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FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Regulation A; Docket R–1038]

Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board is amending its Regulation A to establish a special lending program under which Federal Reserve Banks will extend credit at a rate 150 basis points above the Federal Open Market Committee's targeted federal funds rate to eligible institutions to accommodate liquidity needs during the century date change period. Unlike adjustment credit, borrowers will not be required to seek credit elsewhere first, uses of funds will not be limited, and the loans may be outstanding for any period while the facility is open.

EFFECTIVE DATE: October 1, 1999.

FOR FURTHER INFORMATION CONTACT: James A. Clouse, Chief, Monetary and Financial Market Analysis Section (202) 452–3922, or William R. Nelson, Economist (202) 452–3579, Division of Monetary Affairs; Oliver I. Ireland, Associate General Counsel (202) 452–3625, or Stephanie Martin, Managing Senior Counsel (202) 452–3198, Legal Division. For users of the Telecommunications Device for the Deaf (TDD), contact Diane Jenkins (202) 452–3544, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: The Board is amending its Regulation A (12 CFR part 201), Extensions of Credit by Federal Reserve Banks, to provide an additional mechanism under which Federal Reserve Banks will make discount window credit available to depository institutions in the months surrounding the century date change. The Board expects that, with advance planning, depository institutions will be able to meet their liquidity needs during the century date change period relying on their usual sources of funds, including adjustment credit at the discount window. The Board recognizes, however, that uncertainty surrounds potential developments over the period. The Special Liquidity Facility is intended to ensure that a source of funds is available to relieve unusual liquidity pressures that depository institutions may experience.

Background

Depository institutions and their customers are now making plans to meet possible credit needs in the period around the century date change. Their planning is complicated by uncertainty about the cost and availability of funds to individual depository institutions in the period surrounding the rollover. Unusual liquidity strains might arise from the conversion of deposits to currency, heightened credit demands, greater lender and depositor caution, and potential market disruptions. While some banks may experience a surge in deposits as investors pull back from institutions and markets perceived as more vulnerable, the degree and incidence of shifts in liquidity demands and supplies are extremely difficult to predict. They could well involve pressures on small and medium-sized depository institutions that customarily are suppliers of funds to larger institutions and markets. These smaller institutions might have difficulty obtaining relatively large volumes of funds because they typically do not have access to national funding markets and have limited borrowing relationships with other banks.

To a considerable extent, greater aggregate liquidity needs in reserve markets can be met using open market operations, as they are, for example, in November and December of each year when there is a large seasonal increase in demand for currency. Forecasts of reserve market pressures, however, will be subject to considerable uncertainty, and the normal distribution of reserves and liquidity through markets may be disrupted by the unusual funding situations of institutions and uncertainty about the status of potential borrowers. Volatility in the demand for reserves is likely to be compounded by a decline in required reserves as customers replace transaction accounts with currency and by a drop in required reserve balances at the Federal Reserve as banks augment their holdings of vault cash to meet potential customer demands. Consequently, undesirable tightness and distortions in short-term funding markets would be a possibility if reliance were to be placed almost entirely on open market operations to meet liquidity needs.

Supervisors have urged depository institutions to make firm contingency plans for meeting unexpected liquidity demands and have encouraged them to make the Federal Reserve's discount window part of those plans. Although borrowing by depository institutions through the usual adjustment credit facility of the discount window should be adequate to meet most unusual needs and relieve possible pressures on credit markets, in practice depository institutions have been somewhat reluctant in the past to use such credit. Moreover, the adjustment credit program requires borrowers to seek funds elsewhere first, constrains the uses of the funds, and is normally very limited in duration.

Special Liquidity Facility

In May 1999, the Board requested comment on amendments to its Regulation A (12 CFR part 201) to implement a Special Liquidity Facility that would make collateralized Federal Reserve Bank credit more freely available, albeit at an interest rate somewhat above depository institutions' normal cost of funds (64 FR 28768, May 27, 1999). By assuring the availability of Reserve Bank credit, the facility should enable depository institutions and their customers to commit to meeting possible credit needs with greater confidence. The facility should also help to damp any tendency for money markets to tighten owing to transitory imbalances in the supply and demand of reserves.

The Board received 93 comments on its proposal, distributed as follows:

Type of institution	Number
Commercial Bank	63
Trade Association	9
Savings Bank	7
Credit Union	5

Type of institution	Number
Federal Reserve Bank	2
Investment Bank	2
Government Agency	2
Government Sponsored Agency	1
Clearing House	1
Consultant	1
Total	93

Virtually all of the commenters supported the creation of the Special Liquidity Facility. The commenters frequently noted that even though the financial services industry was well prepared for Year 2000, the facility would provide a desirable degree of certainty that funds would be available to meet liquidity demands around year-end. Only three commenters opposed the facility, all of them stating that existing discount lending programs would be sufficient to meet year-end funding contingencies.

After considering the comments, which are discussed in detail below, the Board has adopted the proposed amendments to Regulation A implementing the Special Liquidity Facility with revisions. The Board has adopted the proposed rate for the facility of 150 basis points over the Federal Open Market Committee's targeted federal funds rate. The Board also moved up the opening date for the facility to October 1, 1999, from the proposed opening date of November 1, 1999. The closing date will be April 7, 2000, or such later date as determined by the Board. Finally, the Board has revised the definition of ''eligible institution'' to mean an institution that is in sound financial condition in the judgment of the lending Reserve Bank. Such a judgment may be based on more than simply whether a borrower meets certain capital standards on a particular date.

Rate

The Board proposed that credit under the Special Liquidity Facility be available at a spread over the Federal Open Market Committee's target federal funds rate. The Board tentatively proposed that the spread be set at 150 basis points, but specifically requested comment on whether the size of the proposed spread was appropriate.

Nearly 20 percent of the commenters endorsed the facility without commenting on the proposed lending rate, and another 10 percent specifically stated that a 150 basis point spread was appropriate. About 70 percent, however, suggested that the lending rate be set at a lower spread. Of these, nearly 20 percent stated they preferred a spread of 50 basis points, while the remainder were divided about evenly between those requesting less than 50 basis points, 75 basis points, 100 basis points, or simply stating the spread should be below 150 basis points. The commenters offered a variety of reasons why a lower spread would be desirable. Several stated that a rate of 150 basis points over the target federal funds rate is so far above their typical cost of funds that use of the facility would seriously reduce their profits, placing an undue burden on their institutions. Others stated that the proposed spread would discourage use of the facility until liquidity problems had become acute, noting that a lower spread would be sufficient to promote private-sector arrangements. Many institutions expressed concern that the proposed spread would become the standard for the pricing of year-end lines of credit. A few banks observed that institutions would not borrow at the proposed spread for fear that it would be taken as a sign of distress.

The lending rate should be high enough to encourage institutions to continue to make private-sector arrangements to meet potential funding needs, but low enough to provide a reasonable backstop should, contrary to the Board's expectations, concerns about the century date change, or the change itself, begin to put strains on funding and credit markets. It is difficult to determine precisely what spread fits these criteria in part because loans under the facility could be used for a variety of purposes and may be extended to a disparate set of depository institutions. A relatively narrow spread still may be high enough to offer incentives to large financial institutions of unquestioned credit quality with access to money and capital markets to seek private-sector alternatives to the facility, but a wider spread may be required for other institutions that are smaller or for whom markets perceive a significant credit risk.

A related difficulty in selecting a spread is that there are no close analogues to the facility against which to compare the pricing. Unlike most private or government agency alternatives, the Special Liquidity Facility requires no fee to establish and may be drawn on and repaid at any time over the life of the facility without penalty. The Federal Home Loan Banks (FHLBs) have been offering their members Year-2000 funding alternatives, but these typically involve restrictions, fees, or other costs not present in the Special Liquidity Facility. The implicit prices of FHLB alternatives range from above that proposed for the facility to somewhat below, depending on the length of time over which the fees are prorated. Informal discussions with commercial banks suggest secured lines of credit to high-quality, large banks would be priced at only a few basis points over LIBOR,[1] but the spread on a similar line to small banks would be over 100 basis points (LIBOR is now about 25 basis points above the federal funds rate). Other central banks have arrangements through which they lend reserves overnight at a penalty rate. The spreads on these facilities range from 25 basis points in Canada to 200 basis points in Switzerland; several central banks, including the European Central Bank, charge 100 basis points.

On balance, the Board believes that a spread of less than 150 basis points might not be sufficient to assure that many depository institutions still would have incentives to make private-sector arrangements to meet potential shifts in the supplies of, and demands for, liquidity. Furthermore, a spread of 150 basis points probably is low enough to provide a reasonable backstop if concerns about the century date change or disruptions associated with the change itself begin to put strains on funding and credit markets, especially if these strains are short-lived. The federal funds rate has reached highs in excess of 150 basis points above the target rate on more than one-third of the final days of reserve maintenance periods since the beginning of 1994. A spread of 150 basis points is also well within the range of year-end premiums observed in the commercial paper market in past years.

Period of Operation

The Board proposed that credit under the Special Liquidity Facility be available from November 1, 1999, to April 7, 2000. The Board requested comment on how long the facility should be open, in particular whether it should begin earlier.

A majority of commenters either expressed general approval of the facility as described or specifically endorsed the start and stop dates. However, a significant minority (25 percent) suggested an earlier start date, and a few commenters suggested either a later ending date or flexibility on the stop date depending on circumstances. Among those suggesting an earlier start date, most proposed the beginning of October, although a few requested September, August, or as soon as possible. A majority of those advising an earlier opening cited plans to build up

[1] The London Interbank Offered Rate (LIBOR) is a standard rate of interest used in international transactions.

vault cash earlier in the fall. More broadly, other commenters stated that an earlier start date would be a prudent response to the great uncertainty about demands for liquidity in the fourth quarter, including the potential for cash withdrawals.

In light of these comments, the Board has determined to make the facility available beginning October 1, 1999. The facility is meant to provide assurance to financial institutions that funds will be available if unforeseen difficulties arise. Given the expressed view that such assurance would be desirable earlier than proposed, there appears to be little reason not to open the facility sooner. The Board has retained the closing date of April 7, 2000, but has specified in the regulation that at a later time it could move back the closing date if conditions warrant.

Eligible Borrowers

The Board proposed that credit under the Special Liquidity Facility would remain discretionary, even though many normal discount window conditions would not apply. The Board proposed that the Special Liquidity Facility would be available only to depository institutions in sound financial condition. For example, under the proposal, it would not have been available to depository institutions that are undercapitalized or critically undercapitalized under the standards set forth in the prompt corrective action provisions of the Federal Deposit Insurance Act[2] and implementing regulations. Reserve Bank discounts for and advances to such institutions are limited by § 201.4 of Regulation A. That section implements amendments to section 10B of the Federal Reserve Act[3] that discourage the Reserve Banks from making relatively long-term loans to inadequately capitalized institutions. Similarly, in the case of credit unions, the Board proposed that credit under the Special Liquidity Facility would be available only to institutions with a net worth ratio (as defined in section 216 of the Federal Credit Union Act[4]) of at least six percent, which qualifies a credit union as adequately capitalized under that Act.[5] With respect to branches and agencies of foreign banks, the Board proposed that credit under the Special Liquidity Facility would be available only to a branch or agency where the borrowing bank meets the equivalent of the Basle Capital Accord's minimum standards for capital and is otherwise considered to be in sound financial condition.

Several commenters stated that there may be situations where it would be appropriate to provide access to the Special Liquidity Facility for undercapitalized institutions. Four commenters stated that the Board should permit institutions some liquidity and capital ratio flexibility during the century date change period, particularly in light of the possibility that market behavior during the conversion, such as a ''flight to quality'' inflow of bank deposits or the drawing down of lines of credit, could create temporary balance sheet distortions. One commenter stated that denying access to these institutions could cause a public reaction that would increase the institution's vulnerability and precipitate customer withdrawals. Another commenter suggested that, rather than prohibit undercapitalized institutions from using the facility, the Board could place more limited controls on undercapitalized institutions that balance the need to provide emergency funding with measures to prevent the inappropriate use of those funds, such as restrictions on the purpose and duration of borrowing and enhanced supervision. Finally, one commenter stated that the eligibility of U.S. branches and agencies of foreign banks for the Special Liquidity Facility should be determined by a combination of supervisory ratings and investment information such as independent agency ratings.

The credit union industry raised specific concerns. Two commenters stated that the proposed 6 percent net worth ratio that must be met by eligible credit unions is unworkable for corporate credit unions, which are not subject to statutory net worth requirements. One commenter suggested that the Board leave the determination as to the eligibility of corporate credit unions to the Reserve Bank or, alternatively, deem a corporate credit union to be eligible if it meets an appropriate capital ratio as determined by its primary regulator.[6] The other commenter suggested that the Board simply deem corporate credit unions to be eligible borrowers. One commenter requested that the Board lower the net worth requirement for eligible credit unions to 5.5 percent because of the likelihood that expenses associated with century-date-change preparations may require some credit unions to reduce their capital. Another commenter suggested that an alternative to lowering the net worth percentage would be to average the credit union's capitalization over several reporting periods to determine eligibility. Another commenter objected to the Board using a statutory net worth requirement for credit unions that has not yet taken effect and suggested that the Board establish a definition of ''sound financial institution'' that would be flexible and take into account a variety of factors other than capital, such as risk and collateral. Another commenter suggested that any credit union with reasonable net worth and adequate collateral should be eligible.

An important purpose of the Special Liquidity Facility is to encourage depository institutions to extend lines of credit over year-end. The Board has determined, therefore, that its proposed definition of ''eligible institution,'' which tied eligibility to capital standards established under the prompt corrective action regimes for depository institutions, could be unduly constraining. Potentially, depository institutions that do not meet the minimum requirements to be adequately capitalized before or due to their borrowing from the Special Liquidity Facility may still be deemed in sound financial condition by the lending Reserve Bank. In addition, the proposed capital standards may not be applicable to certain institutions, such as corporate credit unions. To provide flexibility to the Reserve Banks in administering the Special Liquidity Facility, in the final rule the Board has deleted the proposed capital standards from the definition of ''eligible institution.'' The Special Liquidity Facility will be available to depository institutions, including credit unions, that the lending Reserve Bank deems to be in sound financial condition. The borrowing limitations in § 201.4(a) for institutions that are less than adequately capitalized will continue to apply.

The Board has made a corresponding change in § 201.7, which applies the Regulation A lending provisions to branches and agencies of foreign banks. As in the case of domestic banks, the minimum capital levels that would be required for branches and agencies of foreign banks under the Basle Capital Accord, while useful guides, may be unduly constraining. There may be cases when an institution is in sound financial condition even though it does not meet these minimum guidelines.

[2] 12 U.S.C. 1831o(b)(1)(E).

[3] 12 U.S.C. 347b(b).

[4] 12 U.S.C. 1790d(o)(3).

[5] Section 216 of the Federal Credit Union Act will take effect on August 7, 2000, except for special provisions regarding risk-based net worth requirements, which take effect on January 1, 2001. The National Credit Union Administration has initiated rule-making procedures to adopt rules to implement the Act, but no final rules are yet in place. *See* 64 FR 27090, May 18, 1999.

[6] Generally, corporate credit unions are not eligible to borrow from the discount window unless they hold reserves.

Conversely, for both domestic and foreign institutions, even where the institution meets minimum capital requirements, the lending Reserve Bank may determine that the institution is not in sound financial condition and therefore is ineligible to borrow under the Special Liquidity Facility.

When determining whether an institution is in sound financial condition, the Board or Reserve Bank may discuss the institution's financial condition or other matters related to the loan with its U.S. supervisor or, in the case of a foreign bank, its home country supervisor or central bank. Institutions that had been adequately capitalized and in sound financial condition but whose capital ratios fell below minimum regulatory standards would be expected to consult with their lending Reserve Bank. In judging whether such a borrower remained in sound financial condition and should continue to have access to the facility, the Reserve Bank would take into account whether the decline owed to temporary balance sheet distortions associated with the century date change, as well as the financial condition of the institution before those distortions occurred.

Collateral.

The Board proposed that the collateral requirements for Special Liquidity Facility credit would be identical to those for other discount window loans, all of which must be fully collateralized to the satisfaction of the Reserve Bank. Several commenters stated that the Board should expand the types of collateral that are eligible to be pledged for a loan under the facility. Commenters stated that they would like to pledge collateral held at the pledgor bank, eligible securities maintained at Euroclear, bank debentures and certificates of deposit (with a generic hair-cut of 15 percent), GNMA and municipal securities, corporate securities, and shares of mutual funds that invest in allowable fixed-income securities (which are commonly held by credit unions). One international bank commenter requested that it be able to use collateral it maintains in the United Kingdom, possibly by pledging it through the Bank of England, which would hold it on account for the Reserve Bank. Two commenters suggested that the Board informally encourage Reserve Banks to be flexible, expeditious, and practical in their consideration of additional asset classes, hair-cuts applied in the valuation of collateral, and methods of perfection. One commenter stated that the collateral procedural requirements should not be as cumbersome as those for other discount window credit. Another commenter asked for clarification as to whether collateral will be fungible for purposes of borrowing under existing discount window arrangements and the Special Liquidity Facility.

The collateral requirements for Special Liquidity Facility credit will be identical to those for other discount window loans. Reserve Banks accept a wide range of loans and securities as collateral, but unless the collateral is traded in active markets, such as a Treasury or Agency security, Reserve Banks must have time to determine the lendable value. Borrowing institutions must have pre-positioned collateral (as well as have the necessary authorizations signed) to have access to credit the day it is requested. If many institutions that have not made collateral arrangements ahead of time request credit simultaneously, the resulting congestion could prevent institutions from obtaining credit on the day they request it. Federal Reserve staff strive to accommodate the needs of depository institutions seeking access to discount window credit. Staff will work aggressively to expand the range of acceptable collateral and to make collateral procedures more expeditious and flexible. In addition, as there will be no separate borrowing agreements, those institutions that arrange, or have already arranged, access to adjustment credit will have access to Special Liquidity Facility credit, provided they are eligible institutions. Similarly, pre-positioned collateral will be available to secure either type of credit.

One commenter asked for clarification on additional operational issues regarding collateral, such as what the minimum notification period would be for using the facility on a collateral-by-collateral-type basis, whether borrowers will be able to substitute collateral, and what the acceptable delivery mechanism would be (delivery-versus-payment, tri-party, or held-in-custody). Another commenter requested that the Reserve Banks and the appropriate FHLBs coordinate on the terms of collateral agreements to enable FHLB members to determine their available collateral in the most efficient manner. Institutions with questions about specific collateral arrangements should contact their local Federal Reserve Bank.

One commenter stated that many banks have already pledged many of their assets to secure public deposits or to the FHLBs, leaving little available to pledge to the Reserve Banks. This commenter suggested that the Reserve Banks could waive collateral requirements for well-capitalized institutions without meaningfully increasing their credit risk. Consistent with the Federal Reserve Act and historical practice, the Reserve Banks will continue to require that all loans be collateralized fully, even though the Board recognizes that some borrowers present less credit risk than others.

Differences from Adjustment Credit.

Special Liquidity Facility credit, as proposed and as adopted, would differ from adjustment credit in several ways meant to provide greater flexibility and increase institutions' willingness to borrow. Borrowers will not be required to exhaust alternative liquidity sources, nor will the use of the funds be limited in the same way as funds from adjustment credit. Furthermore, there will be no requirement that credit be repaid expeditiously; credit can remain outstanding until the program expires. Reserve Banks will not monitor or require additional reports of borrowers under the Special Liquidity Facility. Supervisory authorities may need to assess the condition of the borrowing institution if the use of Special Liquidity Facility credit is accompanied by signs of financial trouble.

One commenter noted that § 201.6(d) of Regulation A prohibits an institution from acting (without permission) as a medium or agent of another institution in receiving Federal Reserve credit. The commenter asked that the Board clarify that § 201.6(d) does not preclude eligibility for a bank that is a net provider of funds to other institutions or needs to use the Special Liquidity Facility because of an unexpected drawdown on a line of credit provided to another institution. As the purpose of the Special Liquidity Facility is to supply additional liquidity to the markets, this restriction on the use of the funds should not apply. The Board has revised § 201.6(d) to clarify that it does not apply to depository institutions that receive credit under the Special Liquidity Facility.

Four commenters requested clarification as to whether an institution may make drawings from the Special Liquidity Facility at any time during the proposed period and whether the term of a borrowing must be stated upon drawing or whether the drawing may be made on an open basis. One of these commenters noted that section 10B of the Federal Reserve Act limits maturities on advances to four months, unless the advances are secured by mortgage loans covering one-to-four family residences. One commenter asked how often the facility could be accessed and whether there were any

minimum or maximum borrowing amounts. Another commenter asked the Board to clarify that advances under the facility may be prepaid without penalty.

Borrowers will be able to adjust the amount they borrow as frequently as they desire, although all outstanding credit must be fully collateralized. Loans can be taken down and repaid at the borrowers' discretion at any time while the facility is operating, consequently there can be no penalty for early repayment. Technically, all discount window loans are payable on demand, and accordingly their maturities do not exceed four months.[7]

One commenter stated that the Board should better define the circumstances for determining when an institution may borrow through the Special Liquidity Facility and when it may borrow adjustment credit. A credit union commenter asked for clarification that once the institution's application for discount window access is approved, it may access both adjustment credit and the Special Liquidity Facility. This commenter also requested clarification that a borrower need not consider the Special Liquidity Facility as a funding option that must be exhausted before requesting adjustment credit.

Borrowing under the facility will not be considered a source of funds that would need to be exhausted before obtaining adjustment credit. Furthermore, institutions that experience a very short-term need for Federal Reserve credit (such as meeting reserve requirements on the last day of a maintenance period), including institutions that have loans outstanding under the Special Liquidity Facility, could continue to obtain regular adjustment credit at the basic discount rate.

One commenter stated that the Federal Reserve will need to address a wide range of operational issues before implementing the Special Liquidity Facility, such as the loan request and approval process, reliance on the 21-day period for perfection of instruments under borrower-in-custody arrangements, and modifications to automated systems. As noted above, specific collateral arrangements should be worked out with the local Federal Reserve Bank.

Other Regulatory and Market Concerns.

One commenter stated that the Board should consider temporarily suspending certain provisions of the Federal Reserve Act, such as section 23A, over the century date change period and should expand the types of markets that it uses for open-market purchases to include, for example, asset-backed securities markets. Another commenter stated that the Board should review its payment system risk policy with a view towards increasing the net debit cap for international banks, given the significant changes in the market and in payments system practices since the caps were adopted in 1990. Another commenter stated that the Reserve Banks should pay interest on deposits of at least 100 basis points. One commenter also requested that the Federal Reserve take steps to help banks respond to market fluctuations by adjusting its lending policies and by allowing late reserve adjustments.

The Board is taking and will continue to take actions that it determines are appropriate in order to ensure that the banking system and financial markets continue to operate safely and soundly, with sufficient liquidity, during the century date change period. If problems arise related to certain statutory or regulatory requirements, the Board will consider at that time the appropriate action. Certain actions, such as paying interest on accounts at Reserve Banks, are not authorized by statute.

Finally, one commenter suggested that the Reserve Banks revise Operating Circular 10 (the lending circular) to eliminate the provision that requires a correspondent bank to object to any debit to its account for the amount of a loan repayment due from the borrower to the Reserve Bank within one hour of the time the payment is due or else the payment is irrevocable. The commenter stated that this provision requires the correspondent to become the unintended purchaser of the loan from the Reserve Bank without benefit of the collateral that had secured the loan. The commenter stated that neither the correspondent nor the Reserve Bank would face increased risk if the circular were to eliminate the notion of irrevocability of an unchallenged debit and require the correspondent to transfer the loan repayment amount affirmatively to the Reserve Bank. Arrangements regarding correspondent relationships should be worked out with the local Federal Reserve Bank.

Educational Outreach. One commenter urged the Board to take a leadership role on providing a flexible regulatory response to possible temporary declining capital ratios due to century-date-change activities and to educate rating agencies and the Securities Exchange Commission that such temporary declines near year-end are not necessarily a sign of weakened condition. One commenter urged the Board and other banking agencies to expand Year 2000 outreach efforts to consumers in order to combat emotional overreaction due to unfounded rumors and sensational media stories. Another commenter recommended that the Federal Reserve actively educate depository institutions about the Special Liquidity Facility. The Board has undertaken a number of initiatives to provide information on issues related to the century date change. More information is available on the Board's web site.[8]

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board certifies that the amendments to Regulation A will not have a significant adverse economic impact on a substantial number of small entities. The rule would not impose any additional requirements on entities affected by the regulation but rather would make an additional lending facility available to meet depository institutions' liquidity needs related to the century date change.

List of Subjects in 12 CFR Part 201

Banks, banking, Credit, Federal Reserve System.

For the reasons set out in the preamble, 12 CFR part 201 is amended as set forth below:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

1. The authority citation for 12 CFR part 201 continues to read as follows:

Authority: 12 U.S.C. 343 *et seq.*, 347a, 347b, 347c, 347d, 348 *et seq.*, 357, 374, 374a and 461.

2. In § 201.2, new paragraphs (j) and (k) are added to read as follows:

§ 201.2 Definitions.

* * * * *

(j) *Eligible institution* means a depository institution that is in sound financial condition in the judgment of the lending Federal Reserve Bank.

(k) *Targeted federal funds rate* means the federal funds rate targeted by the Federal Open Market Committee.

