Trust'') (collectively, the ''Trusts''), and First Union National Bank (''FUNB'').

FILING DATES: The application was filed on May 17, 1999. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a

hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on July 28, 1999, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Applicants, One First Union Center, Charlotte, NC 28288.

FOR FURTHER INFORMATION CONTACT: Lawrence W. Pisto, Senior Counsel, at (202) 942–0527, or George J. Zornada, Branch Chief, at (202) 942–0564 (Office of Investment Company Regulation, Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicants' Representations

1. The Trusts, each a Delaware business trust, are registered under the Act as open-end management investment companies. Equity Trust has twenty series. Four of these series, the Evergreen Fund, Evergreen Micro Cap Fund, Evergreen Income and Growth Fund, and Evergreen American Retirement Fund are involved in the proposed transactions. Fixed Income Trust has eight series, two of which, Evergreen U.S. Government Fund and Evergreen Intermediate Term Government Securities Fund, are involved in the proposed transactions. Municipal Trust has seventeen series. Three of these series. Evergreen High Grade Municipal Bond Fund, Evergreen California Municipal Bond Fund, and Evergreen New York Municipal Bond Fund are involved in the proposed transactions. Select Equity Trust has thirteen series, two of which, Evergreen Select Core Equity Fund and Evergreen Select Equity Income Fund, are involved in the proposed transactions.

2. Evergreen Fund, Evergreen Income and Growth Fund, Evergreen U.S. Government Fund, Evergreen High Grade Municipal Bond Fund, and Evergreen Select Core Equity Fund are the ''Acquiring Series.'' Evergreen Micro Cap Fund, Evergreen American Retirement Fund, Evergreen Intermediate Term Government Securities Fund, Evergreen California Municipal Bond Fund, Evergreen New York Municipal Bond Fund, and Evergreen Select Equity Income Fund are the ''Acquired Series.'' Collectively, the Acquiring Series and the Acquired Series are referred to as the ''Series.'' [1]

3. FUNB is a national banking association and a banking subsidiary of First Union Corporation, a publicly-held bank holding company. Evergreen Investment Management (''EIM''), a division of FUNB, is the investment adviser to the Evergreen High Grade Municipal Bond Fund, Evergreen U.S. Government Fund, and Evergreen Intermediate Term Government Securities Fund. First Investment Advisors (''FIA''), another division of FUNB, is the investment adviser to Evergreen Select Core Equity Fund and Evergreen Select Equity Income Fund. Evergreen Asset Management Corp. (''EAMC''), an indirect wholly-owned subsidiary of FUNB, is the investment adviser to the Evergreen Income and Growth Fund, Evergreen American Retirement Fund, Evergreen Fund and Evergreen Micro Cap Fund. Evergreen Investment Management Company (''EIMC''), an indirect wholly-owned subsidiary of FUNB, is the investment adviser to the Evergreen California Municipal Bond Fund and the Evergreen New York Municipal Bond Fund. EIM and FIA, as divisions of FUNB, are not required to register as investment advisers under the Investment Advisers Act of 1940 (the ''Advisers Act''). EAMC and EIMC are registered under the Advisers Act.

4. FUNB, as fiduciary for its customers, owns of record more than 5% (and in some cases, more than 25%) of the outstanding voting securities of certain of the Acquired Series. In addition, FUNB, as fiduciary for its customers, owns of record more than 5% (and in one case, more than 25%) of the outstanding voting securities of certain of the Acquiring Series.[2] All such shares are held by FUNB in a fiduciary capacity, and FUNB does not have an economic interest in any such shares.

5. On March 12, 1999 (May 14, 1999 in the case of Select Equity Trust), the boards of trustees of the Trusts (the ''Boards''), including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the Act (the ''Independent Trustees''), approved plans of reorganization (the ''Plans''). Under the Plans, on the closing date (the ''Closing Date''), which is currently anticipated to be July 30, 1999, the Acquiring Series will acquire all the assets and stated liabilities of the corresponding Acquired Series in exchange for shares of the Acquiring Series that have an aggregate net asset value (''NAV'') equal to the aggregate NAV of the Acquired Series at 4:00 p.m. EST on the day before the Closing Date (''Valuation Date''). On or as soon as is reasonably practicable after the Closing Date, each Acquired Series will distribute full and fractional shares of the Acquiring Series pro rata to shareholders of record of the Acquired Series, determined as of the close of business on the Valuation Date (the ''Reorganizations''). After the distribution of the share of the Acquiring Series and the winding up of their affairs, the Acquired Series will be liquidated.