3. In § 201.3, new paragraph (e) is added to read as follows:

§ 201.3 Availability and terms.

* * * * *

(e) *Special liquidity facility for century date change.* Federal Reserve

[7] *See* the Board's interpretation on eligibility of demand paper for discount and as security for advances by Reserve Banks, 12 CFR 201.107.

[8] *See* <http://www.federalreserve.gov/y2k/≤.

Banks may extend credit between and including October 1, 1999, and April 7, 2000, or such later date as determined by the Board, under a special liquidity facility to ease liquidity pressures during the century date change period. This type of credit is available only to eligible institutions. This type of credit is granted at a special rate above the basic discount rate and other market rates for funds, is available for the entire length of the period, and is not subject to the conditions regarding specific use or exhaustion of other liquidity sources as is adjustment credit under paragraph (a) of this section.

4. In § 201.6, paragraph (d) is revised to read as follows:

§ 201.6 General requirements.

* * * * *

(d) *Indirect credit for others.* Except for depository institutions that receive credit under the Special Liquidity Facility described in § 201.3(e), no depository institution shall act as the medium or agent of another depository institution in receiving Federal Reserve credit except with the permission of the Federal Reserve bank extending credit.

5. In § 201.7, the introductory text is designated as paragraph (a), and a new paragraph (b) is added to read as follows:

§ 201.7 Branches and agencies.

* * * * *

(b) This part applies to a United States branch or agency of a foreign bank in the same manner and to the same extent as an eligible institution if the foreign bank is in sound financial condition in the judgment of the lending Federal Reserve Bank.

6. In § 201.52, the heading is revised and a new paragraph (c) is added to read as follows:

§ 201.52 Other credit for depository institutions.

* * * * *

(c) *Special liquidity facility.* The rate for credit extended to eligible institutions under the special liquidity facility provisions in § 201.3(e) is equal to the targeted federal funds rate plus 1.5 percentage points on each day the credit is outstanding.

By order of the Board of Governors of the Federal Reserve System, July 27, 1999.

Jennifer J. Johnson,

Secretary of the Board.

[FR Doc. 99–19632 Filed 7–30–99; 8:45 am]

BILLING CODE 6210–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 602

RIN 3052–AB84

Releasing Information

AGENCY: Farm Credit Administration (FCA).

ACTION: Final rule.

SUMMARY: This final rule amends FCA regulations on the release of information under the Freedom of Information Act (FOIA) to:

- Reflect new fees and make it easier for the public to get FCA records;
- Revise the procedures for requests for testimony by FCA employees on official matters and for producing FCA documents in litigation when FCA is not a named party; and
- Add procedures for getting records in public rulemaking files.

We designed this regulation to be concise and easy to understand.

EFFECTIVE DATE: This regulation will become effective 30 days after publication in the **Federal Register** during which either one or both houses of Congress are in session. We will publish a notice of the effective date in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT:

John Hays, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444, or

Jane Virga, Senior Attorney, Office of General Counsel, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION: We received no comments from the public on our proposed rule published March 8, 1999 (64 FR 10954). The revisions to part 602 are now final. We have added two tables to the final regulation to make it easier for readers to view the types and amounts of fees we charge requesters.

List of Subjects in 12 CFR Part 602

Administrative practice and procedure, Courts, Freedom of information, Government employees.

For the reasons stated in the preamble, part 602, of chapter VI, title 12 of the Code of Federal Regulations is revised to read as follows:

PART 602—RELEASING INFORMATION:

Subpart A—Information and Records Generally

Sec.
602.1 Purpose and scope.
602.2 Disclosing reports of examination.

Subpart B—Availability of Records of the Farm Credit Administration 602.3 Definitions.

602.4 How to make a request.
602.5 FCA response to requests for records.
602.6 FOIA exemptions.
602.7 Confidential business information.
602.8 Appeals.
602.9 Current FOIA index.

Subpart C—FOIA Fees 602.10 Definitions.

602.11 Fees by type of requester.
602.12 Fees.
602.13 Fee waiver.
602.14 Advance payments—notice.
602.15 Interest on unpaid fees.
602.16 Combining requests.

Subpart D—Testimony and Production of Documents in Legal Proceedings in Which FCA is Not a Named Party 602.17 Policy.

602.18 Definitions.
602.19 Request for testimony or production of documents.
602.20 Testimony of FCA employees.
602.21 Production of FCA documents.
602.22 Fees.
602.23 Responses to demands served on FCA employees.
602.24 Responses to demands served on non-FCA employees or entities.

Subpart E—Release of Records in Public Rulemaking Files

602.25 General.

Authority: Secs. 5.9, 5.17; 12 U.S.C. 2243, 2252; 5 U.S.C. 301, 552; 52 FR 10012; E.O. 12600, 52 FR 23781, 3 CFR 1987, p. 235.

Subpart A—Information and Records Generally

§ 602.1 Purpose and scope.

This part contains FCA's rules for disclosing our records or information; processing requests for records under the Freedom of Information Act (5 U.S.C. 552, as amended)(FOIA); FOIA fees; disclosing otherwise exempt information in litigation when FCA is not a party; and getting documents in public rulemaking files. Part 603 of this chapter tells you how to get records about yourself under the Privacy Act of 1974, 5 U.S.C. 552a.

§ 602.2 Disclosing reports of examination.

(a) *Disclosure by FCA.* Reports of examination are FCA property. We prepare them for our confidential use and the use of the institution examined. We do not give reports of examination to the public. Except as provided in this section, only the Chairman or the

Chairman's designee may consent to disclosing reports of examination of Farm Credit System institutions and other institutions subject to our examination. You may send a written request to our General Counsel that explains why we should give permission.

(b) *Disclosure by Farm Credit System institutions.* An institution that we have examined may disclose its report of examination to its officers, directors, and agents, such as its attorney or accountant, if they agree to keep the report confidential. In addition, banks may disclose their reports of examination to their affiliated associations, associations may disclose their reports to their supervisory bank, and service corporations may disclose their reports of examination to the institutions that own them. An institution may not disclose these institutions' reports of examination to any other person without our written permission.

(c) *Disclosure to governmental entities.* Without waiving any privilege, we will disclose reports of examination to other Federal government entities:

(1) In response to a Federal court order;

(2) In response to a request of either House or a Committee or Subcommittee of Congress; or

(3) When requested for confidential use in an official investigation by authorized representatives of other Federal agencies.

Subpart B—Availability of Records of the Farm Credit Administration

§ 602.3 Definitions.

Appeal means a request under the FOIA asking for the reversal of a decision.

Business information means trade secrets or other commercial or financial information that is privileged or confidential.

Business submitter means any person or entity that gives business information to the Government.

FOIA request means a written request for FCA records, made by any person or entity that either directly or indirectly invokes the FOIA or this part.

Record means all documentary materials, such as books, papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics (for example, electronic format) in our possession and control when we receive your FOIA request.

§ 602.4 How to make a request.

(a) *How to make and address a request.* Your request for records must be in writing and addressed to the FOIA Officer, Farm Credit Administration. You may send it:

(1) By mail to 1501 Farm Credit Drive, McLean, Virginia 22102–5090;

(2) By facsimile to (703) 790–0052; or

(3) By E-mail to ''foiaofficer@fca.gov.''

(b) *Description of requested records.* You must describe the requested records in enough detail to let us find them with a reasonable effort. If the description is inadequate, we will ask you to provide more information and the 20-day response period under § 602.5(a) will not begin until we receive your reply.

(c) *Faster response.* You may ask for a faster response to your FOIA request by giving us a statement, certified to be true, that you have a ''compelling need.'' The FOIA Officer will tell you within 10 calendar days after receiving the request whether we will respond to it faster. If so, we will respond to your request as soon as we can. A *compelling need* means:

(1) Someone's life or physical safety may be in danger if we do not respond to the request faster; or

(2) You urgently need to tell the public about Federal government activity as a representative of the news media.

(d) *Request for personal information.* If you or your representative requests your personal information, we may require you to give us a notarized request, identify yourself under penalty of perjury, or provide other proof of your identity.

(e) *Fees.* When making a request, you must tell us the most you are willing to pay. Our charges are in the fee tables in §§ 602.11 and 602.12. You may also want to tell us the purpose of your request so we can classify your request for fee purposes.

(f) *Other requests.* To ensure the public has timely information about our activities, the Office of Congressional and Public Affairs will make available copies of public documents, such as the FCA annual report and media advisories.

§ 602.5 FCA response to requests for records.

(a) *Response time.* Within 20 business days of receiving your request, the FOIA Officer will tell you whether we have granted or denied it. If you send your request to the wrong address, the 20-day response time will not begin until the FOIA Officer receives your request.

(b) *Extension of response time.* In ''unusual circumstances,'' the FOIA Officer may extend the 20-day response time for up to 10 more business days by telling you in writing why we need more time and the date we will mail you our response. As used in this subpart, ''unusual circumstances'' means our need to:

(1) Search for and get the requested records from field offices or other locations;

(2) Search for, get, and review many records identified in a single request;

(3) Consult with another Federal agency having a substantial interest in the request; or

(4) Consult with two or more FCA offices having a substantial interest in the request.

(c) *Referrals.* If you ask for records we have that another Federal agency originated, we will refer the request to the originating agency and tell you about the referral. If you should have sent your request to another Federal agency, we will refer the request to that agency and so advise you.

§ 602.6 FOIA exemptions.

The FOIA allows agencies to withhold documents in certain categories. For instance, we do not have to give you documents that relate to our examination of institutions or that would violate the personal privacy of an individual. If we do not give you a document because the FOIA does not require us to, we will tell you which FOIA exemption applies to our decision.

§ 602.7 Confidential business information.

(a) *FCA disclosure.* FCA may disclose business information from a business submitter only under this section. This section will not apply if:

(1) We decide the business submitter has no valid basis to object to disclosure;

(2) The information has been published lawfully or made available to the public; or

(3) Law (other than the FOIA) requires disclosure of the information.

(b) *Notice by FCA.* When we receive a request for confidential business information, the FOIA Officer will promptly tell the requester and the business submitter in writing that the responsive records may be free from disclosure under the FOIA. We will give the business submitter a reasonable time to object to the proposed disclosure of the responsive records and tell the requester whenever:

(1) The business submitter has in good faith labeled the information a trade secret or commercial or financial information that is privileged or confidential. We will provide such notice for 10 years after receiving the information unless the business submitter justifies the need for a longer period; or

(2) We believe that disclosing the information may result in commercial or financial injury to the business submitter.

(c) *Objection to release.* A business submitter who objects to our releasing the requested information should tell us in writing why the information is a trade secret or commercial or financial information that is privileged or confidential.

(d) *FCA response.* (1) We will consider carefully a business submitter's objections. If we decide to disclose business information over the submitter's objection, the FOIA Officer will explain to the submitter in writing why we disagreed with the submitter's objection and describe the business information to be disclosed.

(2) We will tell the requester and the submitter the proposed disclosure date at the same time.

(3) If a submitter sues to prevent release, we will promptly tell the requester and will not disclose the business information until after the court's decision.

(4) If a requester sues to compel disclosure, we will promptly tell the business submitter.

§ 602.8 Appeals.

(a) *How to appeal.* You may appeal a total or partial denial of your FOIA request within 30 calendar days of the date of the denial letter. Your appeal must be in writing and addressed to the Director, Office of Resources Management (ORM), Farm Credit Administration. You may send it:

(1) By mail to 1501 Farm Credit Drive, McLean, Virginia 22102–5090;

(2) By facsimile to (703) 893–2608; or

(3) By E-mail to foiaappeal@fca.gov.

(b) *FCA action on appeal.* Within 20 business days of receiving your appeal, the ORM Director will tell you, in writing, whether we have granted or denied it. If you send your appeal to the wrong address, the 20-day response time will not begin until the ORM Director receives your appeal.

(c) *Unusual circumstances.* In unusual circumstances, the ORM Director may extend the 20-day response time by telling you in writing why we need more time and the date we will mail you our response. All extensions, including any extension of the response time for the first request, may not total more than 10 business days.

§ 602.9 Current FOIA index.

FCA will make a current index available for public inspection and copying, as required by the FOIA. We will give you an index for the cost of copying it. Because we rarely receive requests for an index, we have not published one in the **Federal Register**.

Subpart C—FOIA Fees

§ 602.10 Definitions.

Commercial use request means an information request by an individual or entity seeking information for a use or purpose that furthers the commercial, trade, or profit interests of that individual or entity.

Direct costs means the costs FCA incurs in searching for and reproducing documents to respond to a FOIA request. For a commercial use request, it also means the costs we incur in reviewing documents to respond to the request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment. They do not include overhead expenses.

Educational institution means a preschool, a public or private elementary or secondary school, an institution of undergraduate or graduate higher education, an institution of professional education, or an institution of vocational education that runs a program of scholarly research.

Noncommercial scientific institution means a nonprofit institution that conducts scientific research that is not intended to promote any particular product or industry.

Pages mean 8–1/2 × 11 inch or 11 × 14 inch paper copies.

Representative of the news media means any person actively gathering news for an entity that publishes or broadcasts news to the public. **NEWS** means information about current events or of current interest to the public.

Reproduce (or reproduction) means copying a record.

Review means looking at documents found in response to a FOIA request to decide whether any portion should be withheld. It does not include the time spent resolving legal or policy issues.

Search means all time spent looking for material responsive to a FOIA request, including page-by-page or line-by-line identification of material within documents.

§ 602.11 Fees by type of requester.

Depending on your identity and the purpose of your request, the FCA may charge you the direct costs of searching for responsive records, reviewing the records, and reproducing them. If necessary, we will seek clarification before classifying the request.

(a) *Educational institutions and noncommercial scientific institutions.* We charge fees for reproduction costs only. The first 100 pages are free. You must show that the request is sanctioned by an educational or noncommercial scientific institution and that you seek the records for scholarly or scientific research, not for a commercial use.

(b) *Representatives of the news media.* We charge fees for reproduction costs only. The first 100 pages are free. You must be a representative of the news media, and the request must not be made for a commercial use. A request for records supporting news distribution is not a request for a commercial use.

(c) *Commercial use.* We charge the direct cost for search, review, and reproduction. Commercial use requesters are not entitled to free search time or free reproduction. We will charge you even if we do not disclose any records.

(d) *All others.* The first 2 hours of search time and the first 100 pages of reproduction are free. After that, we will charge you for search and reproduction costs. We will charge you for a search even if we do not disclose any records.

(e) *Fee table.* The fee information in paragraphs (a) through (d) of this section is presented in the table to this paragraph. You may apply for a waiver if your request is not mostly in your commercial interest and the disclosure is in the public interest. *See* § 602.13.

FEE TABLE

Type of requester	Charges for		Reproduction
	Search time	Review time	
• Educational Noncommercial scientific users News media	No Charge	No charge	First 100 pages free, $ 0.15 a page after that.
Commercial Users [1]	All direct costs	All direct costs	$0.15 a page.

FEE TABLE—Continued

Type of requester	Charges for		Reproduction
	Search time	Review time	
All others*	First 2 hours free, all direct costs after that.	No charge	First 100 pages free, $0.15 a page after that.

*You are responsible for fees even if we do not disclose any records.

§ 602.12 Fees.

(a) FCA may charge:

(1) For manual searches for records and for review, the pro rated cost of the salary of the employee doing the work.

(2) For computer searches for records, the direct costs of computer search time and supply or material costs.

(3) For each page made by photocopy or similar method, fifteen cents a page, and for other forms of copying, the direct costs.

(4) The direct costs of elective services, such as certifying records as true copies or sending records by special methods.

(b) We will not charge fees when total assessed fees are less than $15.00.

(c) You must pay by personal check, bank draft drawn on a United States bank, or postal money order made payable to the Treasury of the United States.

(d) We treat a request about yourself under Privacy Act fee rules.

(e) The information in paragraphs (a) and (b) of this section is presented in the table to this paragraph. Direct costs means the costs FCA incurs in searching for, reviewing, and reproducing documents to respond to a request. Direct costs include pro rated salary and reproduction costs. We will not charge fees when they total less than $ 15.00.

FEE AMOUNTS TABLE

Type of fee	Amount of fee
Manual Search and Review	Pro rated Salary Costs.
Computer Search	Direct Costs.
Photocopy	$0.15 a page.
Other Reproduction Costs	Direct Costs.
Elective Services	Direct Costs.

§ 602.13 Fee waiver.

We may waive or reduce fees if disclosure is not mostly in your commercial interest but, instead, is in the public interest because it will advance public understanding of the Federal government's operations or activities.

§ 602.14 Advance payments—notice.

(a) If fees will be more than $25.00 and you have not told us in advance that you will pay estimated fees, we will tell you the estimated amount and ask that you agree to pay it. Except as noted in this section, we will begin processing the FOIA request when we receive your agreement to pay.

(b) If estimated fees exceed $250.00 and you have a history of promptly paying fees charged for information requests, we may respond to your request based on your agreement to pay.

(c) If estimated fees exceed $250.00 and you have no history of paying fees, we may require you to pay in advance.

(d) If you have previously failed to pay fees for information requests or paid them late, you must pay any fees still owed, plus interest calculated under § 602.15, and the estimated fees before we will respond to a new or a pending request.

(e) If we require advance payment or an advance agreement to pay, we will not consider your request to be received and will not respond to it until you meet the requirement.

§ 602.15 Interest on unpaid fees.

If you fail to pay fees on time, FCA may charge you interest starting on the 31st calendar day following the date we bill you. We will charge you interest at the rate allowed by law (31 U.S.C. 3717) on the billing date.

§ 602.16 Combining requests.

You may not avoid paying fees by filing multiple requests at the same time. When FCA reasonably believes that you, alone or with others, are breaking down a request into a series of requests to avoid fees, we will combine the requests and charge accordingly. We will assume that multiple requests within a 30-day period have been made to avoid fees.

Subpart D—Testimony and Production of Documents in Legal Proceedings in Which FCA is Not a Named Party

§ 602.17 Policy.

(a) The rules in this subpart preserve the confidentiality of FCA's documents and information, conserve employees' time for official duties, uphold fairness in litigation, and help the Chairman decide when to allow testimony and to produce documents. This subpart does not affect access to documents under the FOIA or the Privacy Act. See subpart B of this part and part 603 of this chapter.

(b) Generally, we will not produce documents voluntarily and employees will not appear as witnesses voluntarily in any legal proceeding. However, in limited circumstances, the Chairman may allow the production of documents or testimony when the Chairman decides it would be in the best interest of FCA or the public. All privileged documents produced under this subpart remain our property. Any employee having information or privileged documents may disclose them only as allowed by the Chairman.

§ 602.18 Definitions.

Court means any entity conducting a legal proceeding.

Demand means any order, subpoena, or other legal process for testimony or documents.

Direct costs means FCA's costs to search for, review, and reproduce documents to respond to a request. Direct costs include the pro rated cost of the salary of the employee performing the work (based on the basic rate of pay plus 16 percent to cover benefits) and the cost of operating reproduction equipment.

Document means any record or other documentary materials, such as books,

papers, maps, photographs, and machine-readable materials, regardless of physical form or characteristics (for example, electronic format) in our possession and control when we receive the request.

Employee means any present or former FCA employee, any present or former FCA Board member, any former Federal Farm Credit Board member, any present or former FCA-appointed receiver or conservator, and any present or former agent or contractor.

FCA Counsel means the General Counsel, a Department of Justice attorney, or counsel authorized by FCA to act for the FCA or an employee.

General Counsel means the FCA's General Counsel or designee.

Legal proceeding means any administrative, civil, or criminal proceeding, including a discovery proceeding, before a court when FCA is not a named party and has not instituted the legal proceeding.

§ 602.19 Request for testimony or production of documents.

(a) *How to make and address a request.* Your request for an employee's testimony about official matters or the production of documents must be in writing and addressed to the General Counsel, 1501 Farm Credit Drive, McLean, Virginia 22102–5090.

(b) Your request must contain the following:

(1) Title of the case;

(2) Forum;

(3) Your interest in the case;

(4) Summary of the litigation issues;

(5) Reasons for the request;

(6) Why the confidential information is important; and

(7) An explanation of why the testimony or document you want is not reasonably available from another source. If you want testimony, you must also state how you intend to use the testimony, provide a subject matter summary of the requested testimony, and explain why a document could not be used instead.

(c) The General Counsel may ask you to limit your request to make it less burdensome or to give us information to help us decide if providing documents or testimony is in the public interest.

§ 602.20 Testimony of FCA employees.

(a) An employee may testify only as the Chairman approves in writing. Generally, an employee may testify only by deposition or written interrogatory. An employee may give only factual testimony and may not give opinion testimony.

(b) If, in response to your request, the Chairman decides that an employee may testify, you must serve the employee with a subpoena under applicable Federal or State rules of procedure and at the same time send a copy of the subpoena by registered mail to the General Counsel.

(c) Normally, depositions will be taken at the employee's office, at a time convenient to the employee and the FCA. FCA counsel may represent FCA's interests at the deposition.

(d) If you request the deposition, you must give the General Counsel a copy of the deposition transcript at no charge.

§ 602.21 Production of FCA documents.

(a) An FCA employee may produce documents only as the Chairman allows.

(b) Before we will release any documents, the requesting party must get an acceptable protective order from the court before which the action is pending that will preserve the confidentiality of the documents to be released.

(c) On request, we may provide certified or authenticated copies of documents.

§ 602.22 Fees.

(a) For documents released under this subpart, FCA will charge:

(1) The direct costs of searching for responsive records, including the use of a computer, reviewing the records, and reproducing them. We also will charge for the direct costs of any other services and materials that we provide at your request.

(2) Fifteen cents a copy for each page made by photocopy or similar process.

(3) The direct costs for each certification or authentication of documents.

(b) You must pay by personal check, bank draft drawn on a United States bank, or postal money order made payable to FCA. We will waive fees of $15.00 or less. We will send the documents after we receive your payment.

§ 602.23 Responses to demands served on FCA employees.

(a) An employee served with a demand or a subpoena in a legal proceeding must immediately tell the General Counsel of such service, the testimony or documents described in the demand, and all relevant facts.

(b) When the Chairman does not allow testimony or production of documents, FCA Counsel will provide the regulations in this subpart to the party or court issuing the demand and explain that the employee may not testify or produce documents without the Chairman's prior approval.

(c) If the court rules the employee must comply with the demand regardless of the Chairman's instructions not to do so, the employee must respectfully refuse to comply.

(d) FCA's decision under this subpart to comply or not to comply with any demand is not a waiver, an assertion of privilege, or an objection based on relevance, technical deficiency, or any other ground. We may oppose any demand on any legal ground.

§ 602.24 Responses to demands served on non-FCA employees or entities.

If you are not an employee and are served with a demand or a subpoena in a legal proceeding directing you to produce or testify about an FCA report of examination, other document created or adopted by FCA, or any related document, you must object and immediately tell the General Counsel of such service, the testimony or documents described in the demand, and all relevant facts. You also must object to the production of any documents on the basis that they are FCA's property and cannot be released without FCA's consent. You should tell the requester the production of documents or testimony must follow the procedures in this part.

Subpart E—Release of Records in Public Rulemaking Files

§ 602.25 General.

FCA has a public rulemaking file for each regulation. You may get copies of documents in the public rulemaking file by sending a written request to the Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090. We will charge fifteen cents a copy for each page. We will waive fees of $15.00 or less.

Dated: July 21, 1999.

Vivian L. Portis,

Secretary,

Farm Credit Administration Board.

[FR Doc. 99–19584 Filed 7–30–99; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–370–AD; Amendment 39–11239; AD 99–16–04]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–215–1A10 and CL–215–6B11 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain Bombardier Model CL–215–1A10 and CL–215–6B11 series airplanes, that currently requires repetitive inspections to detect cracking on certain wing to fuselage frame-angles, and repair, if necessary. This amendment would continue to require the same inspections. This amendment is prompted by an adverse comment received in response to the existing amendment. The actions specified by this AD are intended to detect and correct cracking in the wing to fuselage frame-angles, which could result in reduced structural integrity of the airframe.

DATES: Effective September 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Franco Pieri, Aerospace Engineer, Airframe and Propulsion Branch, ANE–171, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7526; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding amendment 39–10458 (63 FR 17672, April 10, 1998). [A correction of the direct final rule was published in the **Federal Register** on May 4, 1998 (63 FR 24389)]. That amendment is applicable to certain Bombardier Model CL–215–1A10 and CL–215–6B11 series airplanes, and was published in the **Federal Register** on April 5, 1999 (64 FR 16366). The action proposed to require repetitive inspections to detect cracking on certain wing to fuselage frame-angles, and repair, if necessary.

Comments

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

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

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

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10458 (63 FR 34389, May 4, 1998), and by adding a new airworthiness directive (AD), amendment 39–11239, to read as follows:

99–16–04 Bombardier Inc. (Formerly Canadair): Amendment 39–11239. Docket 98–NM–370–AD. Supersedes Amendment 39–10458.

Applicability: Model CL–215–1A10 and CL–215–6B11 series airplanes, serial numbers 1001 through 1125 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct cracking in the wing to fuselage frame-angles, which could result in reduced structural integrity of the airframe, accomplish the following:

(a) Perform an eddy current inspection to detect cracking of the fuselage frame angles at the wing front and rear spar attachment to the fuselage at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD; in accordance with Bombardier Alert Service Bulletin 215–A476, Revision 3, dated August 21, 1998. Thereafter, repeat the inspection at intervals not to exceed 415 flight hours.