6. Applicants state that the investment objectives of each Acquired Series and its corresponding Acquiring Series are similar. The investment restrictions and limitations of each Acquired Series and corresponding Acquired Series are substantially similar, but in some cases involve differences that reflect the differences in the general investment strategies utilized by the Funds. The Acquired Series offer four classes of shares, Class A, Class B, Class C, and Class Y which are identical to the respective classes of the Acquiring Funds.[3] Shareholders of

[1] The Acquired Series and the Acquiring Series correspond with one another as follows: Equity Trust's Evergreen Micro Cap Fund with Evergreen Fund; Equity Trust's Evergreen American Retirement Fund with Evergreen Income and Growth Fund; Fixed Income Trust's Evergreen Intermediate Term Government Securities Fund with Evergreen U.S. Government Fund; Municipal Trust's Evergreen California Municipal Bond Fund and Evergreen New York Municipal Bond Fund with Evergreen High Grade Municipal Bond Fund; and Select Equity Trust's Evergreen Select Equity Income Fund with Evergreen Select Core Equity Fund.

[2] FUNB owns 21.13% of Equity Trust's Evergreen Fund, 12.41% of Fixed Income Trust's Evergreen U.S. Government Fund, 45.22% of Fixed Income Trust's Evergreen Intermediate Term Government Securities Fund, 7.84% of Municipal Trust's Evergreen High Grade Municipal Bond Fund, 99.08% of Select Equity Trust's Evergreen Select Equity Income Fund, and 98.19% of Select Equity Trust's Evergreen Select Equity Fund. Although the proposed transaction between Equity Trust's Evergreen American Retirement Fund and Equity Trust's Evergreen Income and Growth Fund does not currently require exemptive relief, applicants are requesting relief in the event that FUNB's ownership as fiduciary increase to 5% or more of either Series' assets prior to the proposed transactions. If FUNB does not acquire such ownership, the Series will not rely on the requested relief.

[3] Except for Class A shares of the Evergreen Intermediate Term Government Securities Fund,

Continued

the Acquired Series will not incur any sales charges in connection with the Reorganizations. FUNB will be responsible for the fees and expenses related to the Reorganizations other than each Acquiring Series federal and state registration fees.

7. The Boards, including the Independent Trustees, determined that the Reorganizations are in the best interests of the shareholders of each of the Acquired Series and each of the Acquiring Series, and that the interests of the shareholders of the Acquired Series and the Acquiring Series would not be diluted by the Reorganizations. In assessing the Plans, the factors considered by the Boards included, among others, (a) the terms and conditions of the Reorganizations, (b) the expense ratios, fees and expenses of the Acquired Series and Acquiring Series, (c) the fact that FUMB will bear the expenses incurred in connection with the Reorganizations, and (d) the tax-free nature of the Reorganizations.

8. The Plans are subject to a number of conditions precedent, including that: (a) the Plans shall have been approved by the Boards on behalf of each of the Acquiring Series and the Acquired Series and approved by the shareholders of each of the Acquired Series, (b) definitive proxy solitation materials shall have been filed with the Commission and distributed to shareholders of the Acquired Series, (c) the Acquiring and Acquired Series receive an opinion of tax counsel that the Reorganizations will be tax-free for each Series and its shareholders, and (d) applicants receive from the Commission an exemption from section 17(a) of the Act for the Reorganizations. Each Plan may be terminated and the Reorganizations abandoned at any time by mutual consent of the respective Boards of the Acquired Series and the Acquiring Series or by either party in case of a breach of the Plan. Applicants agree not to make any material changes to the Plans without prior Commission approval.

9. Definitive proxy solicitation materials have been filed with the Commission and were mailed to shareholders of the Acquired Series (with the exception of the Evergreen Select Equity Income Fund) on or about June 2, 1999. Proxies were mailed to shareholders of Evergreen Select Equity Income Fund on or about June 25, 1999. A special meeting of shareholders is scheduled for July 23, 1999 (July 30, 1999 in the case of Evergreen Select Equity Income Fund).