(1) Prior to the accumulation of 2,300 total flight hours.

(2) Within 150 flight hours or 4 months after the effective date of this AD, whichever occurs first.

Note 2: Accomplishment of the eddy current inspections of the lower surfaces of the frame angles conducted in accordance with Bombardier Alert Service Bulletin ASB 215–A476, Revision 1, dated January 14, 1997, or ASB 215–A476, Revision 2, dated June 15, 1998, prior to the effective date of this AD is considered to be acceptable for compliance with the requirements of paragraph (a) of this AD for that area only.

(b) If the results of any inspection required by paragraph (a) of this AD are outside the limits specified in paragraph 2.C.(7) of Bombardier Alert Service Bulletin ASB 215–A476, Revision 3, dated August 21, 1998: Prior to further flight, repair in accordance with a method approved by the Manager, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(e) The inspections shall be done in accordance with Bombardier Alert Service Bulletin 215–A476, Revision 3, dated August 21, 1998. 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 Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–97–07R1, dated September 30, 1998.

(f) This amendment becomes effective on September 7, 1999.

Issued in Renton, Washington, on July 23, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19453 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–47–AD; Amendment 39–11237; AD 99–16–02]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAC 1–11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain British Aerospace Model BAC 1–11 200 and 400 series airplanes, that currently limits the number of operations at increased cabin pressure differential, and requires repetitive structural inspections for cracking of the fuselage, and repair or replacement of parts, if necessary. This amendment requires additional repetitive inspections for cracking of the fuselage. This amendment is prompted by the determination that airplanes operating at increased cabin pressure differential are more likely to develop fatigue cracking earlier in their service lives than those airplanes operating at normal cabin differential pressures. The actions specified by this AD are intended to detect and correct fatigue cracking of the airplane fuselage, which could result in reduced structural integrity of the airplane.

DATES: Effective September 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of September 7, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW, Renton, Washington; or at the Office of the **Federal Register**, 800 North Capitol Street, NW, suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 89–18–10, amendment 39–6310 (54 FR 34768, August 22, 1989), which is applicable to certain British Aerospace Model BAC 1–11 200 and 400 series airplanes, was published in the Federal Register on January 5, 1999 (64 FR 435). The action proposed to continue to limit the number of operations at increased cabin pressure differential, and to require repetitive structural inspections for cracking of the fuselage, and repair or replacement of parts, if necessary. The action also proposed to require additional repetitive inspections for cracking of the fuselage.

Comments Received

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

Service Bulletin Reference

One commenter, the manufacturer, states that paragraph (b)(5) of the proposed AD refers to paragraph 2.2.7 of British Aerospace Alert Service Bulletin 53–A–PM5922, but this service bulletin does not contain a paragraph 2.2.7. The commenter suggests that the correct paragraph reference should be to paragraph 2.1.2 of the alert service bulletin. The FAA concurs that Issue 2 of the alert service bulletin, dated April 27, 1995, does not contain a paragraph 2.2.7. However, paragraph (b) of the AD is an existing requirement retained from AD 89–18–10, which requires accomplishment of certain actions in accordance with Issue 1 of the alert service bulletin, dated January 27, 1987. Since Issue 1 of the alert service bulletin contains a paragraph 2.2.7, the reference is correct, and no change is made to the final rule in this regard. However, to allow better identification of the retained and the new requirements of this AD, subject headers have been added to the final rule.

Compliance Time

One commenter notes that it supports the proposed 3-month compliance time

for initiation of the additional inspections. The commenter also states that, in light of the urgency of the unsafe condition, it would like the compliance time to be shorter but understands the maintenance, scheduling, and logistics involved with accomplishing the actions specified. The FAA infers that the commenter does not object to the proposed compliance time; no change is made to the final rule.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the change previously described. The FAA has determined that this change will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 42 series airplanes of U.S. registry that will be affected by this AD.

The actions that are currently required by AD 89–18–10 take approximately 67 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the previously required actions on U.S. operators is estimated to be $168,840, or $4,020 per airplane.

The new inspections that are required by this AD will take approximately 29 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new requirements of this AD on U.S. operators is estimated to be $73,080, or $1,740 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–6310 (54 FR 34768, August 22, 1989), and by adding a new airworthiness directive (AD), amendment 39–11237, to read as follows:

99–16–02 British Aerospace Airbus Limited (Formerly British Aerospace Commercial Aircraft Limited, British Aerospace Aircraft Group): Amendment 39–11237. Docket 98–NM–47–AD. Supersedes AD 89–18–10, Amendment 39–6310.

Applicability: Model BAC 1–11 200 and 400 series airplanes on which British Aerospace Modifications PM2840 and PM3187 have been accomplished; or on which British Aerospace Modification PM4886 has been accomplished; except for airplanes on which British Aerospace Modification PM5282 (cabin freight door) has been accomplished; and certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking of the airplane fuselage, which could result in reduced structural integrity of the airplane, accomplish the following:

Restatement of Requirements of AD 89–18–10

(a) Except as provided by paragraph (c) of this AD: For airplanes modified for operation to a maximum of 7.75 pounds per square inch (psi) cabin pressure differential, as specified in British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 1, dated January 27, 1987, accomplish the requirements of paragraphs (a)(1) and (a)(2) of this AD.

(1) At or prior to the accumulation of 55,000 total landings, or within 15 months after September 28, 1989 (the effective date of AD 89–18–10, amendment 39–6310), whichever occurs later, perform the inspections specified in paragraph 2.1 of the alert service bulletin. Thereafter, repeat the inspections in accordance with paragraph 2.1.1 of the alert service bulletin at intervals shown in Table AA of the alert service bulletin.

(2) At or prior to the accumulation of 60,000 total landings, or within 30 days after September 28, 1989, whichever occurs later, reduce the aircraft maximum cabin pressure differential to 7.5 psi by system modification, in accordance with a method approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate.

(b) Except as provided by paragraph (d) of this AD: For airplanes modified for operation at cabin pressure differentials above 7.75 psi up to a maximum of 8.2 psi, as specified in British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 1, dated January 27, 1987, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD, as applicable. Subsequently, accomplish the requirements of paragraphs (b)(3) and(b)(4), or paragraphs (b)(5) and (b)(6) of this AD, as applicable.

(1) For airplanes originally manufactured for operation at cabin pressure differentials above 7.75 psi, at or prior to the accumulation of the number of landings shown for initial inspection in the ''NE period'' column of Table AA in the alert service bulletin, or within 15 months after September 28, 1989, whichever occurs later, perform inspections specified in paragraph 2.2.1 of the alert service bulletin and repeat the inspections as specified in paragraph 2.2.3 of the alert service bulletin at the intervals shown in Table AA of the alert service bulletin.

(2) For airplanes modified for operation at cabin pressure differential above 7.75 psi after the airplane entered service, at or prior to the accumulation of the number of landings shown for initial inspection in the ''NE period'' column [obtained using the inspection adjustment graph (page 6) of the alert service bulletin], in Table AA of the

alert service bulletin, or within 15 months after September 28, 1989, whichever occurs later, perform initial inspections specified in paragraph 2.2.2 of the alert service bulletin. Thereafter, repeat the inspections as specified in paragraph 2.2.3 of the alert service bulletin, at intervals shown in Table AA of the alert service bulletin.

(3) At or prior to the accumulation of 55,000 total landings, or within 30 days after September 28, 1989, whichever occurs later, reduce the aircraft cabin maximum operating pressure differential to 7.5 or 7.75 psi by modification as specified in paragraph 2.2.4 of the alert service bulletin, in accordance with a method approved by the Manager, International Branch, ANM–116.

(4) For airplanes which have had the cabin pressure differential reduced from 8.2 psi to 7.75 psi as specified in paragraph 2.2.6 of the alert service bulletin, perform repetitive inspections at the intervals specified in the ''N.E. period'' column in Table AA of the alert service bulletin.

(5) At or prior to the accumulation of 60,000 total landings, or within 30 days after September 28, 1989, whichever occurs later, the airplane cabin maximum operating pressure differential must be reduced to 7.5 psi by modification as specified in paragraph 2.2.7 of the alert service bulletin, in accordance with a method approved by the Manager, International Branch, ANM–116.

(6) For airplanes modified for 8.2 psi maximum cabin operating pressure differential and operated for a period in excess of any Table AA inspection threshold in the alert service bulletin, perform one additional inspection at or prior to the Table AA ''N.E. period'' column repeat interval after limiting operation to 7.5 psi, as specified in paragraph 2.2.5 of the alert service bulletin.

New Requirements of This AD

New Initial and Repetitive Inspections

(c) For airplanes modified for operation to a maximum of 7.75 pounds per square inch (psi) cabin pressure differential, as specified in British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 2, dated April 27, 1995: Prior to the accumulation of the number of landings specified in Table AA of the alert service bulletin, or within 3 months after the effective date of this AD, whichever occurs later, perform the inspections specified in paragraph 2.1 of the alert service bulletin. Thereafter, repeat the inspections in accordance with paragraph 2.1.1 of the alert service bulletin at the intervals shown in Table AA of the alert service bulletin. Accomplishment of the inspections required by this paragraph terminates the repetitive inspections required by paragraph (a)(1) of this AD.

Note 2: Paragraph (a)(1) of this AD restates the requirement for an initial and repetitive inspections contained in paragraph A.1. of AD 89–18–10. Therefore, for operators who have previously accomplished at least the initial inspection in accordance with AD 89–18–10, paragraph (c) of this AD requires that the next scheduled inspection be performed within the repetitive inspection interval specified in Table AA of Issue 2 of the alert service bulletin, after the last inspection performed in accordance with paragraph A.1. of AD 89–18–10.

(d) For airplanes modified for operation at cabin pressure differentials above 7.75 psi up to a maximum of 8.2 psi, as specified in British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 2, dated April 27, 1995: Prior to the accumulation of the number of landings specified in Table AA of the alert service bulletin, or within 3 months after the effective date of this AD, whichever occurs later, perform the inspections specified in paragraph 2.2.1 of the alert service bulletin. Thereafter, repeat the inspections in accordance with paragraph 2.2.3 of the alert service bulletin at the intervals shown in Table AA of the alert service bulletin. Accomplishment of the inspections required by this paragraph terminates the repetitive inspections required by paragraph (b)(1), (b)(2) or (b)(4) of this AD, as applicable.

Note 3: Paragraph (b)(1) of this AD restates the requirement for an initial and repetitive inspections contained in paragraph B.1. of AD 89–18–10. Therefore, for operators who have previously accomplished at least the initial inspection in accordance with AD 89–18–10, paragraph (d) of this AD requires that the next scheduled inspection be performed within the repetitive inspection interval specified in Table AA of Issue 2 of the alert service bulletin, after the last inspection performed in accordance with paragraph B.1. of AD 89–18–10.

Corrective Actions

(e) If any defect is found during any inspection required by this AD, prior to further flight, accomplish paragraph (e)(1), (e)(2), or (e)(3) of this AD, as applicable.

(1) Replace the defective part with a serviceable part of the same part number in accordance with the Structural Repair Manual; or

(2) For damage within the limits specified in the BAC 1–11 Structural Repair Manual, repair in accordance with the Structural Repair Manual; or

(3) Repair in accordance with a method approved by the Manager, International Branch, ANM–116.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

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

Incorporation by Reference

(h) Except as provided by paragraphs (a)(2), (b)(3), (b)(5), and (e) of this AD, the actions shall be done in accordance with British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 1, dated January 27, 1987, and British Aerospace Alert Service Bulletin 53–A–PM5922, Issue 2, dated April 27, 1995. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace, Service Support, Airbus Limited, P.O. Box 77, Bristol BS99 7AR, England. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(i) This amendment becomes effective on September 7, 1999.

Issued in Renton, Washington, on July 22, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19298 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–372–AD; Amendment 39–11238; AD 99–16–03]

RIN 2120–AA64

Airworthiness Directives; Learjet Model 23, 24, 25, 28, 29, 31, 55, and 60 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Learjet Model 23, 24, 25, 28, 29, 31, 55, and 60 series airplanes, that requires a one-time detailed visual inspection of the electrical wire leads of the horizontal stabilizer anti-ice system to verify that the numbers on the wire leads correctly correspond to the numbers on the connected airframe wiring; installation of a wire ID strap on the left-and right-hand sides of each terminal block; and installation of a warning placard. This amendment is prompted by a report of severe flight control buffeting of a Learjet Model 55 series airplane due to a malfunction of the horizontal stabilizer anti-ice system. The actions specified by this AD are intended to prevent undetected accretion of ice on the leading edge of the horizontal

stabilizer, which could result in the loss of pitch control and consequent reduced controllability of the airplane.

DATES: Effective September 7, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 7, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jose Flores, Senior Aerospace Engineer, Systems and Propulsion Branch, ACE–116W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946–4133; fax (316) 946–4407.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Learjet Model 23, 24, 25, 28, 29, 31, 55, and 60 series airplanes was published in the **Federal Register** on May 17, 1999 (64 FR 26703). That action proposed to require a one-time detailed visual inspection of the electrical wire leads of the horizontal stabilizer anti-ice system to verify that the numbers on the wire leads correctly correspond to the numbers on the connected airframe wiring; installation of a wire ID strap on the left-and right-hand sides of each terminal block; and installation of a warning placard.

Comments

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

Conclusion

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

Cost Impact

There are approximately 1,010 airplanes of the affected design in the worldwide fleet. The FAA estimates that 806 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required inspection and installations, and that the average labor rate is $60 per work hour. Required parts will be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $48,360, or $60 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–16–03 Learjet: Amendment 39–11238. Docket 98–NM–372–AD.

Applicability: Model 23, 24, 25, 28, 29, 31, 55, and 60 series airplanes; as listed in Learjet Service Bulletins SB 23/24/25–30–3, SB 28/29–30–3, SB 31–30–05, SB 55–30–3, and SB 60–30–4, all dated October 27, 1998; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent undetected accretion of ice on the leading edge of the horizontal stabilizer, which could result in the loss of pitch control and consequent reduced controllability of the airplane, accomplish the following:

One-Time Inspection

(a) Within 100 flight hours after the effective date of this AD: Perform a one-time detailed visual inspection of the electrical wire leads of the horizontal stabilizer anti-ice system to verify that the numbers on the wire leads correctly correspond to the numbers on the connected airframe wiring, in accordance with Learjet Service Bulletins SB 23/24/25–30–3, (for Model 23, 24, and 25 series airplanes), SB 28/29–30–3 (for Model 28 and 29 series airplanes), SB 31–30–5 (for Model 31 series airplanes), SB 55–30–3 (for Model 55 series airplanes), or SB 60–30–4 (for Model 60 series airplanes); all dated October 27, 1998; as applicable.

Note 2: For the purposes of this AD, a detailed inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation or assembly to detect damage, failure or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc. may be used. Surface cleaning and elaborate access procedures may be required.''

Corrective Action

(1) If no discrepancy is detected during the inspection required by paragraph (a) of this AD: Concurrent with the inspection, install a wire ID strap on the left-and right-hand sides of each terminal block, and install a warning placard on each terminal block, in accordance with the applicable service bulletin.

(2) If any discrepancy is detected during the inspection required by paragraph (a) of this AD: Prior to further flight, repair the discrepancy in accordance with the procedures specified in Chapter 30 of the Learjet Airplane Wiring Manual. Concurrent with the repair, install a wire ID strap on the left-and right-hand sides of each terminal block, and install a warning placard on each terminal block; in accordance with the applicable service bulletin.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(d) Except as provided by paragraph (a)(2) of this AD, the actions shall be done in accordance with Learjet Service Bulletin SB 23/24/25–30–3, dated October 27, 1998; Learjet Service Bulletin SB 28/29–30–3, dated October 27, 1998; Learjet Service Bulletin SB 31–30–5, dated October 27, 1998; Learjet Service Bulletin SB 55–30–3, dated October 27, 1998; or Learjet Service Bulletin SB 60–30–4, dated October 27, 1998, as applicable. 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 Learjet, Inc., One Learjet Way, Wichita, Kansas 67209–2942. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on September 7, 1999.

Issued in Renton, Washington, on July 22, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19297 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–AWP–9]

Name Change of Guam Island, Agana NAS, GU Class D Airspace Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This notice changes the name of the Guam Island, Agana NAS, GU Class D airspace area to Guam International Airport, GU Class D airspace area.

EFFECTIVE DATE: September 9, 1999.

FOR FURTHER INFORMATION CONTACT: Debra Trindle, Airspace Specialist, Airspace Branch, AWP–520.10, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California 90261, telephone (310) 725–6613.

SUPPLEMENTARY INFORMATION:

History

On April 1, 1995, the United States Navy vacated Guam, Agana NAS under the mandates of the Base Realignment and Closure Act. The airport was subsequently renamed Guam International Airport.

Class D airspace is published in Paragraph 5000 FAA Order 7400.9F, Airspace Designations and Reporting Points, dated September 10, 1998, and effective September 16, 1998, through September 15, 1999, which is incorporated by reference in 14 CFR 71.1. The Class D airspace designation listed in this document would be published subsequently in this Order.

The Rule

This amendment to 14 CFR part 71 of the Federal Aviation Regulations renames Class D airspace at Guam Agana NAS, GU to Guam International Airport, GU.

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 would 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 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR9565, 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 500 Class D Airspace

* * * * *

AWP GU D Guam International Airport, GU [Amended]

Guam International Airport, GU
(Lat 13°28′54″ N, long. 144°47′36″ E)

That airspace extending upward from the surface to and including 2,600 feet MSL within a 4.3 mile radius of Guam International Airport.

* * * * *

Issued in Los Angeles, California, on July 27, 1999.

Dawna J. Vicars,

Assistant Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 99–19692 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 254 and 382

[Docket OST–99–5099]

RIN 2105–AC77

Nondiscrimination on the Basis of Disability in Air Travel; Compensation for Damage to Wheelchairs and Other Assistive Devices

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: The Department is amending its rules implementing the Air Carrier Access Act of 1986 (ACAA) to lift an existing cap on the amount of compensation airlines have to pay to passengers for loss or damage of their wheelchairs and other assistive devices. The rule is intended to provide additional relief to passengers who use expensive assistive devices that are lost, destroyed or damaged in the course of airline travel.

EFFECTIVE DATE: This final rule becomes effective on September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Deputy Assistant General Counsel for Regulation and Enforcement, Department of Transportation, 400 7th Street, SW., Room 10424, Washington, DC, 20590. (202) 366–9306 (voice); (202) 755–7687 (TDD); 202–366–9313 (fax); bob.ashby@ost.dot.gov (e-mail).

SUPPLEMENTARY INFORMATION: This final rule concerns the issue of compensation for loss of or damage to wheelchairs or other assistive devices. The current regulation provides that:

> With respect to domestic flights, carriers shall not limit liability for loss, damage or delay concerning wheelchairs or other mobility aids to any amount less than twice the liability limits established for passengers' luggage under 14 CFR Part 254. (14 CFR 382.43(b))

This means that carriers are not required to pay compensation exceeding $2500 for loss of or damage to wheelchairs or other assistive devices, given the present $1250 liability limit for luggage that Part 254 permits carriers to impose in domestic transportation. (The Department has recently proposed raising this limit to $2500, which would have the effect, under the present ACAA rule, of raising the liability limit for wheelchairs and other assistive devices to $5000.) People with disabilities have complained that this does not provide adequate compensation for the loss of or serious damage to expensive equipment, such as power wheelchairs that may cost $15,000 or more. Given that a passenger whose wheelchair is lost or seriously damaged will lose his or her mobility at the destination, people with disabilities believe that the Department should require airlines to do more, such as pay full compensation for the loss and make repair or loaner service available.

The Department considered this issue in the original ACAA rulemaking (see 55 FR 8038; March 6, 1990). In response to similar disability group comments at that time, the Department responded that requiring carriers to pay full replacement value did not sufficiently recognize the ability of passengers to purchase insurance for such expensive items. Consequently, the final rule permitted airlines to cap their liability at twice the liability limit for general baggage.

On February 17, 1999, the Department reopened the issue and published a notice of proposed rulemaking (NPRM) in the **Federal Register** (64 FR 7833). Based on anecdotal information, the Department believed that the majority of wheelchairs used in air travel are manual wheelchairs, many of which cost less than $2500. However, the Department further believed that other travelers used power wheelchairs, which typically are stowed as checked baggage and many of which, if lost, damaged, or destroyed, could cost substantially more than $2500 to repair or replace (e.g., over $13,000 in one case brought to our attention). However, we believed that there would be relatively few instances of wheelchair loss or damage that would exceed $2500, limiting the cost exposure to airlines of removing the current cap.

Comments

The Department received thirty-two comments from individuals, associations, and interest groups. These included the Air Transport Association of America (ATA), representing the views of major airlines, and various individuals and groups in the disability community.

Claim Experience

Both the ATA and the disability community agreed that the majority of damage to wheelchairs occurs to manual units, with repair or replacement costs under $2500. The ATA said that ATA member airlines receive less than fifty complaints a year related to wheelchairs and ninety percent of them are for less than $500. The ATA also reported that claims for standard wheelchairs average $450 to $500 per claim and claims for electric wheelchairs average $1500 per claim. ATA mentioned that its members had voluntarily paid a few claims in excess of $20,000. Also, the Eastern Paralyzed Veterans Association (EPVA), which does wheelchair repairs at New York City airports, reported that it repaired 31 wheelchairs in 1998, at an average cost of $467.95 per repair.

Elimination of Liability Limit

A common theme throughout the disability community comments was that wheelchairs and other assistive devices are not ordinary luggage. Disabled people must take their assistive devices because their mobility, independence, and health depend on them. When a disabled person travels with an air carrier, he or she places his or her means of mobility and livelihood into the hands of the airline. According to some of the comments, airline personnel sometimes disregard the instructions given to them by the passenger concerning how to properly handle the assistive device, or may misunderstand the instructions because they are not fluent in English. Furthermore, commenters said that fear of having to make an expensive repair if their device is damaged may deter some people from traveling by air.

Disability community comments also asserted that the amount of damages should be the full replacement or repair cost because depreciation in value is too hard to calculate. They also asked for some sort of system through which the airline would provide a loaner device during the period when the passenger's own device was being repaired. Some comments also addressed the issue of insurance. The comments asserted that coverage for assistive devices is often excluded from homeowner policies. They said it would be unfair to require passengers to purchase extra insurance for something they had no choice but to take with them. Finally, these comments expressed a belief that lifting the liability cap will provide an incentive for airlines to train their employees to comply with ACAA regulations and properly handle assistive devices.

The ATA's comment said that the proposed rule did not address all of the issues associated with wheelchair handling. Instead of a final rule, ATA supported issuing a broader advance notice of proposed rulemaking (ANPRM) on the general issue of wheelchair handling. ATA also suggested that passengers should remain responsible for some part of the risk of transporting expensive equipment, such as through obtaining insurance.

ATA stressed three other points. First, a two-hour advance check in deadline should be required for people wishing to transport an assistive device. This extra time would allow airlines to prepare adequately for carrying of these

devices, while avoiding flight delays. Additional time is particularly important if more than one electric wheelchair is to be transported on the same flight. Second, ATA said that passengers should be required to provide written instructions on how to disassemble batteries and delicate units. Third, ATA questioned the practicality of requiring airlines to maintain an adequate supply of wheelchairs at more than 500 commercial airports in order to provide loaners. ATA pointed out that local supply stores are available if a loaner is needed.

Cost Calculation

In the NPRM, the Department sought comment on whether additional guidance is necessary on how compensation should be calculated (e.g., depreciated vs. replacement cost). Disability community comments said that there is no market for used, customized assistive devices, thus making depreciation in value too hard to calculate. Most of these comments supported requiring airlines to pay the full replacement cost for a destroyed wheelchair (i.e., the cost of a new wheelchair, regardless of the value of the device that had been destroyed). ATA did not comment specifically on this issue, but did express concern about paying for damage that was done before the chair was given to the airline for transport. ATA also expressed concern that lifting the liability cap would allow higher consequential damages to be assessed against carriers in claims resulting from damaged or destroyed wheelchairs.

DOT Response

The Department is persuaded by the comments of the disability community that wheelchairs and other assistive devices should be viewed differently from other baggage. For wheelchair users, their devices are essential, not only to the purpose of a trip, but for all daily activities. The information provided in the comments confirms the Department's impression that there are likely to be relatively few instances where carriers will have to pay large claims, even in the absence of the current regulatory provision allowing carriers to limit their liability. For this reason, the cost exposure to carriers of changing the rule will not be large.

On the other hand, from the perspective of an individual whose expensive electric wheelchair is lost or destroyed, the expense of replacing it can be very difficult to bear. Consequently, we believe that the fairest solution is to remove the current liability cap. The issue is a straightforward one, which commenters discussed thoroughly, and we see no need for an ANPRM as ATA suggested. Wheelchair users may still want to purchase insurance, which may expedite the payment of claims. The ultimate responsibility for damage that occurs while a passenger's device is in the hands of the carrier should rest with the carrier, however.

Under existing DOT baggage rules, carriers are responsible for consequential damages (see 14 CFR part 254). There is no DOT administrative mechanism for awarding these damages; they would be paid through the carriers' claims processes or awarded by the courts. This rule, while removing a regulatory provision allowing carriers to limit their liability for consequential as well as other damages, would not change this basic pattern. It is possible that, as some disability community comments suggested, the possibility of larger consequential damage awards would increase carriers' incentive to ensure that personnel who handle wheelchairs are well trained.