Applicant's Legal Analysis

1. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such a person acting as principal, from selling any security to, or purchasing any security from, the company. Section 2(a)(3) of the Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose securities are directly and indirectly owned, controlled, or held with power to vote by the other person; (c) any person directly or indirectly controlling, controlled by or under common control with the other person, and (d) if the other person is an investment company, any investment adviser of that company. Applicants state that the Acquiring and Acquired Series may be deemed affiliated persons and thus the Reorganizations may be prohibited by section 17(a).

2. Rule 17a–8 under the Act exempts from the prohibitions of section 17(a) mergers, consolidations, or purchases or sales of substantially all of the assets of registered investment companies that are affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers, provided that certain conditions set forth in the rule are satisfied.

3. Applicants believe that they may not rely on rule 17a–8 in connection with the Reorganizations because the Acquiring Series and Acquired Series may be deemed to be affiliated by reason other than having a common investment adviser, common directors, and/or common officers. FUNB, as fiduciary for its customers, owns of record with power to vote more than 5% (and in some cases, more than 25%) of the outstanding voting securities of certain of the Acquired Series and Acquiring Series. Because of this ownership each Acquiring Series may be deemed an affiliated person of an affiliated person of each of the Acquired Series for a reason other than having a common investment adviser.

4. Section 17(b) of the Act provides that the Commission may exempt a transaction from the provisions of section 17(a) if the evidence establishes that the terms of the proposed transaction, including the consideration to be paid, are reasonable and fair and do not involve overreaching on the part of any person concerned, and that the proposed transaction is consistent with the policy of each registered investment company concerned and with the general purposes of the Act.

5. Applicants request an order under section 17(b) of the Act exempting them from section 17(a) of the Act to the extent necessary to consummate the Reorganizations. Applicants submit that the Reorganizations satisfy the standards of section 17(b) of the Act. Applicants state that the Boards have determined that the transactions are in the best interests of each Series' shareholders and that the interests of the existing shareholders will not be diluted as a result of the Reorganizations. In addition, applicants state that the exchange of the Acquired Series' shares for shares of the Acquiring Series will be based on relative NAV.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–17787 Filed 7–12–99; 8:45 am]

BILLING CODE 8010–01–M

which have a maximum front-end sales load of 3.25% and a distribution fee of 0.10% of average daily net assets, while other Class A shares have a maximum front end sales load of 4.75% and a distribution fee of 0.25% of average daily net assets.

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

Digitcom Interactive Video Network; Order of Suspension of Trading

July 8, 1999.

It appears to the Securities and Exchange Commission that questions have been raised about the adequacy and accuracy of publicly disseminated information concerning Digitcom Interactive Video Network, relating to the company's financial condition and the nature or existence of agreements and contracts with overseas private and governmental entities.

The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of the above-listed company.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, that trading in the securities of the above-listed company is suspended for the period from 9:30 a.m. EDT on July 8, 1999, through 11:59 p.m. EDT on July 21, 1999.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–17823 Filed 7–8–99; 4:29 pm]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before August 12, 1999. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

COPIES: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Jacqueline White, Small Business Administration, 409 3rd Street, SW, 5th Floor, Washington, DC 20416; and OMB Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jacqueline White, Agency Clearance Officer, (202) 205–7044.

SUPPLEMENTARY INFORMATION:

Title: The SBA Office of Disaster Assistance Customer Service Survey.

Form No: N/A.

Frequency: On Occasion.

Description of Respondents: Disaster Recipients.

Annual Responses: 3,000.

Annual Burden: 500.

Dated: June 30, 1999.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 99–17744 Filed 7–12–99; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 99–7–3; Docket OST–99–5288]

Application of Ozark Air Lines, Inc. for Certificate Authority

AGENCY: Department of Transportation.

ACTION: Notice of order to show cause.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding Ozark Air Lines, Inc., fit, willing, and able, and awarding it a certificate of public convenience and necessity to engage in interstate scheduled air transportation of persons, property, and mail.

DATES: Persons wishing to file objections should do so no later than July 22, 1999.

ADDRESSES: Objections and answers to objections should be filed in the Docket OST–99–5288 and addressed to the Department of Transportation Dockets, U.S. Department of Transportation, 400 Seventh Street, SW., Room PL–401, Washington, DC 20590, and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Kathy Lusby Cooperstein, Air Carrier Fitness Division (X–56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366–2337.

Dated: July 6, 1999.

A. Bradley Mims,

Acting Assistant Secretary for Aviation and International Affairs.

[FR Doc. 99–17675 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Hawaii, HI

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 Hawaii County, Hawaii.

FOR FURTHER INFORMATION CONTACT: Abraham Y. Wong, Division Administrator, Federal Highway Administration, Office Address: 300 Ala Moana Boulevard, Rm #3202, Honolulu, Hawaii 96813; Mailing Address: Box 50206, Honolulu, Hawaii 96850. Telephone: (808) 541–2700.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the Hawaii Department of Transportation will prepare an environmental impact statement (EIS) for a new arterial connector in the North Kona and South Kohala Districts, of the island of Hawaii. The proposed highway will extend for approximately 12 miles, from the Queen Kaahumanu Highway (State Highway 19) to the junction of Mamalahoa Highway (State Highway 190) and Saddle Road (State Highway 200).

The primary purpose of the project is to provide a more direct inter-regional route for motorists traveling between East and West Hawaii, on the existing Saddle Road. Secondary and supporting purposes to this primary goal are to: (1) Improve the efficiency and operational level of traffic movement between East Hawaii and West Hawaii in general; (2) improve safety; and (3) support special traffic needs, including commercial truck traffic and military traffic utilizing Saddle Road. In addition to various alternative alignments, alternatives being considered include the ''no project'' alternative, and the widening of Waikoloa Road.

A notice describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and individuals who have expressed an interest in the project. Several interagency scoping meetings have also been scheduled. A public hearing will be held after publication of the Draft EIS. A public notice will be placed in a daily newspaper to announce the date, time and place of the hearing and the availability of the Draft EIS for public and agency review and copying.

To ensure that the full range of issues relating to the proposed action are identified and addressed, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Abraham Y. Wong,

Division Administrator, Hawaii.

[FR Doc. 99–17764 Filed 7–12–98; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Reports, Forms and Record Keeping Requirements, Agency Information Collection Activity Under OMB Review

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period was published on February 8, 1999 [64 FR 6132-6133].

DATES: Comments must be submitted on or before August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Paul Tremont, Ph.D. at the National Highway Traffic Safety Administration, Office of Research and Traffic Records (NTS–31), 202–366–5587. 400 Seventh Street, SW, Room 6240, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

National Highway Traffic Safety Administration

Title: National Survey of Drinking and Driving Attitudes and Behavior: 1999.

OMB Number: 2127—NEW.

Type of Request: New information collection.

Abstract: NHTSA proposes to conduct a survey by telephone among some nationally representative samples of 5,700 adults, including older adults. Participation by respondents would be voluntary. The findings from this proposed collection will assist NHTSA in addressing the problem of alcohol-impaired driving and formulating programs and recommendations to Congress. NHTSA will use the findings to help focus current programs and activities to achieve the greatest benefit, to develop new programs to decrease the likelihood of drinking and driving behaviors, and to provide informational support to states, localities, and law enforcement agencies that will aid them in their efforts to reduce drinking and driving crashes and injuries.

In conducting the proposed survey, the interviewers would use computer-aided telephone interviewing (CATI) to reduce interview length and minimize recording errors. A Spanish-language translation and bilingual interviewers are proposed to minimize language barriers to participation. The proposed survey would be anonymous and confidential.

Affected Public: Randomly selected members of the general public aged sixteen and older in telephone households.

Estimated Total Annual Burden: 1710.

ADDRESSES: Send comments, within 30 days, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, D.C. 20503, Attention NHTSA Desk Officer.

Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Departments estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A Comment to OMB is most effective if OMB receives it within 30 days of publication.

Issued in Washington, DC, on July 8, 1999.

Herman L. Simms,

Associate Administrator for Administration.

[FR Doc. 99–17754 Filed 7–12–99; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8845

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8845, Indian Employment Credit.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW, Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Indian Employment Credit.

OMB Number: 1545–1417.

Form Number: 8845.

Abstract: Under Internal Revenue Code section 45A, employers can claim an income tax credit for hiring American Indians or their spouses to work in a trade or business on an Indian reservation. Form 8845 is used by employers to claim the credit and by IRS to ensure that the credit is computed correctly.