With respect to the way in which costs of settlements are calculated, the Department is persuaded by disability community comments that it is difficult to establish an accurate depreciated value for electric wheelchairs. In the absence of a significant aftermarket for these often individually-tailored devices, there is no parallel to a ''blue book'' value that can be accurately assigned. On the other hand, it may not be fair to airlines to assess the current replacement cost of a device. For example, a wheelchair that cost $10,000 two years ago may today, because of changes in the equipment or in the market for new wheelchairs, cost $12,000. The $2000 difference in the purchase price of the device cannot be attributed to any action on the airlines' part. For this reason, in the case of a device that is lost or damaged so badly that it must be replaced, the airline would be responsible for the original purchase price ($10,000 in the example above) rather than the total cost of a new device. The statement of this criterion in the rule refers only to the cost of repair or replacement of the device itself; it does not, for example, establish a limit on consequential damages.

The Department believes that requiring the payment of the original purchase price strikes a reasonable balance between the current industry practice of using depreciated value and the proposal, advocated by disability community comments, of requiring carriers to pay the current replacement cost of a wheelchair. In addition, this method should simplify the payment of claims and minimize the number and scope of disputes between passengers and airlines. As is the case today, carriers would remain free to require passengers to document the original purchase price of a lost or damaged assistive device (e.g., purchase receipt, credit card statement, canceled check). In a case where an assistive device is damaged but repairable, the proper measure of compensation is quite clearly the cost of the repair. The Department believes that airlines can avoid the potential problem of being asked to pay for pre-existing damage by inspecting the device and documenting anything that is wrong with it when the passenger checks in, as carriers commonly do with baggage.

The Department's ACAA rule is not intended to require compensation, to any greater extent than courts might award, merely for minor cosmetic damage to wheelchairs or assistive devices. Neither this provision nor —382.43(a), which requires carriers to return wheelchairs and assistive devices to passengers in the condition received by the carrier, would require the carrier, for example, to replace a wheelchair frame that had suffered a small dent or scratch that did not impair the structural soundness or functioning of the device.

In the NPRM, the Department sought comment on whether it is desirable and practical to require that airlines provide a ''loaner'' device during the period when the damaged device is being repaired or replaced. While a wheelchair is essential equipment, without which the passenger can be stranded, the Department agrees with the ATA that it would be impractical to require each airline to maintain an adequate supply of wheelchairs at more than 500 commercial airports. As pointed out in the comments, many devices are customized to fit an individual's specific needs, and it could be extremely burdensome to require airlines to come up with the same or similar type of wheelchair. Information about where to obtain a ''loaner'' is available in many locations from the disability community, medical equipment suppliers, or the airlines themselves. We note that the cost of a loaner could constitute consequential damages for which, in some circumstances, a carrier could be liable.

The ATA recommended permitting carriers to require a two-hour advance check-in for passengers wishing to transport electric wheelchairs. The Department does not have, nor did the ATA present, any data to support a contention that a mandatory check-in period of this length would have a

significant effect on preventing damage to wheelchairs. On the other hand, carrier personnel are more likely to do a good job of preparing the wheelchair for transportation if they are not trying to do so at the last minute.

The Department's existing ACAA regulation has two provisions that can help carriers avoid ''last-minute'' problems. First, § 382.41(g)(1) permits carriers to require passengers wanting to transport electric wheelchairs to check in an hour before the scheduled departure time of the flight. This is consistent with the now-pervasive industry recommendation that all passengers arrive an hour before flight time.

As an interpretive matter, we emphasize that the purpose of the one-hour advance check-in deadline is to give carrier personnel enough time to prepare an electric wheelchair for transportation. Therefore, in this context, checking in means not just reporting at the gate or ticket counter but actually turning the wheelchair over to carrier personnel to prepare it for shipment. If a passenger checks in at the gate at 1:00 for a 2:00 flight, but does not surrender the wheelchair to carrier personnel until 1:45, the value of the one-hour advance check-in is diminished. Of course, the airline has the responsibility of providing the passenger, on request, a boarding chair and any necessary assistance in boarding of the aircraft.

Second, § 382.41(g)(2) states that if a passenger's wheelchair battery has been labeled by the manufacturer as non-spillable, or if the wheelchair can be loaded, stored, and secured in an upright position, the carrier shall not require the battery to be removed and separately packaged. In such instances, the airline need not disassemble the chair or separately box the battery, but only disconnect the battery and tape or otherwise insulate the battery terminals to prevent short circuits. By following this rule, carriers would not only reduce the probability of damage to the chair, but also reduce significantly the time it takes to stow the wheelchair and return it to the passenger on arrival.

The ATA felt that passengers should be required to provide written instructions on the assembly and disassembly of batteries and other delicate equipment. The current rule authorizes individuals to provide written instructions concerning the assembly and disassembly of their wheelchairs, and we believe it is a good idea for them—and perhaps for wheelchair manufacturers as well—to do so. However, given that some passengers may not be fluent in English, or that some disabilities may impair an individual's ability to provide such instructions, or that documents can get lost, we do not believe it would be prudent to require passengers to provide written instructions or to allow carriers to require it as a condition for transportation or compensation.

In order to avoid confusion for readers of 14 CFR part 254, the Department's baggage liability regulation, we have added a sentence pointing out that part 254's baggage liability limit does not apply to wheelchairs and other assistive devices used by passengers with disabilities.

Regulatory Analyses and Notices

This final rule is not a significant rule under Executive Order 12866 or a significant rule under the Department's Regulatory Policies and Procedures. Based on the data currently available to the Department and received in the comments, the Department estimates that the costs associated with this rule are not significant. The ATA submitted data indicating that ATA member airlines receive less than fifty complaints a year related to wheelchairs and that ninety percent of these claims are for less than $2500. Furthermore, the ATA asserts that virtually all of its claims are paid in full, even the ones above $2500. Therefore, the incremental costs of this rule are likely to be minimal.

The Department certifies that this rule will not have a significant economic effect on a substantial number of small entities. The basis for this statement is the probability that the overall national annual costs would be minimal. Also, the Department does not believe that there would be sufficient Federalism impacts to warrant the preparation of a Federalism Assessment.

List of Subjects

14 CFR Part 254

Air carriers, Consumer protection, Freight, Reporting and recordkeeping requirements.

14 CFR Part 382

Air carriers, Civil rights, Individuals with disabilities, Reporting and recordkeeping requirements.

Issued This 23rd Day of July 1999, at Washington, DC

Rodney E. Slater,

Secretary of Transportation.

For the reasons set forth in the preamble, the Department amends 14 CFR parts 254 and 382 as follows:

PART 254—DOMESTIC BAGGAGE LIABILITY

1. The authority citation for 14 CFR part 254 continues to read as follows:

Authority: Secs. 204, 403, 404 and 411, Pub. L. 85–726, as amended, 72 Stat. 743, 758, 760, 769; 49 U.S.C. 1324, 1373, 1374, 1381.

2. Section 254.4 is amended by adding a sentence at the end of the section to read as follows:

§ 254.4 Carrier liability.

* * * Pursuant to 14 CFR 382.43(b), this limit does not apply to wheelchairs or other assistive devices used by passengers with disabilities.

PART 382—NONDISCRIMINATION ON THE BASIS OF DISABILITY IN AIR TRAVEL

3. The authority citation for 14 CFR part 382 continues to read as follows:

Authority: 49 U.S.C. 41702, 41705, and 41712.

4. In § 382.43, paragraph (b) is revised to read as follows:

§ 382.43 Treatment of mobility aids and assistive devices.

* * * * *

(b) With respect to domestic transportation, the baggage liability limits of 14 CFR part 254 do not apply to liability for loss, damage, or delay concerning wheelchairs or other assistive devices. The criterion for calculating the compensation for a lost, damaged, or destroyed wheelchair or other assistive device shall be the original purchase price of the device.

* * * * *

[FR Doc. 99–19447 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1, 301, and 602

[TD 8823]

RIN 1545–AU31

Consolidated Returns, Limitations on the Use of Certain Losses and Deductions; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correction to final regulations.

SUMMARY: This document contains corrections to final regulations which were published in the **Federal Register** on Friday, July 2, 1999, (64 FR 36092), relating to consolidated returns and

limitations on the use of certain losses and deductions.

DATES: This correction is effective July 2, 1999.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Vogel or Marie Milnes-Vasquez at (202) 622–7770 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations that are subject to these corrections are under section 1502 of the Internal Revenue Code.

Need for Correction

As published, final regulations (TD 8823) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the publication of the final regulations (TD 8823), which were the subject of FR Doc. 99–16161, is corrected as follows:

1. On page 36095, column 3, in the preamble under the heading, *Built-in Losses*, line 2 from the bottom of the paragraph, the language ''latter or the SRLY event or section 382'' is corrected to read ''latter of the SRLY event or section 382''.

§ 1.1502–15 [Corrected]

2. On page 36103, column 1, § 1.1502–15(d), paragraph (i) of *Example 3.*, line 3, the language ''M are each common parents of a'' is corrected to read ''M are each the common parent of a''.

3. On page 36103, column 3, § 1.1502–15(d), paragraph (vii) of *Example 4.*, lines 6 and 7, the language ''determining the SRLY limitation for these additional losses in Year 4 (or any'' is corrected to read ''determining the SRLY limitation for this additional loss in Year 4 (or any''.

4 & 5. On page 36104, column 3, § 1.1502–15, paragraphs (g)(4)(i) and (g)(4)(ii) are corrected to read as follows:

§ 1.1502–15 SRLY limitation on built-in losses.

* * * * *

(g) * * *

(4) * * *

(i) All members of the SRLY subgroup with respect to those built-in losses are also included in a loss subgroup (as defined in § 1.1502–91(d)(2)); and

(ii) All members of a loss subgroup (as defined in § 1.1502–91(d)(2)) are also members of a SRLY subgroup with respect to those built-in losses.

* * * * *

6. On page 36105, column 1, § 1.1502–15(g)(6), paragraph (v) of *Example 1.*, the last line in the paragraph, the language ''and the application of the section 382.'' is corrected to read ''and the application of section 382.''.

7. On page 36105, column 1, § 1.1502–15(g)(6), paragraph (ix) of *Example 1.*, the last line in the paragraph, the language ''recognized with the recognition period.'' is corrected to read ''recognized within the recognition period.''.

§ 1.1502–21 [Corrected]

8. On page 36109, column 2, § 1.1502–21(c)(2), line 13 from the bottom of the introductory text, the language ''(the former group), or for a carryover'' is corrected to read ''(the former group), whether or not the group is a consolidated group, or for a carryover''.

9. On page 36110, column 1, § 1.1502–21(c)(2)(viii), paragraph (i) of *Example 1.*, lines 2 and 3, the language ''S, T and M. P and M are each common parents of a consolidated group. During Year'' is corrected to read ''S, T, and M. P and M are each the common parent of a consolidated group. During Year''.

10. On page 36110, column 3, § 1.1502–21(c)(2)(viii), paragraph (i) of *Example 2.*, lines 2 and 3, the language ''of the stock of S, T, P and M. P and M are each common parents of a consolidated'' is corrected to read ''of the stock of S, T, P, and M. P and M are each the common parent of a consolidated''.

11. On page 36111, column 1, § 1.1502–21(c)(2)(viii), paragraph (i) of *Example 3.*, lines 2 and 3, the language ''the stock of S, T, P and M. S, P and M are each common parents of a consolidated'' is corrected to read ''the stock of S, T, P, and M. S, P, and M are each the common parent of a consolidated''.

12. On page 36112, column 3, § 1.1502–21(g)(5), paragraph (i) of *Example 4.*, line 3, the language ''for 6 years. For Year 6, T has an net operating'' is corrected to read ''for 6 years. For Year 6, T has a net operating''.

13. On page 36112, column 3, § 1.1502–21(g)(5), paragraph (i) of *Example 5.*, line 5, the language ''unrelated to A, owns all of the stock of P, the'' is corrected to read ''unrelated to Individual A, owns all of the stock of P, the''.

14. On page 36113, column 3, § 1.1502–21(g)(5), paragraph (i) of *Example 9.*, line 11, the language ''Individual A. On January 1 of Year 3, M'' is corrected to read ''Individual A. On December 31 of Year 2, M''.

15. On page 36113, column 3, § 1.1502–21(g)(5), paragraph (iii) of *Example 9.*, lines 1 through 3, the language ''M's January 1 purchase of 51% of P is a section 382 event because it results in an ownership change of S and T that gives rise'' is corrected to read ''M's December 31 purchase of 51% of P is a section 382 event because it results in an ownership change of the S loss subgroup that gives rise''.

16. On page 36113, column 3, § 1.1502–21(g)(5), paragraph (v) of *Example 9.*, lines 1 through 3, the language ''Because the SRLY event and the change date of the section 382 event occur on the same date and the SRLY subgroup and loss'' is corrected to read ''Because the SRLY event occurred within six months of the change date of the section 382 event and the SRLY subgroup and loss''.

§ 1.1502–23 [Corrected]

17. On page 36116, column 1, § 1.1502–23(d)(1), second line from the bottom of the paragraph, the language ''consolidated return is taxable years is'' is corrected to read ''consolidated return is''.

Cynthia E. Grigsby, Chief, Regulations Unit, Assistant Chief Counsel (Corporate).

[FR Doc. 99–19347 Filed 7–30–99; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Parts 538, 550 and 560

Sudanese Sanctions Regulations; Libyan Sanctions Regulations; Iranian Transactions Regulations: Licensing of Commercial Sales of Agricultural Commodities and Products, Medicine, and Medical Equipment

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Treasury Department is amending the Sudanese Sanctions Regulations, the Libyan Sanctions Regulations, and the Iranian Transactions Regulations to add statements of licensing policy with respect to commercial sales of agricultural commodities and products, medicine, and medical equipment.

EFFECTIVE DATE: JULY 27, 1999.

FOR FURTHER INFORMATION CONTACT: Steven I. Pinter, Chief of Licensing (tel.: 202/622–2480) or William B. Hoffman, Chief Counsel (tel.: 202/622–2410), Office of Foreign Assets Control, U.S.

Treasury Department, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document is available as an electronic file on *The Federal Bulletin Board* the day of publication in the **Federal Register**. By modem, dial 202/512–1387 and type ''/GO FAC,'' or call 202/512–1530 for disk or paper copies. This file is available for downloading without charge in ASCII and Adobe Acrobat[R] readable (*.PDF) formats. For Internet access, the address for use with the World Wide Web (Home Page), Telnet, or FTP protocol is: fedbbs.access.gpo.gov. The document is also accessible for downloading in ASCII format without charge from Treasury's Electronic Library (''TEL'') in the ''Research Mall'' of the FedWorld bulletin board. By modem, dial 703/321–8020, and select self–expanding file ''T11FR00.EXE'' in TEL. For Internet access, use one of the following protocols: Telnet = fedworld.gov (192.239.93.3); World Wide Web (Home Page) = http://www.fedworld.gov; FTP = ftp.fedworld.gov (192.239.92.205). Additional information concerning the programs of the Office of Foreign Assets Control is available for downloading from the Office's Internet Home Page: http://www.treas.gov/ofac, or in fax form through the Office's 24–hour fax–on–demand service: call 202/622–0077 using a fax machine, fax modem, or (within the United States) a touch–tone telephone.

Background

On April 28, 1999, President Clinton announced that existing unilateral economic sanctions programs would be amended to modify licensing policies to permit case–by–case review of specific proposals for the commercial sale of agricultural commodities and products, as well as medicine and medical equipment, where the United States Government has the discretion to do so. He further announced that the Administration was developing country–specific licensing criteria to guide the case–by–case review process so that governments subject to sanctions do not gain unjustified or unwarranted benefits from such sales. To implement this policy, the Treasury Department's Office of Foreign Assets Control (''OFAC'') is amending the Sudanese Sanctions Regulations, 31 CFR part 538 (the ''SSR''), the Libyan Sanctions Regulations, 31 CFR part 550 (the ''LSR''), and the Iranian Transactions Regulations, 31 CFR part 560 (the ''ITR'') (collectively, the ''Regulations''), to make available both general and specific licenses governing commercial sales of such goods.

This final rule deals with commercial sales to Sudan, Libya and Iran (the ''target countries'') of agricultural commodities and products intended for ultimate consumption in a target country as food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds); as seeds for food crops; or as reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals. It also deals with commercial sales of medicines (including those administered by injection) and medical equipment for use in the target countries, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR 99), as of the date of exportation or reexportation. Regulations, §§ 538.523(a), 550.569(a) and 560.530(a).

Licensing of commercial sales. The amendments authorize two tracks for commercial sales of these goods. First, an OFAC general license permits sellers to negotiate and sign executory contracts for commercial sales and exportation or reexportation of any of these agricultural or medical items to the target countries or their governments. Performance under such executory contracts must made be contingent upon receipt of an OFAC license. After review of an executory contract, OFAC may authorize its performance by specific license where OFAC finds the contract terms consistent with the licensing policy in this final rule. Regulations, §§ 538.523, 550.569 and 560.530. Second, persons wishing to make commercial sales of certain bulk agricultural commodities to the target countries or their governments may apply for specific licenses that permit future entry into and performance of contracts for those commodities. OFAC will issue a specific license for the proposed bulk agricultural commodity sales and exportation and reexportation if it finds the proposal set forth in the application consistent with the licensing policy in this final rule. Regulations, § 538.524 and SSR, appendix A; § 550.570 and LSR, appendix A; § 560.531 and ITR, appendix B. In either case, all sales to the target countries must comply with a series of requirements intended to ensure that such sales do not improperly benefit the target countries' governments.

Required contract terms for executory contracts. In addition to the requirements set forth below in *Required contract terms in general*, executory contracts submitted to OFAC for specific licensing must disclose all parties with an interest in the sales transaction, including identification of a purchasing agent's principals at the wholesale level, if any; set forth all terms of sale (e.g., purchase price, quantity, date of shipment, financing), except that dates for contract performance may be made dependent upon the date OFAC issues a specific license; and ensure that exports and reexports of any goods, technology or services are in compliance with license application requirements of other Federal agencies. Regulations, §§ 538.523(b), 550.569(b) and 560.530(b).

Required contract terms for bulk agricultural commodities contracts. Contracts entered into pursuant to an OFAC specific license for bulk agricultural commodity sales must meet all of the requirements set forth below in *Required contract terms in general*, and may only cover commercial sales of the bulk agricultural commodities listed in the appendices to the Regulations. Regulations, §§ 538.524(b)(1), 550.570(b)(1) and 560.531(b)(1).

Required contract terms in general. Contracts for commercial sales licensed pursuant to this final rule must, in addition to the applicable requirements noted above, comply with the following conditions. The contracts must disclose the purchasers, including (for sales through persons in third countries) those to whom goods are to be resold, which may only be (1) private individuals in the target countries who are acting for their own accounts, (2) nongovernmental entities in the target countries, (3) target–country governmental procurement bodies identified by OFAC as not being affiliated with the coercive organs of the state, or (4) persons in third countries purchasing specifically for resale to any of the foregoing. (A listing of the procurement bodies identified by OFAC as not being affiliated with the coercive organs of the state can be found on OFAC's Web site at http://www.treas.gov/ofac or OFAC's fax–on–demand service at 202/622–0077.) Persons named in OFAC's list of blocked persons, specially designated nationals, specially designated terrorists, foreign terrorist organizations, and specially designated narcotics traffickers (31 CFR chapter V, appendix A) or of financial institutions owned or controlled by the government of Iran (ITR, appendix A) are not eligible purchasers. All contracts must also provide for sales at prevailing market

prices and with payment terms and financing consistent with the policies set forth below in *Payment and financing terms*. Regulations, §§ 538.523 and 538.524(b); 550.569 and 550.570(b); 560.530 and 560.531(b).

Recordkeeping and reporting requirements. In addition, full records of all transactions pursuant to OFAC licenses must be maintained for a minimum of 5 years after each transaction, and reports relating to the transactions must be provided to OFAC upon demand to ensure compliance with all licensing requirements. Regulations, §§ 538.523(e), 538.524(c); 550.569(e), 550.570(c); 560.530(e), 560.531(c); 501.601 and 501.602.

Payment and financing terms. Certain payment and financing terms for commercial sales of agricultural or medical items to the target countries or their governments are authorized by general license. These include payment of cash in advance, sales on open account (so long as the seller does not discount or otherwise transfer the account receivable created by the sale), and financing by third–country financial institutions (not U.S. persons nor target–country government banks). U.S. financial institutions are authorized by general license to advise or confirm such third–country financial institution financing. Regulations, §§ 538.525(a), 550.571(a) and 560.532(a). In addition, specific licenses may be issued for payment terms and trade financing not permitted by general license. Regulations, §§ 538.525(b), 550.571(b) and 560.532(b). Payments through the U.S. banking system must reference the applicable OFAC license to avoid being stopped or blocked in transit.

Brokering of target country purchases. This final rule permits, by general license, U.S. persons to broker sales of bulk agricultural commodities by U.S. persons destined for the target countries or their governments. For those sales, brokerage is authorized only if the sales meet all applicable requirements of this final rule for bulk agricultural commodity sales. To broker sales of bulk agricultural commodities by non-U.S. persons to the target countries or their governments, the broker must first obtain a specific license from OFAC. Licenses for brokerage are limited to sales of items listed in the bulk agricultural commodities appendices to the Regulations made to target country persons eligible to purchase bulk agricultural commodities from U.S. persons pursuant to paragraphs (b)(2) and (e) of §§ 538.524, 550.570 and 560.531 of the Regulations. Further, if the brokered sales are subject to Federal licensing requirements, the sales must be made contingent upon prior authorization of the relevant Federal agency. Brokerage fees may not be paid from a blocked account of the Government of Sudan or Libya or from an Iranian account as defined in 31 CFR 560.530. Finally, brokers of any sales subject to this final rule must comply with the OFAC recordkeeping and reporting requirements in §§ 501.601 and 501.602 of 31 CFR chapter V. Regulations, §§ 538.526, 550.572 and 560.533.

Incidental transactions. The SSR are interpreted to permit most transactions incidental to licensed transactions. SSR, § 538.405. This final rule amends the LSR and ITR to provide similar interpretations to that of the SSR, and to clarify in all three provisions that OFAC does not interpret the following as permitted incidental transactions: transportation services to or from the target countries except the discharging of licensed or exempt cargo; distribution or leasing of containers in the target countries after performing transportation services; or financing agricultural and medical sales described in this final rule. Regulations, §§ 538.405, 550.405 and 560.405. (General licenses for certain financing terms and statements of licensing policy with respect to alternative terms are noted above.) Travel–related transactions are not restricted in the SSR or ITR. This final rule amends the LSR to authorize travel–related transactions for the negotiation of executory contracts or bulk agricultural commodity contracts. Specific licensing is required for installation and servicing of medical equipment sold to Libya pursuant to executory contracts. LSR, § 550.573.

Paperwork Reduction Act

As authorized in the Administrative Procedure Act (5 U.S.C. 553)(the ''APA''), this final rule is amending the Regulations is being issued without prior notice and public comment procedure. The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (''OMB'') under control number 1505–0164. 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 control number.

Because the Regulations involve a foreign affairs function, Executive Order 12866 and the provisions of the APA requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

List of Subjects

31 CFR Part 538

Administrative practice and procedure, Agricultural commodities, Banks, banking, Blocking of assets, Drugs, Exports, Foreign trade, Humanitarian aid, Imports, Medical devices, Penalties, Reporting and recordkeeping requirements, Specially designated nationals, Sudan, Terrorism, Transportation.

31 CFR Part 550

Administrative practice and procedure, Agricultural commodities, Banks, banking, Blocking of assets, Drugs, Exports, Foreign investment, Foreign trade, Government of Libya, Imports, Libya, Loans, Medical devices, Penalties, Reporting and recordkeeping requirements, Securities, Services, Specially designated nationals, Terrorism, Travel restrictions.

31 CFR Part 560

Administrative practice and procedure, Agricultural commodities, Banks, banking, Drugs, Exports, Foreign trade, Imports, Information, Investments, Iran, Loans, Medical devices, Penalties, Reporting and recordkeeping requirements, Services, Specially designated nationals, Terrorism, Transportation.

For the reasons set forth in the preamble, 31 CFR parts 538, 550 and 560 are amended as set forth below:

PART 538—SUDANESE SANCTIONS REGULATIONS

1. The authority citation for part 538 continues to read as follows:

Authority: 3 U.S.C. 301; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; E.O. 13067, 62 FR 59989, 3 CFR, 1997 Comp., p. 230.

Subpart D—Interpretations

2. Section 538.405 is revised to read as follows:

§ 538.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Sudanese governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Sudan not explicitly authorized in or pursuant to this part other than discharging licensed or exempt cargo there;

(c) Distribution or leasing in Sudan of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Sudan; and

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine, or medical equipment to Sudan or the Government of Sudan. See § 538.525.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 538.523 is added to subpart E to read as follows:

§ 538.523 Commercial sales and exportation of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for executory contracts.* Except as provided in paragraph (c) of this section, entry into executory contracts is authorized for the following transactions with individuals in Sudan acting for their own account, nongovernmental entities in Sudan, or procurement bodies of the Government of Sudan identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or with persons in third countries purchasing specifically for resale to any of the foregoing, provided that performance of the executory contracts (including any preparatory activities, payments or deposits related to such executory contracts) is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part:

(1) The sale of agricultural commodities and products, if those commodities and products are intended for ultimate consumption in Sudan as:

(i) Food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds);

(ii) Seeds for food crops; and

(iii) Reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals; and

(2) The sale of medicines (including those administered by injection) and medical equipment for use in Sudan, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR99), as of the date of exportation or reexportation. (EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10.)

Note to paragraph (a) of § 538.523. See § 538.524 with respect to the availability of specific licenses for sales of certain bulk agricultural commodities for exportation or reexportation to Sudan or the Government of Sudan.

(b) *Required terms of executory contracts.* The authorization contained in paragraph (a) of this section applies only to executory contracts that:

(1) Disclose all parties with an interest in the sales transaction. If the goods are being sold to a purchasing agent in Sudan, the executory contract must identify the agent's principals at the wholesale level for whom the purchase is being made;

(2) Provide only for sales at prevailing market prices;

(3) Set forth all terms of sale (e.g., purchase price, quantity, date of shipment, financing), except that dates for contract performance may be made dependent upon the date a specific license pursuant to paragraph (d) of this section is obtained from the Office of Foreign Assets Control;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 538.525.

(c) *Ineligible purchasers.* Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to part 560 of this chapter, other than a procurement body of the Government of Sudan identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (c) of § 538.523. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

(d) *Specific licenses for performance under executory contracts.* Specific licenses may be issued on a case–by–case basis to permit the performance of executory contracts meeting the requirements of paragraphs (a) and (b) of this section. See § 501.801(b) of this chapter with respect to specific licensing procedures.

(e) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

4. Section 538.524 is added to subpart E to read as follows:

§ 538.524 Commercial sales and exportation of certain bulk agricultural commodities.

(a) *Sales of bulk agricultural commodities by licensed sellers.* Specific licenses may be issued on a case–by–case basis to permit the sale and exportation or reexportation to persons in Sudan or the Government of Sudan of bulk agricultural commodities intended for ultimate consumption in Sudan as food by humans or animals (including animal feeds) and seeds for food crops, for sales meeting all requirements of paragraph (b) of this section.

(b) *Required contract terms for commercial sales of bulk agricultural commodities.* Specific licenses issued pursuant to this section will authorize entry into and performance only of contracts that:

(1) Provide for the sale and exportation or reexportation only of bulk agricultural commodities listed in appendix A to this part 538;

(2) Fully identify the purchasers of the bulk agricultural commodities, including (for sales through persons in third countries) those to whom the commodities are to be resold, and do not include as a purchaser any person in Sudan or any person within the definition of the term Government of Sudan other than:

(i) A private individual in Sudan acting for his or her own account;

(ii) A nongovernmental entity in Sudan; or

(iii) A procurement body of the Government of Sudan identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state;

(3) Provide only for sales at prevailing market prices;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 538.525.

(c) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

(d) *Other commodities and products.* Requests may be made to the Office of Foreign Assets Control for specific licenses analogous to those available pursuant to paragraph (a) of this section where the applicant demonstrates to the satisfaction of the Office of Foreign Assets Control that, in light of industry practices, sales of the particular agricultural commodity or product, medicine, or medical equipment are impracticable under the executory contract licensing procedures contained in § 538.523.

(e) *Ineligible purchasers.* Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to part 560 of this chapter, other than a procurement body of the Government of Sudan identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (e) of § 538.524. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

5. Section 538.525 is added to subpart E to read as follows:

§ 538.525 Payment for and financing of commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to §§ 538.523 and 538.524 are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third–country financial institutions that are neither United States persons nor Government of Sudan entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case–by–case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to §§ 538.523 and 538.524, except that such financing may not be provided by the Government of Sudan. See § 501.801(b) of this chapter for specific licensing procedures.

(c) *No debits to blocked accounts.* Nothing in this section authorizes payment terms or trade financing involving a debit to an account of the Government of Sudan blocked pursuant to this part.

(d) *Transfers through the U.S. financial system.* Before a United States financial institution initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States financial institution must determine that the underlying transaction is not prohibited by this part. Any payment relating to a transaction authorized in or pursuant to § 538.523, 538.524, or 538.526 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the blocking or rejection of the transfer.

6. Section 538.526 is added to subpart E to read as follows:

§ 538.526 Brokering sales of bulk agricultural commodities.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to broker the sale and exportation or reexportation by United States persons of the bulk agricultural commodities listed in appendix A to this part 538 to individuals in Sudan acting for their own account, nongovernmental entities in Sudan, procurement bodies of the Government of Sudan identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or persons in third countries purchasing specifically for resale to any of the foregoing, provided that the brokered sales meet all conditions of § 538.524.

(b) *Specific licensing for brokering sales by non–U.S. persons.* Specific licenses may be issued on a case–by–case basis to permit United States persons to broker the sale and exportation or reexportation of bulk agricultural commodities by non–United States persons to persons in Sudan or the Government of Sudan. Specific licenses issued pursuant to this section will authorize the brokerage only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix A to this part 538;

(2) Are to purchasers permitted pursuant to paragraphs (b)(2) and (e) of § 538.524;

(3) Require that any performance that is subject to license application requirements of another Federal agency be contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) *No debit to blocked accounts.* Payment for any brokerage fee earned pursuant to this section may not involve a debit to an account blocked pursuant to this part.

(d) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

7. Appendix A to part 538 is added to read as follows:

Appendix A to Part 538—Bulk Agricultural Commodities

Notes:

1. Appendix A sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in § 538.524.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (''HTS'').

HTS Number	Commodity
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, ''Canadian'' Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi–milled or wholly milled Rice, whether or not polished or glazed

HTS Number	Commodity
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including *Vigna mungo (L.)*, *Hepper*, and *Vigna radiata (L.) Wilczek*
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (*Pisum sativum*)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other
1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground–nut) oil, crude
1508.90	Peanut (ground–nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower–seed oil, crude
1512.19	Sunflower–seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

PART 550—LIBYAN SANCTIONS REGULATIONS

1. The authority citation for part 550 is revised to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 287c, 2349aa–8 and 2349aa–9; 31 U.S.C. 321(b); 49 U.S.C. 40106(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12543, 51 FR 875, 3 CFR, 1986 Comp., p. 181; E.O. 12544, 51 FR 1235, 3 CFR, 1986 Comp., p. 183; E.O. 12801, 57 FR 14319, 3 CFR, 1992 Comp., p. 294.

2. Section 550.405 is revised to read as follows:

§ 550.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Libyan governmental entity or involving a debit to a blocked account or a transfer of blocked property not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Libya not explicitly authorized in or pursuant to this part other than discharging licensed or exempt cargo there;

(c) Distribution or leasing in Libya of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Libya; and

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine or medical equipment to Libya or the Government of Libya. See § 550.571.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 550.569 is added to subpart E to read as follows:

§ 550.569 Commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for executory contracts*. Entry into executory contracts is authorized for the following transactions with individuals in Libya acting for their own account, nongovernmental entities in Libya or procurement bodies of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or with persons in third countries purchasing specifically for resale to any of the foregoing, provided that performance of the executory contracts (including any preparatory activities, payments or deposits related to such executory contracts) is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part:

(1) The sale of agricultural commodities and products, if those commodities and products are intended for ultimate consumption in Libya as:

(i) Food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds);

(ii) Seeds for food crops; and

(iii) Reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals; and

(2) The sale of medicines (including those administered by injection) and medical equipment for use in Libya, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR99), as of the date of exportation or reexportation. (EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10.)

Note to paragraph (a) of § 550.569: See § 550.570 with respect to the availability of specific licenses for sales of certain bulk agricultural commodities for exportation or reexportation to Libya or the Government of Libya.

(b) *Required terms of executory contracts*. The authorization contained in paragraph (a) of this section applies only to executory contracts that:

(1) Disclose all parties with an interest in the sales transaction. If the goods are being sold to a purchasing agent in Libya, the executory contract must identify the agent's principals at the wholesale level for whom the purchase is being made;

(2) Provide only for sales at prevailing market prices;

(3) Set forth all terms of sale (e.g., purchase price, quantity, date of shipment, financing), except that dates for contract performance may be made dependent upon the date a specific license pursuant to paragraph (d) of this section is obtained from the Office of Foreign Assets Control;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 550.571.

(c) *Ineligible purchasers*. Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to

part 560 of this chapter, other than a procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (c) of § 550.569. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

(d) *Specific licenses for performance under executory contracts.* Specific licenses may be issued on a case–by–case basis to permit the performance of executory contracts meeting the requirements of paragraphs (a) and (b) of this section. See § 501.801(b) of this chapter with respect to specific licensing procedures.

(e) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

4. Section 550.570 is added to subpart E to read as follows:

§ 550.570 Commercial sales of certain bulk agricultural commodities.

(a) *Sales of bulk agricultural commodities by licensed sellers.* Specific licenses may be issued on a case–by–case basis to permit the sale and exportation or reexportation to persons in Libya or the Government of Libya of bulk agricultural commodities intended for ultimate consumption in Libya as food by humans or animals (including animal feeds) and seeds for food crops, for sales meeting all requirements of paragraph (b) of this section.

(b) *Required contract terms for commercial sales of bulk agricultural commodities.* Specific licenses issued pursuant to this section will authorize entry into and performance only of contracts that:

(1) Provide for the sale and exportation or reexportation only of bulk agricultural commodities listed in appendix A to this part 550;

(2) Fully identify the purchasers of the bulk agricultural commodities, including (for sales through persons in third countries) those to whom the commodities are to be resold, and do not include as a purchaser any person in Libya or any person within the definition of the term Government of Libya other than:

(i) A private individual in Libya acting for his or her own account;

(ii) A nongovernmental entity in Libya; or

(iii) A procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state;

(3) Provide only for sales at prevailing market prices;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 550.571.

(c) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

(d) *Other commodities and products.* Requests may be made to the Office of Foreign Assets Control for specific licenses analogous to those available pursuant to paragraph (a) of this section where the applicant demonstrates to the satisfaction of the Office of Foreign Assets Control that, in light of industry practices, sales of the particular agricultural commodity or product, medicine, or medical equipment are impracticable under the executory contract licensing procedures contained in § 550.569.

(e) *Ineligible purchasers.* Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to part 560 of this chapter, other than a procurement body of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (e) of § 550.570. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

5. Section 550.571 is added to subpart E to read as follows:

§ 550.571 Payment for and financing of commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to §§ 550.569 and 550.570 are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third–country financial institutions that are neither United States persons nor Government of Libya entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case–by–case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to §§ 550.569 and 550.570, except that such financing may not be provided by the Government of Libya. See § 501.801(b) of this chapter for specific licensing procedures.

(c) *No debits to blocked accounts.* Nothing in this section authorizes payment terms or trade financing involving a debit to an account of the Government of Libya blocked pursuant to this part.

(d) *Transfers through the U.S. financial system.* Before a United States financial institution initiates a payment on behalf of any customer, or credits a transfer to the account on its books of the ultimate beneficiary, the United States financial institution must determine that the underlying transaction is not prohibited by this part. Any payment relating to a transaction authorized in or pursuant to § 550.569, 550.570, or 550.572 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the blocking or rejection of the transfer.

6. Section 550.572 is added to subpart E to read as follows:

§ 550.572 Brokering sales of bulk agricultural commodities.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to broker the sale and exportation or reexportation by United States persons of the bulk agricultural commodities listed in appendix A to this part 550 to individuals in Libya acting for their own account, nongovernmental entities in Libya, procurement bodies of the Government of Libya identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or persons in third countries purchasing specifically for resale to any of the foregoing, provided that the

brokered sales meet all conditions of § 550.570.

(b) *Specific licensing for brokering sales by non–U.S. persons.* Specific licenses may be issued on a case–by–case basis to permit United States persons to broker the sale and exportation or reexportation of bulk agricultural commodities by non–United States persons to persons in Libya or the Government of Libya. Specific licenses issued pursuant to this section will authorize the brokerage only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix A to this part 550;

(2) Are to purchasers permitted pursuant to paragraphs (b)(2) and (e) of § 550.570;

(3) Require that any performance that is subject to license application requirements of another Federal agency be contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) *No debit to blocked accounts.* Payment for any brokerage fee earned pursuant to this section may not involve a debit to an account blocked pursuant to this part.

(d) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

7. Section 550.573 is added to subpart E to read as follows:

§ 550.573 Travel transactions in connection with licensed sales of agricultural commodities and products, medicine, and medical products.

Travel transactions to, from, and within Libya for the sole purpose of negotiating contracts authorized by § 550.569 or § 550.570 are authorized. Travel transactions related to installation or servicing of medical equipment sold pursuant to § 550.569 must be authorized by specific license. See § 501.801(b) of this chapter for specific licensing procedures.

Note to § 550.573. U.S. passports must be validated by the U.S. Department of State for travel to Libya.

8. Appendix A to part 550 is added to read as follows:

Appendix A to Part 550—Bulk Agricultural Commodities

Notes:

1. Appendix A sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in § 550.570.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (''HTS'').

HTS Number	Commodity
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, ''Canadian'' Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi–milled or wholly milled Rice, whether or not polished or glazed
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including *Vigna mungo (L.)*, *Hepper*, and *Vigna radiata (L.) Wilczek*
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (*Pisum sativum*)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other
1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground–nut) oil, crude
1508.90	Peanut (ground–nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower–seed oil, crude
1512.19	Sunflower–seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

PART 560—IRANIAN TRANSACTIONS REGULATIONS

1. The authority citation for part 560 continues to read as follows:

Authority: 3 U.S.C. 301; 18 U.S.C. 2332d; 22 U.S.C. 2349aa–9; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12613, 52 FR 41940, 3 CFR, 1987 Comp., p. 256; E.O. 12957, 60 FR 14615, 3 CFR, 1995 Comp., p. 332; E.O. 12959, 60 FR 24757, 3 CFR, 1995 Comp., p. 356; E.O. 13059, 62 FR 44531, 3 CFR, 1997 Comp., p. 217.

Subpart D—Interpretations

2. Section 560.405 is added to subpart D to read as follows:

§ 560.405 Transactions incidental to a licensed transaction authorized.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect thereto is also authorized, except:

(a) A transaction by an unlicensed Iranian governmental entity or involving a debit or credit to an Iranian account not explicitly authorized within the terms of the license;

(b) Provision of any transportation services to or from Iran not explicitly authorized in or pursuant to this part other than discharging licensed or exempt cargo there;

(c) Distribution or leasing in Iran of any containers or similar goods owned or controlled by United States persons after the performance of transportation services to Iran; and

(d) Financing of licensed sales for exportation or reexportation of agricultural commodities or products, medicine or medical equipment to Iran or the Government of Iran. See § 560.532.

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

3. Section 560.530 is added to subpart E to read as follows:

§ 560.530 Commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for executory contracts.* Entry into executory contracts is authorized for the following transactions with nongovernmental

entities in Iran or procurement bodies of the Government of Iran not affiliated with the coercive organs of the state, provided that performance of the executory contracts (including any preparatory activities, payments or deposits related to such executory contracts) is contingent upon the prior authorization of the Office of Foreign Assets Control in or pursuant to this part:

(1) The sale of agricultural commodities and products, if those commodities and products are intended for ultimate consumption in Iran as:

(i) Food by humans (including live animals, raw, processed and packaged foods) or animals (including animal feeds);

(ii) Seeds for food crops; and

(iii) Reproductive materials (such as live animals, fertilized eggs, embryos and semen) for the production of food animals; and

(2) The sale of medicines (including those administered by injection) and medical equipment for use in Iran, if those medicines and medical equipment are not listed on the Commerce Control List in the Export Administration Regulations, 15 CFR part 774, supplement no. 1 (excluding items classified EAR99), as of the date of exportation or reexportation. (EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10.)

Note to paragraph (a) of § 560.530. See § 560.531 with respect to the availability of specific licenses for entry into and performance of contracts for sales of certain bulk agricultural commodities.

(b) *Required terms of executory contracts.* The authorization contained in paragraph (a) of this section applies only to executory contracts that:

(1) Disclose all parties with an interest in the sales transaction. If the goods are being sold to a purchasing agent in Iran, the executory contract must identify the agent's principals at the wholesale level for whom the purchase is being made;

(2) Provide only for sales at prevailing market prices;

(3) Set forth all terms of sale (e.g., purchase price, quantity, date of shipment, financing), except that dates for contract performance may be made dependent upon the date a specific license pursuant to paragraph (d) of this section is obtained from the Office of Foreign Assets Control;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 560.532.

(c) *Ineligible purchasers.* Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to this part 560, other than a procurement body of the Government of Iran identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (c) of § 560.530. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

(d) *Specific licenses for performance under executory contracts.* Specific licenses may be issued on a case–by–case basis to permit the performance of executory contracts meeting the requirements of paragraphs (a) and (b) of this section. See § 501.801(b) of this chapter with respect to specific licensing procedures.

(e) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

4. Section 560.531 is added to subpart E to read as follows:

§ 560.531 Commercial sales of certain bulk agricultural commodities.

(a) *Sales of bulk agricultural commodities by licensed sellers.* Specific licenses may be issued on a case–by–case basis to permit the sale and exportation or reexportation to persons in Iran or the Government of Iran of bulk agricultural commodities intended for ultimate consumption in Iran as food by humans or animals (including animal feeds) and seeds for food crops, for sales meeting all requirements of paragraph (b) of this section.

(b) *Required contract terms for commercial sales of bulk agricultural commodities.* Specific licenses issued pursuant to this section will authorize entry into and performance only of contracts that:

(1) Provide for the sale and exportation or reexportation only of bulk agricultural commodities listed in appendix B to this part 560;

(2) Fully identify the purchasers of the bulk agricultural commodities, including (for sales through persons in third countries) those to whom the commodities are to be resold, and do not include as a purchaser any person in Iran or any person within the definition of the term Government of Iran other than:

(i) A private individual in Iran acting for his or her own account;

(ii) A nongovernmental entity in Iran; or

(iii) A procurement body of the Government of Iran identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state;

(3) Provide only for sales at prevailing market prices;

(4) Make any performance involving the exportation or reexportation of any goods, technology (including technical data, software, or other information) or services that are subject to license application requirements of another Federal agency contingent upon the prior authorization of that agency. (For example, EAR99 items may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9); and

(5) Provide for payment terms consistent with the provisions of § 560.532.

(c) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

(d) *Other commodities and products.* Requests may be made to the Office of Foreign Assets Control for specific licenses analogous to those available pursuant to paragraph (a) of this section where the applicant demonstrates to the satisfaction of the Office of Foreign Assets Control that, in light of industry practices, sales of the particular agricultural commodity or product, medicine, or medical equipment are impracticable under the executory contract licensing procedures contained in § 560.530.

(e) *Ineligible purchasers.* Nothing in this section permits entry into or performance of a sales contract with a person specifically named in appendix A to this chapter V or in appendix A to this part 560, other than a procurement body of the Government of Iran identified by the Office of Foreign

Assets Control as not being affiliated with the coercive organs of the state.

Note to paragraph (e) of § 560.531. Information on ineligible purchasers and eligible procurement bodies will be published in the **Federal Register** and may be found on the Office of Foreign Assets Control's Internet site: http://www.treas.gov/ofac, or on its fax–on–demand system: 202/622–0077.

5. Section 560.532 is added to subpart E to read as follows:

§ 560.532 Payment for and financing of commercial sales of agricultural commodities and products, medicine, and medical equipment.

(a) *General license for payment terms.* The following payment terms for sales of agricultural commodities and products, medicine, and medical equipment pursuant to §§ 560.530 and 560.531 are authorized:

(1) Payment of cash in advance;

(2) Sales on open account, provided that the account receivable may not be transferred by the person extending the credit; or

(3) Financing by third–country financial institutions that are neither United States persons nor Government of Iran entities. Such financing may be confirmed or advised by U.S. financial institutions.

(b) *Specific licenses for alternate payment terms.* Specific licenses may be issued on a case–by–case basis for payment terms and trade financing not authorized by the general license in paragraph (a) of this section for sales pursuant to §§ 560.530 and 560.531, except that such financing may not be provided by the Government of Iran. See § 501.801(b) of this chapter for specific licensing procedures.

(c) *No use of Iranian accounts.* Nothing in this section authorizes payment terms or trade financing involving a debit or credit to an Iranian account.

(d) *Transfers through the U.S. financial system.* Any payment relating to a transaction authorized in or pursuant to § 560.530, 560.531, or 560.533 that is routed through the U.S. financial system must reference the relevant Office of Foreign Assets Control license authorizing the payment to avoid the rejection of the transfer. See § 560.516(b).

6. Section 560.533 is added to subpart E to read as follows:

§ 560.533 Brokering sales of bulk agricultural commodities.

(a) *General license for brokering sales by U.S. persons.* United States persons are authorized to broker the sale by United States persons of the bulk agricultural commodities listed in appendix B to this part 560 to individuals in Iran acting for their own account, nongovernmental entities in Iran, procurement bodies of the Government of Iran identified by the Office of Foreign Assets Control as not being affiliated with the coercive organs of the state, or persons in third countries purchasing specifically for resale to any of the foregoing, provided that the brokered sales meet all conditions of § 560.531.

(b) *Specific licensing for brokering sales by non–U.S. persons.* Specific licenses may be issued on a case–by–case basis to permit United States persons to broker the sale and exportation or reexportation of bulk agricultural commodities by non–United States persons to persons in Iran or the Government of Iran. Specific licenses issued pursuant to this section will authorize the brokerage only of sales that:

(1) Are limited to the bulk agricultural commodities listed in appendix B to this part 560;

(2) Are to purchasers permitted pursuant to paragraphs (b)(2) and (e) of § 560.531;

(3) Require that any performance that is subject to license application requirements of another Federal agency be contingent upon the prior authorization of that agency. (For example, items classified EAR99 under the Export Administration Regulations, 15 CFR parts 730 through 774, may in certain instances require a license from the Department of Commerce, Bureau of Export Administration. See, e.g., 15 CFR 736.2(b)(5), 744.2 through 744.4, 744.7, and 744.10; see also 22 CFR 123.9.)

(c) *No debit to an Iranian account.* Payment for any brokerage fee pursuant to this section may not involve a debit or credit to an Iranian account.

(d) *Recordkeeping and reporting requirements.* Attention is drawn to the recordkeeping, retention, and reporting requirements of §§ 501.601 and 501.602.

Appendix A to Part 560 [Redesignated]

7. The appendix to part 560 is redesignated as Appendix A to Part 560.

8. Appendix B to part 560 is added to read as follows:

Appendix B to Part 560—Bulk Agricultural Commodities

Notes:

1. Appendix B sets forth those agricultural commodities eligible for the bulk agricultural commodity sales licensing procedures in § 560.531.

2. Commodities are identified by their classification numbers in the Harmonized Tariff Schedule of the United States (see 19 U.S.C. 1202) (''HTS'').

HTS Number	Commodity
1001.10	Durum Wheat
1001.90	Other Wheat and Meslin, including seed, Red Spring Wheat, White Winter Wheat, ''Canadian'' Western Red Winter Wheat, Soft White Spring Wheat, and Wheat not elsewhere specified
1101.00	Wheat or Meslin Flour
1006.10	Rice in the husk (paddy or rough)
1006.20	Husked (brown) Rice
1006.30	Semi–milled or wholly milled Rice, whether or not polished or glazed
1006.40	Broken Rice
1102.30	Rice Flour
1103.14	Rice Groats, Meal and Pellets
1002.00	Rye
1003.00	Barley
1004.00	Oats
1007.00	Grain Sorghum
1005.00	Corn (Maize)
0713.31	Dried Beans including *Vigna mungo (L.)*, *Hepper*, and *Vigna radiata (L.) Wilczek*
0713.32	Small red (adzuki) beans
0713.33	Kidney beans, including white pea beans
0713.39	Beans, other
0713.50	Broad beans and horse beans
0713.10	Dried Peas (*Pisum sativum*)
0713.20	Chickpeas (garbanzos)
0713.40	Lentils
0713.90	Dried leguminous vegetables, shelled, not elsewhere specified
1201.00	Soybeans, whether or not broken
2304.00	Soybean cake, meal and pellets
1507.10	Soybean oil, crude
1507.90	Soybean oil, other
1514.10	Rapeseed, colza and mustard oil, crude
1514.90	Rapeseed, colza and mustard oil, other
1515.21	Corn (Maize) oil, crude
1515.29	Corn (Maize) oil, other
1512.21	Cottonseed oil, crude
1512.29	Cottonseed oil, other
1517.90	Cottonseed oil, hydrogenated
1508.10	Peanut (ground–nut) oil, crude
1508.90	Peanut (ground–nut) oil, other
1515.50	Sesame oil
1512.11	Sunflower–seed oil, crude
1512.19	Sunflower–seed oil, other
1212.91	Sugar Beets, fresh, chilled, frozen or dried
1212.92	Sugar Cane, fresh, chilled, frozen or dried
1701.11	Cane Sugar, raw, solid form
1701.12	Beet Sugar, raw, solid form
1701.91	Cane or Beet Sugar, solid form, containing added coloring or flavoring
1701.99	Cane or Beet Sugar, other, not elsewhere specified

Dated: July 26, 1999.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: July 26, 1999.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 99–19628 Filed 7–27–99; 4:18 pm]

BILLING CODE 4810–25–F

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 160

[USCG–1998–4819]

RIN 2115–AF85

Year 2000 (Y2K) Reporting Requirements for Vessels and Marine Facilities; Enforcement Date Change

AGENCY: Coast Guard, DOT.