Current Actions: There are no changes being made to Form 8845 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 1,246.

Estimated Time Per Respondent: 9 hr., 58 min.

Estimated Total Annual Burden Hours: 12,423.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17813 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8379

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8379, Injured Spouse Claim and Allocation.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW, Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Injured Spouse Claim and Allocation.

OMB Number: 1545–1210.

Form Number: 8379.

Abstract: Form 8379 is used by a non-obligated spouse to request the non-obligated spouse's share of a joint income tax refund that would otherwise be applied to the past due obligation owed to a state or Federal agency by the other spouse. The IRS uses the information provided by the injured spouse on Form 8379 to determine the proper allocation of the joint refund.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals.

Estimated Number of Respondents: 300,000.

Estimated Time Per Respondent: 1 hour, 50 minutes.

Estimated Total Annual Burden Hours: 549,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 8, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17814 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1120–PC

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1120–PC, U.S. Property and Casualty Insurance Company Income Tax Return.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form(s) and instructions should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5242, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: U.S. Property and Casualty Insurance Company Income Tax Return.

OMB Number: 1545–1027.

Form Number: 1120–PC.

Abstract: Property and casualty insurance companies are required to file an annual return of income and pay the tax due. The data is used to insure that companies have correctly reported income and paid the correct tax.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 2,200.

Estimated Time Per Respondent: 192 hours, 12 minutes.

Estimated Total Annual Burden Hours: 422,840.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to

minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 6, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17815 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4361

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4361, Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Application for Exemption From Self-Employment Tax for Use by Ministers, Members of Religious Orders and Christian Science Practitioners.

OMB Number: 1545–0168.

Form Number: 4361.

Abstract: Form 4361 is used by ministers, members of religious orders, or Christian Science practitioners to file for an exemption from self-employment tax on certain earnings and to certify that they have informed the church or order that they are opposed to the acceptance of certain public insurance benefits.

Current Actions: There are no changes being made to Form 4361 at this time.

Type of Review: Extension of a current OMB approval.

Affected Public: Individuals.

Estimated Number of Respondents: 10,270.

Estimated Time Per Respondent: 59 min.

Estimated Total Annual Burden Hours: 10,167.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17816 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[CO–45–91]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, CO–45–91 (TD 8529), Limitations on Corporate Net Operating Loss Carryforwards. (§ 1.382–9).

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this regulation should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Limitations on Corporate Net Operating Loss Carryforwards.

OMB Number: 1545–1275.

Regulation Project Number: CO–45–91.

Abstract: Sections 1.382–9(d)(2)(iii) and (d)(4)(iv) of the regulation allow a loss corporation to rely on a statement by beneficial owners of indebtedness in determining whether the loss corporation qualifies for the benefits of Internal Revenue Code section 382(l)(5). Regulation section 1.382–9(d)(6)(ii) requires a loss corporation to file an election if it wants to apply the regulation retroactively, or revoke a prior Code section 382(l)(6) election.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 650.

Estimated Time Per Respondent: The estimated annual time per respondent with respect to the §§ 1.382–9(d)(2)(iii) and (d)(4)(iv) statements is 15 minutes. The estimated annual time per respondent with respect to the § 1.382–9(d)(6)(ii) election is 1 hour.

Estimated Total Annual Burden Hours: 200 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 6, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17817 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8846

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8846, Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

DATES: Written comments should be received on or before September 13, 1999 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, Room 5577, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Credit for Employer Social Security and Medicare Taxes Paid on Certain Employee Tips.

OMB Number: 1545–1414.

Form Number: 8846.

Abstract: Employers in food or beverage establishments where tipping is customary can claim an income tax credit for the amount of social security and Medicare taxes paid (employer's share) on tips employees reported, other than on tips used to meet the minimum wage requirement. Form 8846 is used by employers to claim the credit and by the IRS to verify that the credit is computed correctly.

Current Actions: There are no changes being made to Form 8846 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 8,684.

Estimated Time Per Respondent: 8 hr., 8 min.

Estimated Total Annual Burden Hours: 559,088.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: July 7, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–17818 Filed 7–12–99; 8:45 am]

BILLING CODE 4830–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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