ACTION: Temporary interim rule.

SUMMARY: The Coast Guard is changing the reporting date for certain vessels and marine facilities to submit their Year 2000 (Y2K) preparedness questionnaires. The current temporary interim rule requires certain vessels and marine facilities to submit Y2K preparedness questionnaires to be received by the Coast Guard no later than August 1, 1999. Due to problems with the software enabling Internet submissions, we are delaying the questionnaire submission date to August 20, 1999. Additionally, we are making some non-substantive, editorial corrections to the interim rule.

EFFECTIVE DATES: This temporary interim rule is effective August 2, 1999 and expires March 31, 2000. All other provisions of the temporary interim rule published on June 23, 1999 at 64 FR 33404–33424 that became effective on June 23, 1999 remain in effect.

FOR FURTHER INFORMATION CONTACT: For questions regarding this change of enforcement date, call Mr. John Hannon, Project Manager, Office of Compliance, telephone 202–267–0492. For questions on viewing, or submitting material to the docket, contact Dorothy Walker, Chief, Dockets, Department of Transportation, telephone 202–366–9329.

SUPPLEMENTARY INFORMATION:

Discussion of Regulatory Action

This rule delays the submission requirement for the Y2K questionnaires from August 1, 1999 to August 20, 1999. This delay facilitates the regulated public's ability to use the Internet and other means to submit the required questionnaires. Because this rule relieves the restriction for the August 1, 1999, submission date, until August 20, 1999, under 5 U.S.C. 553 (d)(1), it is effective on its date of publication in the **Federal Register**.

Background

On March 5, 1999, the International Maritime Organization (IMO) issued Circular Letter No. 2121 which established, through unanimous agreement, the Year 2000 Code of Good Practice and Key Elements of Y2K contingency plans for ships, ports, and terminals. After the issuance of Circular No. 2121, the Coast Guard developed a risk assessment matrix, and evaluated the need for information to supplement the questionnaires contained in the Circular. We published a temporary interim rule on June 23, 1999 (64 FR 33404) establishing temporary Y2K preparedness reporting requirements for vessels and marine facilities operating in U.S. waters on any of the following peak risk dates:

- Between midnight (2400 hours local time) September 7, 1999 and midnight (2400 hours local time) September 9, 1999 (48 hours);
- Between midnight (2400 hours local time) December 30, 1999 and midnight (2400 hours local time) January 1, 2000 (48 hours); and
- Between midnight (2400 hours local time) February 27, 2000 and midnight (2400 hours local time) February 29, 2000 (48 hours).

The reporting requirements and copies of the required forms were set out in the temporary interim rule.

Reason for Delay

The temporary interim rule gave the public three options to submit their responses to Y2K questionnaires: by mail, by facsimile (fax), and by submission of data via the Internet. At the time of publication of the Temporary Interim Rule, we reported that we were finalizing our Y2K questionnaire data processing system and indicated we would implement the system by July 1, 1999. At this time, the system is capable of receiving faxed and mailed submissions; however, we are currently experiencing software problems for submitting questionnaires via the Internet. We anticipate that Internet submission capability will not be available until August 1, 1999. If all submissions were made using the Internet, our system may not be able to process all submissions; therefore, we are delaying the date by which we must receive your Y2K preparedness questionnaires until August 20, 1999. We are currently capable of receiving and processing both fax and mail Y2K questionnaire submissions and you are highly encouraged to submit your questionnaires as soon as possible through one of those means.

Additionally, as published, the temporary interim rule contains inaccuracies and editorial errors in need of correction. We are correcting the Navigation and Vessel Inspection Circular (NVIC) 6–99 to read as 7–99. In addition, facilities operating under the authority of the Department of Transportation were omitted from section 160.307 paragraph (g) in error. We are correcting that oversight by adding the Department of Transportation to this section. We are also correcting an editorial error where we mislabeled sub-paragraphs in section 160.317 of the rule by going from (d) to (f), skipping (e). Finally, we are correcting an inaccurate domestic fax number and adding an international fax number for foreign vessels to submit the appropriate Y2K preparedness questionnaire.

List of Subjects in 33 CFR Part 160

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

For reasons set forth in the preamble, the Coast Guard is amending 33 CFR part 160 as follows:

PART 160—PORTS AND WATERWAY SAFETY—GENERAL

1. The authority citation for part 160 continues to read as follows:

Authority: 33 U.S.C. 1223, 1231; 49 CFR 1.46. Subpart D is also issued under the authority of 33 U.S.C. 1225 and 46 U.S.C. 3715.

2. Revise paragraph (g) of § 160.307, to read as follows:

§ 160.307 Which vessels and facilities are exempt from this subpart?

* * * * *

(g) Facilities directly operated by the Department of Defense, or under the authority of the Department of the Interior or the Department of Transportation.

3. In § 160.313, revise paragraphs (a)(1), (a)(2), and (b)(2) to read as follows:

§ 160.313 What are the Year 2000 (Y2K) reporting requirements for vessels owned in the United States?

(a) * * *

(1) If your vessel will operate during any of the peak risk periods identified in § 160.311, you must submit a Vessel

Questionnaire, as contained in Appendix A to this subpart, so that it is received by the U.S. Coast Guard no later than August 20, 1999.

(2) If your vessel will not operate during any of the peak risk periods identified in § 160.311, but will operate during the period August 1, 1999, through March 21, 2000, you must submit U.S. Supplement 1 (page 3 of the Vessel Questionnaire as contained in Appendix A to this subpart) so that it is received no later than August 20, 1999.

(b) * * *

(2) By fax to: 1–877–825–4357 (for submissions faxed within the United States) or 1–703–522–1839 (for submissions faxed from outside the United States); or

* * * * *

4. Revise paragraph (b)(2) of § 160.315 to read as follows:

§ 160.315 What are the Year 2000 (Y2K) reporting requirements for foreign flag vessels?

* * * * *

(b) * * *

(2) By fax to: 1–877–825–4357 (for submissions faxed within the United States) or 1–703–522–1839 (for submissions faxed from outside the United States); or

* * * * *

5. In § 160.317, revise paragraphs (a)(1), (a)(2), and (b)(2) to read as follows and redesignate paragraphs (f) and (g) as paragraphs (e) and (f):

§ 160.317 What are the Year 2000 (Y2K) reporting requirements for marine facilities?

(a) * * *

(1) If your marine facility will operate during any of the peak risk periods identified in § 160.311, you must submit a Marine Facility Questionnaire, as contained in Appendix B to this subpart, so that it is received by the U.S. Coast Guard no later than August 20, 1999.

(2) If your marine facility will not operate during any of the peak risk periods identified in § 160.311, but will operate during the period August 1, 1999, through March 21, 2000, you must submit U.S. Supplement 2 (page 3 of the Marine Facility Questionnaire as contained in Appendix B to this subpart) so that it is received no later than August 20, 1999.

(b) * * *

(2) By fax to: 1–877–825–4357 (for submissions faxed within the United States) or 1–703–522–1839 (for submissions faxed from outside the United States); or

* * * * *

6. Revise Appendix A to Subpart D of Part 160—United States Coast Guard Vessel Questionnaire to read as follows:

BILLING CODE 4910–15–P

Appendix A to Subpart D of Part 160—United States Coast Guard Vessel Questionnaire

OMB Approval No. 2115-0639

United States Coast Guard Vessel Questionnaire

[IMO Year 2000 Questionnaire 2 and United States Supplement 1]

Instructions

- Please complete this vessel questionnaire as fully as possible and submit to the U.S. Coast Guard via:

Mail: U. S. Coast Guard (G-MOC/Y2K) c/o The Centech Group 2000 N. 14th Street Suite 700 Arlington, VA 22201	**OR**	**Fax:** 1-877-825-4357 (for U.S. submissions) OR 1-703-522-1839 (for international submissions)	**OR**	Complete the questionnaire and supplement on the Coast Guard's Internet web site at: http://www.uscg.mil/hq/g-m/y2k.htm

- You must submit this vessel questionnaire such that it is received by:

U.S. Vessels:	Foreign Vessels arriving in U.S. Waters:
August 20, 1999	24 hours prior to 1st arrival after August 1, 1999

- The peak risk periods are: Midnight (2400) Sept 7, 1999, through midnight (2400) Sept 9, 1999, **AND** Midnight Dec 30, 1999, through midnight Jan 1, 2000 **AND** Midnight Feb 27, 2000 through midnight February 29, 2000.

- If your vessel or fleet of vessels **will** be operating in U.S. waters during any of the peak risk periods, you must submit at least one vessel questionnaire. If you operate a fleet of vessels which all have the same Y2K preparedness status, you may submit one IMO Questionnaire 2 for all vessels in that fleet. However, you must complete a U.S. Supplement 1 for each individual vessel in your fleet. The following examples are provided:

  1. Company A has 5 vessels and the same answers to the questions in IMO Questionnaire 2 apply to all 5 vessels. Company A must submit 5 U.S. Supplements (1 for each vessel) but may submit one IMO questionnaire 2 that covers all 5 vessels.

  2. Company B also has 5 vessels; however, each vessel has different answers to the questions in the IMO questionnaire. Company B must submit 5 U.S Supplements (1 for each vessel) and 5 IMO Questionnaire 2s (1 for each vessel).

- If your vessel **will not** be operating in U.S. waters during any of the peak risk periods, but **will** be operating in U.S. waters from August 1, 1999, through March 31, 2000, you need only complete the U.S. Supplement 1 and submit it to the Coast Guard via one of the methods outlined above by the appropriate date. You do not have to complete the IMO Year 2000 Questionnaire 2.

- If a vessel's Y2K preparedness or its operational plans change, please submit an updated questionnaire and supplement via mail/fax or update the information via the Internet. **Any new or updated vessel questionnaires submitted during the peak risk periods must be submitted directly to the Captain of the Port (COTP) in whose zone the vessel is operating instead of the locations specified above.** A list of COTP addresses and fax numbers is on page 4.

- **Data items on the IMO Questionnaire 2 marked with an asterisk (*) do not need to be filled in if the questionnaire is being submitted to the U.S. Coast Guard since the U.S. Supplement addresses similar information.**

- For the purpose of this questionnaire, operating means a vessel is underway, conducting cargo loading/transfer operations, or carrying passengers.

- Please DO NOT SUBSTITUTE Y2K-related contingency plans, brochures, policy statements or similar documents for this questionnaire and supplement. If you have questions about the questionnaire and/or supplement, contact the Coast Guard Office of Compliance at: Commandant (G-MOC), 2100 2nd Street SW, Washington DC 20593-0001; tel: 202-267-2978;.

An agency may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection is: 2115-0639.

The Coast Guard estimates it will take averages of 8 minutes to complete and submit Questionnaire 2, and 5 minutes to complete and submit Supplement 1. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MOC), U.S. Coast Guard, Washington, DC 20593-001.

IMO YEAR 2000 QUESTIONNAIRE 2

From: (Port Authority/Terminal Operator) United States Coast Guard

To: (Name of Ships) _____

Please answer the following as fully as you can. Your response to this questionnaire will assist the Port Authority/Terminal Operator in deciding whether due care has been exercised in avoiding possible equipment failure caused by Year 2000 electronic date recognition problems, and in putting in place contingency plans to cope with unforeseen failures.

Company: _____

Ship's IMO Number *: _____ **Flag *:** _____

Tonnage (gross) *: _____ **Ship Type (e.g. ro-ro, cargo) *:** _____

Date/time of expected arrival/departure *: _____

	Circle as appropriate	
1) Does your company have a documented Year 2000 policy in place?	YES	NO
2) Has an inventory check to identify and categorize potentially non-compliant equipment been carried out?	YES	NO
3) Has equipment critical to the operational safety of the ship(s) been investigated, and have appropriate remedial actions been carried out with regard to:		
- Navigational Systems?	YES	NO
- Propulsion and Power Generation Systems?	YES	NO
- Cargo Handling Equipment?	YES	NO
- Other Safety Equipment?	YES	NO
4) Are records of Year 2000 compliance, and/or the results of equipment tests/investigations documented?	YES	NO
5) Are the above documents available onboard the ships for inspection by the port authority/terminal operator?	YES	NO
6) Do the ships have a documented Year 2000 specific contingency plan, including competent personnel to implement it?	YES	NO
7) Has the ships' Year 2000 contingency plan been tested and reviewed to confirm its effectiveness?	YES	NO
8) Has the ships' equipment not currently in use, but critical to safe operation of the ship, been checked to establish that its functionality has not been affected?	YES	NO
9) Has all necessary information been exchanged and agreed with the above named port/terminal on any additional Year 2000 specific requirements applicable to ship operations in the port?	YES	NO

Name of the Master *: _____

Signature of the Master *: _____

Date: _____

UNITED STATES SUPPLEMENT 1 TO IMO YEAR 2000 QUESTIONNAIRE 2

In addition to the IMO Year 2000 Questionnaire 2, please answer the following as fully as you can for each individual vessel arriving in, operating in, or residing at U.S. ports from August 1, 1999 through March 31, 2000.

Name of the Person Completing Questionnaire: _____

Address: _____

_____

_____

Phone: _____

Fax: _____

Email: _____

Vessel Name: _____

Vessel Type (check one):

___ Oil Tanker (single hull) ___ Oil Tanker (double hull) ___ Ore/Bulk/Oil (OBO) ___ LPG Carrier ___ LNG Carrier ___ Chemical Tanker

___ Bulk Carrier ___ Containership ___ Ro-Ro Cargo ___ General Cargo ___ Passenger ___ Offshore Supply

___ MODU Other: _____

Cargo (check one):

___ Cargo of Particular Hazard (33 CFR 126) ___ Liquefied Hazardous Gas (LHG) ___ Bulk HAZMAT (liquid or solid) ___ Bulk Oil

___ 150 or more passengers ___ 7 to 149 passengers ___ 1 to 6 passengers ___ Other

Gross Tonnage: _____ **Flag:** _____ **IMO or Official Number:** _____

Captain of the Port zone you may be operating in (check "yes" for the dates that the vessel may be in each COTP zone. If needed, attach a separate sheet to list additional COTP zones. Refer to page 4 for a list of COTP zones):

Captain of the Port Zone:	Sept 7, 1999 – Sept 9, 1999	Dec 30, 1999 – Jan 1, 2000	Feb 27, 2000 – Feb 29, 2000	Any other dates Aug 1, 1999 - Mar 31, 2000
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes
	___ Yes	___ Yes	___ Yes	___ Yes

Please answer the following question	Circle as appropriate	
1) If you were required to complete IMO Questionnaire 2 and answered yes to question #6 of that questionnaire, does the contingency plan call for the following when the vessel is underway:		
• Two or more additional trained crew on board during the risk periods?	YES	NO
• Anchor detail set and anchor ready for letting go during the risk periods?	YES	NO
• Manning the engine room with engine and generator alarm systems in manual override mode during the risk periods?	YES	NO
• Setting the steering in manual mode (disengaging automatic pilot) during the risk periods?	YES	NO
• Enabling the ship for mechanical steering at rudder post and manning the steering compartment during the risk periods?	YES	NO

Marine Safety Offices (MSOs)/Captains of the Port

MSO Portland 103 Commercial Street Portland, ME 04101-4726 PHONE: (207) 780-3681 FAX: (207) 780-3567	MSO Boston 455 Commercial Street Boston, MA 02109-1045 PHONE: (617) 223-3435 FAX: (617) 223-3032	MSO Providence 20 Risho Avenue East Providence, RI 02914-1208 PHONE: (401) 435-2350 FAX: (401) 435-2382	Group/MSO Long Island Sound 120 Woodward Avenue New Haven, CT 06512-3698 PHONE: (203) 468-4401 FAX: (203) 468-4445
USCG Activities New York Prevention/Compliance Division 212 Coast Guard Drive Staten Island, NY 10305 PHONE: (718) 354-4207 FAX: (718) 354-4301	Coast Guard Activities Baltimore 2401 Hawkins Point Road Baltimore, MD 21226-1791 PHONE: (410) 576-2693 FAX: (410) 962-0930	MSO Hampton Roads Norfolk Federal Building, 200 Granby Street Norfolk, VA 23510-1888 PHONE: (757) 441-3300 FAX: (757) 441-3262	MSO Wilmington 272 N. Front Street, Suite 500 Wilmington, NC 28401-3907 PHONE: (910) 815-4895 ext. 107 FAX: (910) 815-4523
MSO/Group Philadelphia 1 Washington Avenue Philadelphia, PA 19147-4395 PHONE: (215) 271-4806 FAX: (215) 271-4833	MSO Miami P.O. Box 01-6940 Miami, FL 33101-6940 PHONE: (305) 535-8705 FAX: (305) 535-8742	MSO Jacksonville 7820 Arlington Expressway, Suite 400 Jacksonville, FL 32211-7445 PHONE: (904) 232-2640 ext. 106 FAX: (904) 232-2664	MSO Tampa 155 Columbia Drive Tampa, FL 33606-3598 PHONE: (813) 228-2189 FAX: (813) 228-2399
MSO Savannah 222 W. Ogelthorpe Avenue, Suite 402 Savannah, GA 31401-3606 PHONE: (912) 652-4353 FAX: (912) 652-4180	MSO Charleston 196 Tradd Street Charleston, SC 29401-1899 PHONE: (843) 724-7684 FAX: (843) 720-7750	MSO San Juan P.O. Box 9023666 San Juan, PR 00902-3666 PHONE: (787) 729-6800 ext.303 FAX: (787) 729-6648	MSO New Orleans 1615 Poydras Street New Orleans, LA 70112-1254 PHONE: (504) 589-4256 FAX: (504) 589-7470
MSO Morgan City 800 David Drive Morgan City, LA 70380-1304 PHONE: (504) 380-5312 FAX: (504) 385-1687	MSO Corpus Christi 400 Mann Street, Suite 210 Corpus Christi, TX 78401-2046 PHONE: (512) 888-3162 FAX: (512) 888-3115	MSO Houston-Galveston P.O. Box 446 Galena Park, TX 77547-0446 PHONE: (713) 671-5100 ext. 0 FAX: (713) 671-5177	MSO Mobile P.O. Box 2924 150 N. Royal Street Mobile, AL 36652-2924 PHONE: (334) 441-5121 FAX: (334) 441-6169
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MSO San Diego 2716 N. Harbor Drive San Diego, CA 92101-1064 PHONE: (619) 683-6477 FAX: (619) 683-6504	MSO San Francisco Building 14, Coast Guard Island Alameda, CA 94501-5100 PHONE: (510) 437-3082 FAX: (510) 437-3072	MSO Puget Sound 1519 Alaskan Way South, Building 1 Seattle, WA 98134-1192 PHONE: (206) 217-6232 FAX: (206) 217-6345	MSO Portland 6767 N. Basin Avenue Portland, OR 97217-3992 PHONE: (503) 240-9301 FAX: (503) 240-9302
MSO Honolulu 433 Ala Moana Boulevard Honolulu, HI 96813-4909 PHONE: (808) 522-8252 FAX: (808) 522-8271	MARSEC/MSO Guam PSC 455, Box 176 FPO AP, 95-6540-1056 PHONE: (671) 339-2001 ext.164 FAX: (671) 339-2005	MSO Juneau 2760 Sherwood Lane, Suite 2A Juneau, AK 99801-8545 PHONE: (907) 463-2464 FAX: (907) 463-2445	MSO Anchorage 510 L Street, Suite 100 Anchorage, AK 99501-1946 PHONE: (907) 271-6724 FAX: (907) 271-6751
MSO Valdez P.O. Box 486 105 South Clifton Valdez, AK 99686-0486 PHONE: (907) 835-7205 FAX: (907) 835-7207			

The geographic boundaries for all Captain of the Port Zones are contained in 33 CFR part 3.

7. Revise Appendix B to Subpart D of Part 160—United States Coast Guard Marine Facility Questionnaire to read as follows:

Appendix B to Subpart D of Part 160—United States Coast Guard Marine Facility Questionnaire

OMB Approval No. 2115-0639

United States Coast Guard Marine Facility Questionnaire

[IMO Year 2000 Questionnaire 3 and United States Supplement 2]

Instructions

- Please complete this marine facility questionnaire as fully as possible and submit to the U.S. Coast Guard via:

Mail: U. S. Coast Guard (G-MOC/Y2K) c/o The Centech Group 2000 N. 14th Street Suite 700 Arlington, VA 22201	**OR**	**Fax:** 1-877-825-4357 (for U.S. submissions) OR 1-703-522-1839 (for international submissions)	**OR**	Complete the questionnaire and supplement on the Coast Guard's Internet web site at: http://www.uscg.mil/hq/g-m/y2k.htm

- You must submit all portions of this questionnaire required for your facility so that they are received by **August 20, 1999**. If your facility **will not** conduct cargo loading/transfer operations on any of the peak risk periods, but will be operating at any time between August 1, 1999, and March 31, 2000, you need only complete the U.S. Supplement 2 and submit it to the Coast Guard via one of the methods outlined above. You **do not** have to complete the IMO Year 2000 Questionnaire 3.
- If your facility will not be operating at any time between August 1, 1999, and March 31, 2000, you need not submit any portion of this questionnaire.
- The peak risk periods are:
  Midnight (2400) September 7, 1999, through midnight (2400) September 9, 1999; and
  Midnight (2400) December 30, 1999, through midnight (2400) January 1, 2000; and
  Midnight (2400) February 27, 2000, through midnight (2400) February 29, 2000.
- If your Y2K preparedness changes or your operational plans change, you must submit an updated questionnaire(s) as soon as possible.
- Any updated or new questionnaires submitted during the peak risk periods must be submitted to the Captain of the Port of the zone in which the facility is operating instead of the locations specified above. A list of Captain of the Port addresses and fax numbers is provided on page 4.
- **Data items on the IMO Questionnaire 3 marked with an asterisk (*) do not need to be filled in if the questionnaire is being submitted to the U.S. Coast Guard since the U.S. Supplement addresses similar information.**
- Please **DO NOT SUBSTITUTE** Y2K-related contingency plans, brochures, policy statements or similar documents for this questionnaire and supplement.
- If you have questions about this questionnaire, contact the Coast Guard Office of Compliance at Commandant (G-MOC), 2100 2nd Street, SW, Washington, D.C. 20593-0001; tel: 202-267-2978;

An agency may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this collection is 2115-0639. The Coast Guard estimates it will take, on average, 8 minutes to complete and submit both Questionnaire 3 and Supplement 2. You may submit any comments concerning the accuracy of this burden estimate or any suggestions for reducing the burden to: Commandant (G-MOC), U.S. Coast Guard, Washington, DC 20593-001.

IMO YEAR 2000 QUESTIONNAIRE 3

From: United States Coast Guard

To: (Marine Facility/Terminal Operator) _____

Date/time of expected arrival/departure *: _____

It is anticipated that the above ship will/may require to navigate or handle cargo within your port on or around the above dates. Please complete the following questions concerning the Year 2000 preparations made by the Port Authority/Terminal Operator.

	Circle as appropriate	
1) Does the facility have a documented Year 2000 policy in place?	YES	NO
2) Has an inventory check to identify and categorize non-compliant equipment been carried out?	YES	NO
3) Has all equipment critical to the safety of navigation/cargo handling been assessed for Year 2000 compliance?	YES	NO
4) Has facility personnel investigated potential problems and solutions?	YES	NO
5) Where non-compliant equipment has not been replaced or upgraded, have alternative systems or manual operations been established?	YES	NO
6) Has the facility sought to establish whether its critical suppliers, utilities and external services are Year 2000 compliant?	YES	NO
7) Is there serious doubt as to the availability of any supply, utility or service which is critical to safety?	YES	NO
8) Does the facility have operational contingency plans in place to cope with unforeseen Year 2000 equipment malfunctions?	YES	NO
9) Have these contingency plans been tested and reviewed to confirm their effectiveness?	YES	NO
10) Has all necessary information been exchanged and agreed with ships/shipping company on any additional Year 2000 specific requirements applicable to port/terminal/facility operations?	YES	NO

Name: _____
Position*: _____
Contact Address*: _____
_____

Signature*: _____
Date: _____

UNITED STATES SUPPLEMENT 2 TO IMO YEAR 2000 QUESTIONNAIRE 3

In addition to the IMO Year 2000 Questionnaire3, please answer the following as fully as you can for each Marine Facility operating from August 1, 1999 through March 31, 2000.

Marine Safety Office/Captain of the Port zone located in: _____

Name of Facility: _____

Type(s) of Facility: _____

Name of Company: _____

Name of Person completing questionnaire: _____

Your Title: _____

Address: _____

City: _____ **State:** _____ **Zip:** _____

Phone: _____ **FAX:** _____ **E-mail:** _____

Please indicate (by circling) if this is an: Initial/Original Questionnaire Updated Questionnaire

Please answer the following questions.	**Circle as appropriate**
1) Will the facility conduct cargo loading/transfer operations on the following dates of concern?	
• Midnight September 7 – midnight September 9, 1999	YES MAYBE NO
• Midnight December 30, 1999 – midnight January 1, 2000	YES MAYBE NO
• Midnight February 27 – midnight February 29, 2000	YES MAYBE NO
If you answer "yes" or "maybe" for any date, please complete IMO Year 2000 Questionnaire 3. If you answer "no" for all dates, stop here, you are not required to complete the IMO questionnaire, but you must still submit this supplement to the United States Coast Guard per the instructions on page 1. If, in the future, one of your answers changes from "no" to "yes" or "maybe," submit an updated questionnaire.	
2) Where potential problems and solutions have been identified, has the facility carried out appropriate remedial actions?	YES NO

Marine Safety Offices (MSOs)/Captains of the Port

MSO Portland 103 Commercial Street Portland, ME 04101-4726 PHONE: (207) 780-3681 FAX: (207) 780-3567	MSO Boston 455 Commercial Street Boston, MA 02109-1045 PHONE: (617) 223-3435 FAX: (617) 223-3032	MSO Providence 20 Risho Avenue East Providence, RI 02914-1208 PHONE: (401) 435-2350 FAX: (401) 435-2382	Group/MSO Long Island Sound 120 Woodward Avenue New Haven, CT 06512-3698 PHONE: (203) 468-4401 FAX: (203) 468-4445
USCG Activities New York Prevention/Compliance Division 212 Coast Guard Drive Staten Island, NY 10305 PHONE: (718) 354-4207 FAX: (718) 354-4301	Coast Guard Activities Baltimore 2401 Hawkins Point Road Baltimore, MD 21226-1791 PHONE: (410) 576-2693 FAX: (410) 962-0930	MSO Hampton Roads Norfolk Federal Building, 200 Granby Street Norfolk, VA 23510-1888 PHONE: (757) 441-3300 FAX: (757) 441-3262	MSO Wilmington 272 N. Front Street, Suite 500 Wilmington, NC 28401-3907 PHONE: (910) 815-4895 ext. 107 FAX: (910) 815-4523
MSO/Group Philadelphia 1 Washington Avenue Philadelphia, PA 19147-4395 PHONE: (215) 271-4806 FAX: (215) 271-4833	MSO Miami P.O. Box 01-6940 Miami, FL 33101-6940 PHONE: (305) 535-8705 FAX: (305) 535-8742	MSO Jacksonville 7820 Arlington Expressway, Suite 400 Jacksonville, FL 32211-7445 PHONE: (904) 232-2640 ext. 106 FAX: (904) 232-2664	MSO Tampa 155 Columbia Drive Tampa, FL 33606-3598 PHONE: (813) 228-2189 FAX: (813) 228-2399
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The geographic boundaries for all Captain of the Port Zones are contained in 33 CFR part 3.

Dated: July 28, 1999.

Joseph J. Angelo,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 99–19762 Filed 7–28–99; 4:40 pm]

BILLING CODE 4910–15–C

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300894; FRL–6090–2]

RIN 2070–AB78

Imidacloprid; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety in or on cucurbit vegetables (Crop Group 9) at 0.5 parts per million (ppm), tuberous and corm vegetable subgroup at 0.3 ppm, dasheen leaves at 3.5 ppm, and watercress (upland) at 3.5 ppm. The Interregional Research Project Number 4 (IR-4) New Jersey Agricultural Experiment Station requested these tolerances under the Federal Food, Drug, and Cosmetic Act, as amended by the Food Quality Protection Act of 1996.

DATES: This regulation is effective August 2, 1999. Objections and requests for hearings must be received by EPA on or before October 1, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number, [OPP–300894], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300894], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 file format or ASCII file format. All copies of objections and hearing requests in electronic form must be identified by the docket control number [OPP–300894]. No Confidential Business Information (CBI) should be submitted through e-mail. Electronic copies of objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Peg Perreault, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 209, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5417, Perreault.Peg@epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 8, 1999 (64 FR 17171) (FRL–6071–2), EPA issued a notice pursuant to section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) announcing the filing of three pesticide petitions (PP 6E4766, 7E4898, and 7E4899) for tolerances by the Interregional Research Project Number 4 (IR-4) New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. This notice included a summary of the petitions prepared by IR-4. There were no comments received in response to the notice of filing.

The petitions requested that 40 CFR 180.472(a) be amended by establishing tolerances for combined residues of the insecticide imidacloprid (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine and its metabolites containing the 6-chloropyridinyl moiety, all expressed as (1-[(6-chloro-3-pyridinyl)methyl]-*N*-nitro-2-imidazolidinimine, in or on cucurbit vegetables (Crop Group 9) at 0.5 parts per million (ppm), tuberous and corm vegetable subgroup at 0.3 ppm, dasheen leaves at 3.5 ppm, and watercress (upland) at 3.5 ppm.

I. Background and Statutory Findings

Section 408(b)(2)(A)(i) of the FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue....''

EPA performs a number of analyses to determine the risks from aggregate exposure to pesticide residues. For further discussion of the regulatory requirements of section 408 and a complete description of the risk assessment process, see the final rule on Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997) (FRL–5754–7).

II. Aggregate Risk Assessment and Determination of Safety

Consistent with section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of imidacloprid and to make a determination on aggregate exposure, consistent with section 408(b)(2), for tolerances for combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety on cucurbit vegetables (Crop Group 9) at 0.5 ppm, tuberous and corm vegetable subgroup at 0.3 ppm, dasheen leaves at 3.5 ppm, and watercress (upland) at 3.5 ppm. EPA's assessment of the dietary exposures and risks associated with establishing the tolerances follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including

infants and children. The nature of the toxic effects caused by imidacloprid are discussed in Unit II.A. of the Final rule on Imidacloprid Pesticide Tolerances published in the **Federal Register** on September 18, 1998 (63 FR 49837) (FRL–6027–1).

B. Toxicological Endpoints

The toxicological endpoints for imidacloprid are discussed in Unit II.B. of the Final rule on Imidacloprid Pesticide Tolerances published in the **Federal Register** on September 18, 1998.

C. Exposures and Risks

1. *From food and feed uses.* Tolerances have been established (40 CFR 180.472) for the combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, in or on a variety of raw agricultural commodities and meat at 0.3 ppm, milk at 0.1 ppm, poultry at 0.05 ppm, and eggs at 0.02 ppm. Risk assessments were conducted by EPA to assess dietary exposures from imidacloprid as follows.

Section 408(b)(2)(F) states that the Agency may use data on the actual percent of crop treated (PCT) for assessing chronic dietary risk only if the Agency can make the following findings: That the data used are reliable and provide a valid basis to show what percentage of the food derived from such crop is likely to contain such pesticide residue; that the exposure estimate does not underestimate exposure for any significant subpopulation group; and if data are available on pesticide use and food consumption in a particular area, the exposure estimate does not understate exposure for the population in such area. In addition, the Agency must provide for periodic evaluation of any estimates used. To provide for the periodic evaluation of the estimate of PCT as required by section 408(b)(2)(F), EPA may require registrants to submit data on PCT.

The Agency used PCT information to conduct a chronic dietary exposure analysis for imidacloprid as follows: 6% grapefruits, 3% oranges, 13% other citrus, 19% apples, 2% pears, 11% grapes, 30% eggplants/peppers, 32% head lettuce, 21% cole crops, 15% melons, 10% tomatoes, 6% cotton.

The Agency believes that the three conditions, discussed in section 408 (b)(2)(F) concerning the Agency's responsibilities in assessing chronic dietary risk findings, have been met. The PCT estimates are derived from Federal and private market survey data, which are reliable and have a valid basis. Typically, a range of estimates are supplied and the upper end of this range is assumed for the exposure assessment. By using this upper end estimate of the PCT, the Agency is reasonably certain that the percentage of the food treated is not likely to be underestimated. The regional consumption information and consumption information for significant subpopulations is taken into account through EPA's computer-based model for evaluating the exposure of significant subpopulations including several regional groups. Use of this consumption information in EPA's risk assessment process ensures that EPA's exposure estimate does not understate exposure for any significant subpopulation group and allows the Agency to be reasonably certain that no regional population is exposed to residue levels higher than those estimated by the Agency. Other than the data available through national food consumption surveys, EPA does not have available information on the regional consumption of food to which imidacloprid may be applied in a particular area.

i. *Acute exposure and risk.* Acute risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. The acute population adjusted dose (aPAD) for imidacloprid is 0.14 mg/kg bwt/day (aPAD = acute RfD/FQPA UF = 0.42 mg/kg bwt/day/3 = 0.14 mg/kg bwt/day). EPA conducted a DEEM (Dietary Exposure Evaluation Model) analysis for acute dietary (food) risk assessment using the Theoretical Maximum Residue Contribution (TMRC), which assumes tolerance level residues and 100% crop-treated (Tier 1). The analysis evaluates individual food consumption as reported by respondents in the USDA Continuing Surveys of Food Intake by Individuals conducted in 1989 through 1992. The model accumulates exposure to the chemical for each commodity and expresses risk as a function of dietary exposure. Resulting exposure values (at the 95th percentile) and percentage of aPAD utilized were below EPA's level of concern for the U.S. population and all subgroups, with the highest exposure in the subgroup children, 1-6 yrs (0.062 mg/kg bwt/day, 44% of the aPAD). The results of this analysis indicate that the acute risk from residues of imidacloprid on food is below EPA's level of concern.

ii. *Chronic exposure and risk.* The chronic population adjusted dose (cPAD) for imidacloprid is 0.019 mg/kg bwt/day (cPAD = chronic RfD/FQPA UF = 0.057 mg/kg bwt/day/3 = 0.019 mg/kg bwt/day). EPA conducted a DEEM analysis for chronic dietary (food only) risk assessment using tolerance level residues for imidacloprid and PCT information for some crops. The resulting of cPAD utilized is below EPA's level of concern for the U.S. population and all subgroups, with the highest exposure in the subgroup children, 1-6 yrs. (0.0092 mg/kg/day, 48% of the cPAD). The results of this analysis indicate that the chronic risk from residues of imidacloprid on food is below EPA's level of concern. The chronic risk assessment should be considered partially refined. Further refinement using anticipated residue values and PCT information would result in a lower estimate of chronic exposure.

2. *From drinking water.* There are no Maximum Contaminant Levels (MCLs) or Health Advisory (HA) levels established for residues of imidacloprid in drinking water.

EPA's Drinking Water Assessment for Imidacloprid indicates that imidacloprid is persistent, water soluble, and fairly mobile. Thus, residues of imidacloprid may be transported to both surface and ground waters. As a condition of registration, EPA has required the submission of the results of two prospective ground water monitoring studies; however, results from these studies are not yet available. Therefore, EPA has calculated estimated concentrations of imidacloprid in surface and ground waters.

i. *Acute exposure and risk.* For acute exposure analysis, the estimated concentrations of imidacloprid in surface and ground water were calculated based on an application rate of 0.5 lbs ai/acre/year. The estimated concentrations in surface and ground water are 4.1 and 1.1 µg/L (ppb), respectively. Estimated acute drinking water levels of comparison (DWLOCs) for imidaloprid range from 780 µg/L for children (1-6 years old) to 3,900 µg/L for the U.S. population (male). The estimated acute concentrations of imidacloprid in surface and ground water are less than the acute DWLOCs for imidacloprid. Therefore, taking into account the currently registered uses and the uses proposed in this action, EPA concludes with reasonable certainty that residues of imidacloprid in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of acute aggregate human health risk at this time.

ii. *Chronic exposure and risk.* For chronic exposure analysis, the estimated concentrations of imidacloprid in surface and ground water were calculated based on an application rate

of 0.5 lbs ai/acre/year. The estimated concentrations in surface and ground water are 0.1 and 1.1 µg/L parts per billion (ppb), respectively. Estimated chronic drinking water levels of comparison (DWLOCs) for imidacloprid range from 98 µg/L for children (1-6 years old) to 490 µg/L for the population subgroup males. The estimated chronic concentrations of imidacloprid in surface and ground water are less than the chronic DWLOCs for imidacloprid. Therefore, taking into account the currently registered uses and the uses proposed in this action, EPA concludes with reasonable certainty that residues of imidacloprid in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of chronic aggregate human health risk at this time.

iii. *Short-term exposure and risk*. For purposes of risk assessment, the estimated maximum chronic exposure of imidacloprid from surface and ground waters (1.1 µg/L), were used for comparison to the DWLOCs for the short-term endpoint.

The DWLOC for short-term exposure to imidacloprid was calculated relative to the aPAD which was utilized for estimating risk for short-term oral exposure to imidacloprid. To calculate the DWLOC for short-term exposure relative to an acute toxicity endpoint, the sum of chronic dietary food exposure and oral exposure to imidacloprid from home garden, turf, and pet uses was subtracted from the aPAD to obtain the acceptable short-term exposure to imidacloprid in drinking water (highest chronic food exposure = 0.0092 mg/kg/day, oral exposure from home garden and turf uses = 0.072 mg/kg bwt/day and, oral exposure from pet uses = 0.058 mg/kg bwt/day). DWLOCs were then calculated using default body weights and drinking water consumption figures. The estimated chronic concentrations of imidacloprid in surface and ground water are less than the short-term DWLOCs for imidacloprid. Therefore, taking into account the currently registered uses and the uses proposed in this action, EPA concludes with reasonable certainty that residues of imidacloprid in drinking water (when considered along with other sources of exposure for which EPA has reliable data) would not result in unacceptable levels of short-term aggregate human health risk at this time.

3. *From non-dietary exposure.* Imidacloprid is currently registered for use on the following residential non-food sites: ornamentals (e.g., flowering and foliage plants, ground covers, turf, lawns), tobacco, golf courses, walkways, recreational areas, household or domestic dwellings (indoor/outdoor), and pets (cats and dogs). Available data do not demonstrate that imidacloprid has either dermal or inhalation toxicity potential; therefore, non-dietary dermal and inhalation exposure assessments are not required. Since available data show no toxicity from short-term exposure via the dermal or inhalation route, the Agency feels there is no contribution to toxicity from these routes of exposure, and no increase in aggregate risk is anticipated from this exposure. However, there is the potential for residential exposure via incidental non-dietary ingestion from treated lawns and gardens and incidental non-dietary ingestion by toddlers of pesticide residues on pets from hand-to-mouth transfer. Therefore, an increase in short-term aggregate risk is anticipated from residential exposure via incidental non-dietary ingestion and residential exposure.

The product Premise, a termiticide, is also registered for residential use. Premise may be applied only by PCOs and only to inaccessible areas of homes or other buildings; therefore, oral exposure to children is not expected. There is potential for inhalation exposure. However, an inhalation endpoint has not been established, and data from EPA's environmental fate one-liner data base indicates that imidacloprid has a low vapor pressure (6.9×10^{-9} torr). Therefore, inhalation exposure due to residential use is not expected to pose a risk.

Short-term exposure and risk from residential uses of imidacloprid are discussed in detail in Unit II.C.3. of the Final rule on Imidacloprid Pesticide Tolerances published in the **Federal Register** on September 18, 1998. In summary, the residential exposure scenarios examined include the following postapplication short-term oral exposure scenarios for toddlers:

- Incidental non-dietary ingestion of residues on lawns from hand-to-mouth transfer.
- Ingestion of pesticide-treated turfgrass.
- Incidental ingestion of soil from treated gardens.
- Incidental ingestion of pesticide residues on pets from hand-to-mouth transfer.

For children (1 - 6 years), the residential exposure from the home garden and turf uses was estimated to be 0.072 mg/kg bwt/day and the residential exposure from the pet use was estimated to be 0.058 mg/kg bwt/day. It should be noted that these exposures are very conservative estimates since EPA utilized the Draft Standard Operating Procedures for Residential Exposure Assessments (dated December 18, 1997) to estimate these exposures. In the absence of data, it was estimated that 20% of the application rate is retained on pets and that 1% of the available residues are transferred to the skin of individuals who have contact with treated animals. The actual values may be different. A study to quantify dislodgeable residue for toddler's hand from pets treated with these types of products is required. The submission of this study is a condition of the registration of imidacloprid.

4. *Cumulative exposure to substances with a common mechanism of toxicity*. Section 408(b)(2)(D)(v) requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA does not have, at this time, available data to determine whether imidacloprid has a common mechanism of toxicity with other substances or how to include this pesticide in a cumulative risk assessment. Unlike other pesticides for which EPA has followed a cumulative risk approach based on a common mechanism of toxicity, imidacloprid does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has not assumed that imidacloprid has a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see the final rule for Bifenthrin Pesticide Tolerances (62 FR 62961, November 26, 1997).

D. Aggregate Risks and Determination of Safety for U.S. Population

In examining aggregate exposure, FQPA directs EPA to consider available information concerning exposures from the pesticide residue in food and all other non-occupational exposures. The primary non-food sources of exposure the Agency looks at include drinking water (whether from ground or surface water), and exposure through pesticide use in gardens, lawns, or buildings (residential and other indoor and/or outdoor uses). In evaluating food exposures, EPA takes into account varying consumption patterns of major identifiable subgroups of consumers, including infants and children.

1. *Acute risk.* Using the conservative TMRC exposure assumptions and taking into account the completeness and reliability of the toxicity data, EPA has estimated the acute exposure to imidacloprid from food for the most highly exposed population subgroup (children 1 - 6 yrs) will utilize 44% of the aPAD. It was determined that an acceptable acute dietary exposure (food plus water) of 100% or less of the aPAD is needed to protect the safety of all population subgroups.

Despite the potential for exposure to imidacloprid in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the aPAD for adults. The maximum estimated concentration of Imidacloprid in surface and ground water for acute exposure is very small compared to the DWLOC. Under current EPA guidelines, non-dietary uses of imidacloprid do not constitute an acute exposure scenario.

2. *Chronic risk.* Using the partially refined exposure assumptions described in this unit and taking into account the completeness and reliability of the toxicity data, EPA has estimated the chronic exposure to imidacloprid from food for the most highly exposed population subgroup (children, 1-6 years old) will utilize 48% of the cPAD. It was determined that an acceptable chronic dietary exposure (food plus water) of 100% or less of the cPAD is needed to protect the safety of all population subgroups.

Despite the potential for exposure to imidacloprid in drinking water, EPA does not expect the aggregate exposure to exceed 100% of the cPAD. The maximum estimated concentration of Imidacloprid in surface and ground water for chronic exposure is very small compared to the DWLOC. The registered non-dietary uses of imidacloprid do not constitute a chronic exposure scenario.

3. *Short- and intermediate-term risk.* Short- and intermediate-term aggregate exposure takes into account chronic dietary food and water (considered to be a background exposure level) plus indoor and outdoor residential exposure. Dermal and inhalation short- and intermediate-term risks are not expected for imidacloprid as dermal and inhalation exposure endpoints were not identified due to the demonstrated absence of toxicity. Short- and intermediate-term oral exposures are not expected for adult population subgroups.

Since imidacloprid is registered for use on turf, home gardens and pets, EPA has identified potential short-term oral exposures to children for these uses. A short-term oral endpoint was not identified for imidacloprid. If an oral endpoint is needed for short-term risk assessment (for incorporation of food, water, or oral hand-to-mouth type exposures into an aggregate risk assessment), the acute oral endpoint (LOAEL = 42 mg/kg bwt/day) is used to incorporate the oral component into aggregate risk. The short-term aggregate exposure and risk were calculated (chronic dietary exposure (food only) plus residential exposure (hand-to-mouth from turf, garden, and pet uses) for children age 1-6, resulting in a total MOE of 302 (the acceptable MOE for imidacloprid is 300). Potential short-term exposure from drinking water is at a level below EPA's level of concern. It should also be pointed out that this short-term aggregate risk assessment is a very conservative assessment due to the fact that all exposures are conservative estimates, with the chronic food exposure derived from assuming all residues at the tolerance level and some PCT, and the residential exposures from lawn, garden, and pet uses derived from the Draft Standard Operating Procedures for Residential Exposure Assessment (December 18, 1997) where several conservative assumptions were made including assuming 100% of residue on hands of toddlers is ingested. In addition, the aggregation routes are conservative by assuming children eat treated grass, soil, and have hand-to-mouth transfer from treated pets all on the same day.

4. *Aggregate cancer risk for U.S. population.* Imidacloprid has been classified as a Group E chemical, no evidence of carcinogenicity for humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result from aggregate exposure to imidacloprid residues.

E. Aggregate Risks and Determination of Safety for Infants and Children

1. *Safety factor for infants and children*— i. *In general.* The determination of the 3X safety factor to account for the potential for increased sensitivity of infants and children to residues of imidacloprid is discussed in Unit II.E.1.i. of the Final rule on Imidacloprid Pesticide Tolerances published in the **Federal Register** on September 18, 1998.

ii. *Developmental toxicity studies.* Developmental toxicity is discussed in Units II.A.4. and II.E.1. of the **Federal Register** document published on September 18, 1998.

iii. *Reproductive toxicity study.* Reproductive toxicity is discussed in Units II.A.5. and II.E.1. of the **Federal Register** document published on September 18, 1998.

iv. *Prenatal and postnatal sensitivity.* Prenatal and postnatal sensitivity is discussed in Unit II.E.1. of the **Federal Register** document published on September 18, 1998.

v. *Conclusion.* The toxicology data base for imidacloprid is complete with respect to core requirements; however, a developmental neurotoxicity study (Guideline No. 83-6) is required. Exposure data are estimated based on data that reasonably accounts for potential exposures; however, a study to quantify dislodgeable residues on toddler's hands from pets treated with imidacloprid is required.

2. *Acute risk.* Aggregate acute risks for the entire U.S. population and for population subgroups, including infants and children, are discussed in Unit II.D.1. of this preamble.

3. *Chronic risk.* Using the exposure assumptions described in this unit, EPA has concluded that aggregate exposure to imidacloprid from food will utilize 31% of the cPAD for all infants (< 1 year old), 9.2% of the cPAD for nursing infants (<1 year old), 40% of the cPAD for non-nursing infants (<1 year old), 48% of the cPAD for children 1-6 years old, and 10% of the cPAD for children 7-12 years old. EPA generally has no concern for exposures below 100% of the cPAD because the cPAD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. Despite the potential for exposure to imidacloprid in drinking water and from non-dietary, non-occupational exposure, EPA does not expect the aggregate exposure to exceed 100% of the cPAD.

4. *Short- or intermediate-term risk.* Aggregate short- and intermediate-term risks for the entire U.S. population and for population subgroups, including infants and children are discussed in Unit II.D.3. of this preamble.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to imidacloprid residues.

III. Other Considerations

A. Metabolism in Plants and Animals.

Data concerning the metabolism of imidacloprid in apples, potatoes, tomatoes, eggplant, cottonseed, field corn, ruminants and poultry have previously been submitted. The nature of imidacloprid residues in plants and animals is adequately understood. The residue of concern is imidacloprid and its metabolites containing the 6-

chloropyridinyl moiety, all expressed as parent, as specified in 40 CFR 180.472.

B. Analytical Enforcement Methodology

Adequate enforcement methods are available for determination of the regulated imidacloprid residue in plant (Bayer GC/MS Method 00200 and Bayer HPLC-UV Confirmatory Method 00357) and animal (Bayer GC/MS Method 00191) commodities. These methods have successfully completed EPA Tolerance Method Validation, and are awaiting publication in PAM II. In the interim, these methods are available from: Calvin Furlow, PRRIB, IRSD (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm 101FF, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703–305–5229).

Bayer Corporation has previously submitted adequate multiresidue method (MRM) recovery data for imidacloprid and its olefin, hydroxy, guanidine, and 6-chloronicotininc acid metabolites through FDA's Protocols A through E. imidacloprid and its metabolites were not recoverable by these methods. These data have been forwarded to FDA and we expect them to be published in the Pesticide Analytical Manual (PAM), Vol I, Appendix I in a future update. Additional MRM recovery data are not required.

C. Magnitude of Residues

The crop field trial data support the proposed tolerances for combined residues of imidacloprid and its metabolites containing the 6-chloropyridinyl moiety.

D. International Residue Limits

There are no established CODEX, Canadian or Mexican residue limits for imidacloprid in/on the cucurbit vegetable crop group, tuberous and corm vegetable subgroup, dasheen leaves, and upland watercress. Thus, harmonization of the proposed tolerances with CODEX, Canada and Mexico is not an issue for these petitions.

E. Rotational Crop Restrictions

Data concerning the metabolism of imidacloprid in confined rotational crops was previously submitted. The nature of the residue in rotational crops is adequately understood and is nearly identical to that identified in the primary crops. The residue of concern in rotational crops is imidacloprid and its metabolites containing the 6-chloropyridinyl moiety, all expressed as parent. Treated areas may be replanted with any crop specified on an imidacloprid label, or any crop for which a tolerance exists for imidacloprid, as soon as practical following the last application, with the exception of cereals, legumes, and safflower, which have a 30-day plant-back restriction. A 12-month plant-back restriction must be observed for crops not listed on an imidacloprid label and for crops for which no tolerances for imidacloprid have been established.

IV. Conclusion

Therefore, tolerances are established for combined residues of Imidacloprid and its metabolites containing the 6-chloropyridinyl moiety in cucurbit vegetables (Crop Group 9) at 0.5 ppm, tuberous and corm vegetable subgroup at 0.3 ppm, dasheen leaves at 3.5 ppm, and upland watercress at 3.5 ppm.

V. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 1, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this regulation. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

VI. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300894] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

VII. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes tolerances under section 408(d) of the FFDCA in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.* , or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require any special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerances in this Final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

VIII. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 19, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180–[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), (346a) and 371.

2. In § 180.472(a), by alphabetically adding the following commodities to the table to read as follows:

§ 180.472 Imidacloprid; tolerances for residues.

(a) * * *

Commodity	Parts per million	Expiration/ RevocationDate
* *	*	* *
Dasheen, leaves	3.5	None
* *	*	* *
Vegetable, cucurbit, group	0.5	None
Vegetable, tuberous and corm, subgroup	0.3	None
Watercress, upland	3.5	None
* *	*	* *

* * * * *

[FR Doc. 99–19595 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300901; FRL–6092–9]

RIN 2070–AB78

Pyriproxyfen; Extension of Tolerance for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation extends a time-limited tolerance for combined residues of the insecticide pyriproxyfen and its metabolites in or on tomatoes at 0.1 part per million (ppm) for an additional 2–year period. This tolerance will expire and is revoked on July 31, 2001. This action is in response to EPA's granting of an emergency exemption under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on tomatoes. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective August 2, 1999. Objections and requests for hearings must be received by EPA, on or before October 1, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300901], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300901], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300901]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Andrew Ertman, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location , telephone number, and e-mail address: Rm. 280, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 308–9367; e-mail: ertman.andrew@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of May 13, 1998 (62 FR 26466) (FRL–5788–2), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established a time-limited tolerance for the residues of pyriproxyfen in or on tomatoes at 0.1 ppm, with an expiration date of July 31, 1999. EPA established the tolerance because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received a request to extend the use of pyriproxyfen on tomatoes for this year's growing season due to the continuing emergency situation with whiteflies. A recently introduced strain or species of whitefly has caused extensive damage over the past several years to various vegetable crops in southern areas of the U.S., including tomatoes. This pest has demonstrated resistance to available materials and is expected to cause significant economic losses if not adequately controlled. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of pyriproxyfen on tomatoes for control of whiteflies in tomatoes.

EPA assessed the potential risks presented by residues of pyriproxyfen in or on tomatoes. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rule of May 13, 1998 (62 FR 26466). Based on those data and information considered, the Agency reaffirms that extension of the time-limited tolerance will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerance is extended for an additional 2–year period. EPA will publish a document in the **Federal Register** to remove the revoked tolerance from the Code of Federal Regulations (CFR). Although this tolerance will expire and is revoked on July 31, 2001, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerance remaining in or on tomatoes after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerance. EPA will take action to revoke this tolerance earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 1, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300901] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal

governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 16, 1999.

Peter Caulkins,

Acting Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

§ 180.510 [Amended]

2. In § 180.510, by amending the table in paragraph (b), by revising the expiration/revocation date for Tomatoes from ''7/31/99'' to read ''7/31/01''.

[FR Doc. 99–19597 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300902; FRL–6094–2]

RIN 2070–AB78

Propiconazole; Re-establishment of Tolerances for Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation re-establishes time-limited tolerances for combined residues of the fungicide propiconazole and its metabolites in or on grain sorghum, grain at 0.2 parts per million (ppm); grain sorghum, stover at 1.5 ppm and sorghum grain aspirated fractions at 20 ppm. These tolerances expired on July 31, 1998. Additionally, this regulation re-establishes time-limited tolerances for combined residues of propiconazole and its metabolites in or on dry beans, dry bean forage, and dry bean hay which expired on December 31, 1998. This action is in response to EPA's granting of emergency exemptions under section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) authorizing use of the pesticide on grain sorghum and dry beans. Section 408(l)(6) of the Federal Food, Drug, and Cosmetic Act requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18.

DATES: This regulation becomes effective August 2, 1999. Objections and requests for hearings must be received by EPA, on or before October 1, 1999.

ADDRESSES: Written objections and hearing requests, identified by the docket control number [OPP–300902], must be submitted to: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW., Washington, DC 20460. Fees accompanying objections and hearing requests shall be labeled ''Tolerance Petition Fees'' and forwarded to: EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251. A copy of any objections and hearing requests filed with the Hearing Clerk identified by the docket control number, [OPP–300902], must also be submitted to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, bring a copy of objections and hearing requests to Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

A copy of objections and hearing requests filed with the Hearing Clerk may also be submitted electronically by sending electronic mail (e-mail) to: opp-docket@epa.gov. Copies of electronic objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Copies of objections and hearing requests will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All copies of electronic objections and hearing requests must be identified by the docket control number [OPP–300902]. No Confidential Business Information (CBI) should be submitted through e-mail. Copies of electronic objections and hearing requests on this rule may be

filed online at many Federal Depository Libraries.

FOR FURTHER INFORMATION CONTACT: By mail: Stephen Schaible, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 271, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, 703–308–9362; e-mail: schaible.stephen@epa.gov.

SUPPLEMENTARY INFORMATION: EPA issued a final rule, published in the **Federal Register** of August 13, 1997 (62 FR 43284) (FRL–5735–2), which announced that on its own initiative under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, as amended by the Food Quality Protection Act of 1996 (FQPA) (Public Law 104–170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on grain sorghum, grain at 0.2 ppm; grain sorghum, stover at 1.5 ppm and sorghum aspirated grain fractions at 20 ppm, with an expiration date of July 31, 1998.

EPA also issued a final rule, published in the **Federal Register** of June 13, 1997 (62 FR 32224) (FRL–5718–8), which announced that on its own initiative under section 408 of the FFDCA, 21 U.S.C. 346a, as amended by the FQPA (Public Law 104–170) it established time-limited tolerances for the combined residues of propiconazole and its metabolites in or on dry beans at 0.5 ppm; dry bean, forage at 8 ppm; and dry beans, hay at 8 ppm, with an expiration date of December 31, 1998.

EPA established the tolerances because section 408(l)(6) of the FFDCA requires EPA to establish a time-limited tolerance or exemption from the requirement for a tolerance for pesticide chemical residues in food that will result from the use of a pesticide under an emergency exemption granted by EPA under FIFRA section 18. Such tolerances can be established without providing notice or period for public comment.

EPA received requests to extend the use of propiconazole on grain sorghum and dry beans for this year's growing season due to the continued emergency conditions for grain sorghum growers brought on by the spread of sorghum ergot *Claviceps africana* and for bean growers due to the rust. After having reviewed the submission, EPA concurs that emergency conditions exist. EPA has authorized under FIFRA section 18 the use of propiconazole on grain sorghum for control of sorghum ergot and on dry beans for control of rust.

EPA assessed the potential risks presented by residues of propiconazole in or on grain sorghum and dry beans. In doing so, EPA considered the safety standard in FFDCA section 408(b)(2), and decided that the necessary tolerance under FFDCA section 408(l)(6) would be consistent with the safety standard and with FIFRA section 18. The data and other relevant material have been evaluated and discussed in the final rules of August 13, 1997 (62 FR 43284) and June 13, 1997 (62 FR 32224). Based on that data and information considered, the Agency reaffirms that re-establishment of the time-limited tolerances will continue to meet the requirements of section 408(l)(6). Therefore, the time-limited tolerances are re-established with an expiration date of July 31, 2000, for grain sorghum commodities and December 31, 2000, for dry bean commodities. EPA will publish a document in the **Federal Register** to remove the revoked tolerances from the Code of Federal Regulations (CFR). Although the tolerances on grain sorghum commodities and dry bean commodities will expire and are revoked on July 31, 2000, and December 31, 2000, respectively, under FFDCA section 408(l)(5), residues of the pesticide not in excess of the amounts specified in the tolerances remaining in or on grain sorghum, grain; grain sorghum, stover and sorghum aspirated grain fractions; dry beans; dry bean, forage and dry bean, hay after that date will not be unlawful, provided the pesticide is applied in a manner that was lawful under FIFRA and the application occurred prior to the revocation of the tolerances. EPA will take action to revoke these tolerances earlier if any experience with, scientific data on, or other relevant information on this pesticide indicate that the residues are not safe.

I. Objections and Hearing Requests

The new FFDCA section 408(g) provides essentially the same process for persons to ''object'' to a tolerance regulation as was provided in the old section 408 and in section 409. However, the period for filing objections is 60 days, rather than 30 days. EPA currently has procedural regulations which govern the submission of objections and hearing requests. These regulations will require some modification to reflect the new law. However, until those modifications can be made, EPA will continue to use those procedural regulations with appropriate adjustments to reflect the new law.

Any person may, by October 1, 1999, file written objections to any aspect of this regulation and may also request a hearing on those objections. Objections and hearing requests must be filed with the Hearing Clerk, at the address given under the ''ADDRESSES'' section (40 CFR 178.20). A copy of the objections and/or hearing requests filed with the Hearing Clerk should be submitted to the OPP docket for this rulemaking. The objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections (40 CFR 178.25). Each objection must be accompanied by the fee prescribed by 40 CFR 180.33(i). EPA is authorized to waive any fee requirement ''when in the judgement of the Administrator such a waiver or refund is equitable and not contrary to the purpose of this subsection.'' For additional information regarding tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location, telephone number, and e-mail address: Rm. 239, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–5697, tompkins.jim@epa.gov. Requests for waiver of tolerance objection fees should be sent to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

If a hearing is requested, the objections must include a statement of the factual issues on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the requestor (40 CFR 178.27). A request for a hearing will be granted if the Administrator determines that the material submitted shows the following: There is genuine and substantial issue of fact; there is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary; and resolution of the factual issues in the manner sought by the requestor would be adequate to justify the action requested (40 CFR 178.32). Information submitted in connection with an objection or hearing request may be claimed confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the information that does not contain CBI must be submitted for

inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice.

II. Public Record and Electronic Submissions

EPA has established a record for this regulation under docket control number [OPP–300902] (including any comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The public record is located in Room 119 of the Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA.

Objections and hearing requests may be sent by e-mail directly to EPA at:

opp-docket@epa.gov

E-mailed objections and hearing requests must be submitted as an ASCII file avoiding the use of special characters and any form of encryption.

The official record for this regulation, as well as the public version, as described in this unit will be kept in paper form. Accordingly, EPA will transfer any copies of objections and hearing requests received electronically into printed, paper form as they are received and will place the paper copies in the official record which will also include all comments submitted directly in writing. The official record is the paper record maintained at the Virginia address in ''ADDRESSES'' at the beginning of this document.

III. Regulatory Assessment Requirements

A. Certain Acts and Executive Orders

This final rule establishes a tolerance under section 408 of the FFDCA. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Public Law 104–4). Nor does it require special considerations as required by Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994), or require OMB review in accordance with Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997).

In addition, since tolerances and exemptions that are established under section 408(l)(6) of FFDCA, such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*) do not apply. Nevertheless, the Agency previously assessed whether establishing tolerances, exemptions from tolerances, raising tolerance levels or expanding exemptions might adversely impact small entities and concluded, as a generic matter, that there is no adverse economic impact. The factual basis for the Agency's generic certification for tolerance actions published on May 4, 1981 (46 FR 24950), and was provided to the Chief Counsel for Advocacy of the Small Business Administration.

B. Executive Order 12875

Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to OMB a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

C. Executive Order 13084

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected 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 rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

IV. 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 the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 20, 1999.

James Jones,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346(a) and 371.

§ 180.434 [Amended]

2. In § 180.434, by amending the table in paragraph (b) by revising the date for ''Sorghum, aspirated grain fractions,'' ''Sorghum, grain, grain,'' and ''Sorghum, grain, stover'' from ''7/31/98'' to read ''7/31/00'' and the date for ''Dry bean forage,'' ''Dry bean hay'' and ''Dry beans'' from''12/31/98'' to read ''12/31/00''.

[FR Doc. 99–19598 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP–300868A; FRL–6097–1]

RIN 2070–AB78

Formaldehyde; Revocation of Exemptions from the Requirement of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule announces the revocation of exemptions from the requirement of tolerances for residues found in 40 CFR 180.1032 for formaldehyde or a mixture of methylene bispropionate and oxy(bismethylene) bispropionate in or on the grains of barley, corn, oats, sorghum, and wheat and the forages of alfalfa, Bermuda grass, bluegrass, brome grass, clover, cowpea hay, fescue, lespedeza, lupines, orchard grass, peanut hay, peavine hay, rye grass, soybean hay, sudan grass, timothy, and vetch from postharvest application use as a fungicide to treat animal feeds. This action is being taken because there are no registered uses for formaldehyde on these commodities. The regulatory actions in this notice are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 33% of the tolerances and exemptions in existence on August 2, 1996, by August 1999, or about 3,200 tolerances and exemptions. This document revokes 22 exemptions, which will be counted among reassessments made toward the August 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This final rule becomes effective November 1, 1999. Objections and requests for hearings, identified by docket control number [OPP–300868A] must be received by EPA on or before October 1, 1999.

ADDRESSES: Objections and hearing requests can be submitted by mail or in person. Please follow the detailed instructions provided in Unit V of the **SUPPLEMENTARY INFORMATION** section of this document. To ensure proper identification of your objection or hearing request, you must identify the docket control number [OPP–300868A] in the subject line on the first page of your request.

FOR FURTHER INFORMATION CONTACT: For technical information, contact Phil Budig, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, CM #2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308–8029; e-mail: budig.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not exhaustive, but is a guide to entities likely to be regulated by this action. The North American Industrial Classification System (NAICS) codes will assist you in determining whether this action applies to you. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of this or other Support Documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at www.epa.gov. On the Home Page, select ''Laws and Regulations,'' and then look up the entry for this document under ''**Federal Register** - Environmental Documents.'' You can also go directly to the ''**Federal Register**'' listings at www.epa.gov/fedrgstr.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP–300868A] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

III. What Action is being Taken?

This final rule revokes FFDCA exemptions from the requirement of tolerances for residues of formaldehyde in or on certain specified commodities. EPA is revoking these exemptions from the requirement of tolerances because they are not necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. This pesticide is no longer used on these commodities within the United States and no person has provided comment identifying a need for EPA to retain the exemptions to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances or exemptions that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active

registrations under FIFRA, unless any person, in comments on the proposal, demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

In the **Federal Register** of May 24, 1999 (64 FR 27943) (FRL–6083–3), EPA issued a proposed rule announcing the proposed revocation of exemptions from the requirement of tolerances, in 40 CFR 180.1032, for residues found for formaldehyde. No comments were received by the Agency in response to the document published in the **Federal Register** of May 24, 1999.

Therefore, EPA is revoking the exemptions from the requirement of tolerances found in 40 CFR 180.1032 for residues of formaldehyde or a mixture of methylene bispropionate and oxy(bismethylene) bispropionate in or on the grains of barley, corn, oats, sorghum, and wheat and the forages of alfalfa, Bermuda grass, bluegrass, brome grass, clover, cowpea hay, fescue, lespedeza, lupines, orchard grass, peanut hay, peavine hay, rye grass, soybean hay, sudan grass, timothy, and vetch from postharvest application use as a fungicide to treat animal feeds.

IV. When Do these Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days to ensure that all affected parties receive notice of EPA's action. Consequently, the effective date is November 1, 1999. For this particular final rule, the actions will affect uses which have been canceled for more than a year. Therefore, commodities should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this notice, and that are in the channels of trade following the revocation of exemptions from the requirement of tolerances, shall be subject to FFDCA section 408(1)(5), as established by the Food Quality Protection Act (FQPA). Under this section, any residue of these pesticides in or on such food shall not render the food adulterated, so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

V. Can I Submit Objections or Hearing Requests?

Yes. Any person can file written objections to any aspect of this regulation and can also request a hearing on those objections. Objections and hearing requests are currently governed by the procedures in 40 CFR part 178, modified as needed to reflect the requirements of FFDCA section 408(g).

A. When and Where to Submit

Objections and hearing requests must be mailed or delivered to the Hearing Clerk no later than October 1, 1999. The address of the Hearing Clerk is: Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St., SW, Washington, DC 20460.

B. Fees for Submission

1. Each objection must be accompanied by a fee of $3,275 or a request for waiver of fees. Fees accompanying objections and hearing requests must be labeled ''Tolerance Petition Fees'' and forwarded to EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

2. EPA may waive any fee when a waiver or refund is equitable and not contrary to the purposes of the Act. A request for a waiver of objection fees should be submitted to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, D.C. 20460. The request for a waiver must be accompanied by a fee of $1,650, unless the objector has no financial interest in the matter. The fee, if required, must be submitted to the address in Unit V.B.1. of this document. For additional information on tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), at the same mailing address, or by phone at (703) 305–5697 or e-mail at tompkins.jim@epa.gov.

C. Information to be Submitted

Objections must specify the provisions of the regulation considered objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector. You may claim information that you submit in response to this document as confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed, except in accordance with procedures set forth in 40 CFR, part 2.

D. Granting a Hearing Request

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following:

1. There is a genuine and substantial issue of fact.

2. There is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary.

3. Resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

VI. How Do the Regulatory Assessment Requirements Apply to this Final Action?

A. Is this a ''Significant Regulatory Action''?

No. Under Executive Order 12866, entitled *Regulatory Planning and Review* (58 FR 51735, October 4, 1993), this final action is not a ''significant regulatory action.'' The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not ''significant,'' unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this final action is not subject to Executive Order 13045, entitled *Protection of Children from Environmental Health Risks and Safety Risks* (62 FR 19885, April 23, 1997), because this final action is not an economically significant regulatory action, as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10–fold safety factor to risk assessments, in order to ensure the protection of infants and children, unless reliable data supports a different safety factor.

B. Does this Final Action Contain Any Reporting or Recordkeeping Requirements?

No. This final action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

C. Does this Final Action Involve Any ''Unfunded Mandates''?

No. This final action does not impose any enforceable duty, or contain any ''unfunded mandates,'' as described in Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Final Action in this Document?

No. Under Executive Order 12875, entitled *Enhancing the Intergovernmental Partnership* (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

Under Executive Order 13084, entitled *Consultation and Coordination with Indian Tribal Governments* (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. This final action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Does this Final Action Involve Any Environmental Justice Issues?

No. This action does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations* (59 FR 7629, February 16, 1994).

F. Does this Final Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance final actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), appears at 63 FR 55565, October 16, 1998 (FRL–6035–7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Final Action Involve Technical Standards?

No. This tolerance final action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

H. Are There Any International Trade Issues Raised by this Final Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex Maximum Residue Limits (MRLs) in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.

I. Is this Final Action Subject to Review under the Congressional Review Act?

Yes. The Congressional Review Act, 5 U.S.C. Sec. 801 *et seq.*, as amended 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, U.S. House of Representatives, and Comptroller General of the United States, prior to publication of the rule in the **Federal Register**. This action is not a ''major rule,'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure,

Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 28, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR, part 180, is amended as follows:

PART 180—[AMENDED]

1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a, and 371.

§ 180.1032 [Removed]

2. By removing § 180.1032.

[FR Doc. 99–19783 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180 and 186

[OPP–300906; FRL–6096–2]

RIN 2070–AB78

Fenbutatin oxide, Glyphosate, Linuron, and Mevinphos; Tolerance Actions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This final rule revokes specific tolerances for the herbicides glyphosate and linuron, and the insecticides fenbutatin oxide (hexakis (2-methyl-2-phenylpropyl)distannoxane) and mevinphos (methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers). EPA is revoking these tolerances because the Agency has canceled the food uses associated with them. All registrations for mevinphos were canceled in 1994. These revocations were proposed in the **Federal Register**, as given in the regulatory text. The regulatory actions in this document are part of the Agency's reregistration program under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and the tolerance reassessment requirements of the Federal Food, Drug, and Cosmetic Act (FFDCA). By law, EPA is required to reassess 33% of the tolerances in existence on August 2, 1996, by August 1999, or about 3,200 tolerances. This document revokes 58 tolerances and/or exemptions. Since 3 tolerances were previously reassessed, 55 of the 58 revocations are counted here as reassessments made toward the August, 1999 review deadline of FFDCA section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996.

DATES: This final rule becomes effective November 1, 1999. Objections and requests for hearings, identified by docket control number [OPP–300906], must be received by EPA on or before October 1, 1999.

ADDRESSES: Objections and hearing requests can be submitted by mail or in person. Please follow the detailed instructions provided in Unit V of the ''**SUPPLEMENTARY INFORMATION**'' section of this document. To ensure proper identification of your objection or hearing request, you must identify the docket control number [OPP–300906] in the subject line on the first page of your request.

FOR FURTHER INFORMATION CONTACT: For technical information contact: Joseph Nevola, Special Review Branch, (7508C), Special Review and Reregistration Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location: Special Review Branch, CM#2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA. Telephone: (703) 308–8037; e-mail: nevola.joseph@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. Potentially affected categories and entities may include, but are not limited to:

Categories	NAICS	Examples of Potentially Affected Entities
Industry	111	Crop production
.....	112	Animal production
.....	311	Food manufacturing
.....	32532	Pesticide manufacturing

This listing is not exhaustive, but is a guide to entities likely to be regulated by this action. The North American Industrial Classification System (NAICS) codes will assist you in determining whether this action applies to you. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information or Copies of this or other Support Documents?

A. Electronically

You may obtain electronic copies of this document and various support documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'', and then look up the entry for this document under ''**Federal Register** - Environmental Documents.'' You can also go directly to the ''**Federal Register**''listings at http://www.epa.gov/fedrgstr/.

B. In Person or by Phone

If you have any questions or need additional information about this action, please contact the technical person identified in the ''FOR FURTHER INFORMATION CONTACT'' section. In addition, the official record for this notice, including the public version, has been established under docket control number [OPP–300906] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of any electronic comments, which does not include any information claimed as Confidential Business Information (CBI), is available for inspection in Room 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The Public Information and Records Integrity Branch telephone number is (703) 305–5805.

III. What Action is being Taken?

This final rule revokes the FFDCA tolerances for residues of certain specified pesticides in or on certain specified commodities. EPA is revoking these tolerances because they are not necessary to cover residues of the relevant pesticides in or on domestically treated commodities or commodities treated outside but imported into the United States. These pesticides are no longer used on those specified commodities within the United States and no person has provided comment identifying a need for EPA to retain the tolerances to cover residues in or on imported foods. EPA has historically expressed a concern that retention of tolerances that are not necessary to cover residues in or on legally treated foods has the potential to encourage misuse of pesticides within the United States. Thus, it is EPA's policy to issue a final rule revoking those tolerances for residues of pesticide chemicals for which there are no active registrations under FIFRA, unless any person in

comments on the proposal demonstrates a need for the tolerance to cover residues in or on imported commodities or domestic commodities legally treated.

EPA is not issuing today a final rule to revoke those tolerances for which EPA received comments demonstrating a need for the tolerance to be retained. Generally, EPA will proceed with the revocation of these tolerances on the grounds discussed above only if, (1) prior to EPA's issuance of a section 408(f) order requesting additional data or issuance of a section 408(d) or (e) order revoking the tolerances on other grounds, commenters retract the comment identifying a need for the tolerance to be retained, (2) EPA independently verifies that the tolerance is no longer needed, (3) the tolerance is not supported by data, or (4) the tolerance does not meet the requirements under FQPA.

Except for mevinphos, EPA had issued a Registration Eligibility Decision (RED) for the pesticide active ingredients listed in this document before the passage of FQPA. The RED contains the Agency's evaluation of the data base of a chemical, including requirements for additional data on the active ingredients to confirm the potential human health and environmental risk assessments associated with current product uses, and the Agency's decisions and conditions under which these uses and products will be eligible for reregistration. In the **Federal Register**, EPA issued several documents based on those REDs which proposed the establishment, modification, and revocation of specific tolerances and invited public comment for consideration and for support of tolerance retention under FFDCA standards (see below). Actions which were included in the original proposals, such as establishing or modifying tolerances, require assessment under the FQPA standard of ''reasonable certainty of no harm'', and will be re-proposed after that is completed. However, the tolerance revocations in this document may be taken without such assessment, because the tolerances are no longer necessary.

Hexakis (2-methyl-2 phenylpropyl)distannoxane, also known as fenbutatin oxide, is a miticide/acaricide first registered in 1974. EPA issued a Registration Standard for fenbutatin oxide in 1987 and a RED in November 1994. In the **Federal Register** of March 20, 1996 (61 FR 11359) (FRL–5347–6), EPA proposed to revoke the tolerances for marigolds, fresh in 40 CFR 180.362; and for marigolds (dried and extract) in § 186.3550. Fresh and dried marigolds are not considered to be significant food or feed commodities in Table II, updated in August, 1996 as Table I ''Raw Agricultural and Processed Commodities and Feedstuffs Derived from Crops''. In addition, the Agency proposed tolerance revocations for dried grape pomace and raisin waste, which were revoked in the **Federal Register** of December 17, 1997 (62 FR 66020) (FRL–5753–1). A comment to the March 20, 1996 document was received.

EPA completed its RED for glyphosate in September 1993. In the **Federal Register** of June 27, 1996 (61 FR 33469) (FRL–5380–9), EPA proposed to revoke the tolerances in 40 CFR 180.364 for cotton, forage and cotton, hay; and for citrus molasses in § 186.3500, which was later transferred to the table in paragraph (a) of § 180.364 (62 FR 17723, April 11, 1997) (FRL–5598–6). Cotton, forage; cotton, hay; and citrus molasses are not considered to be significant food or feed commodities. In addition, the Agency proposed tolerance revocation for peanut, hulls (shells), which was revoked in the **Federal Register** of December 17, 1997 (62 FR 66020) (FRL–5753–1). No significant comments were received concerning glyphosate (61 FR 33469). Therefore, EPA is revoking those three tolerances in 40 CFR 180.364 for glyphosate residues in or on cotton, forage; cotton, hay; and citrus molasses.

The linuron RED was completed in March, 1995. In the **Federal Register** on June 26, 1996 (61 FR 33054) (FRL–5368–7), EPA proposed to revoke the tolerances in 40 CFR 180.184 for barley, grain; barley, hay; barley, straw; corn, pop, fodder; corn, pop, forage; oats, forage; oats, grain; oats, hay; oats, straw; rye, forage; rye, grain; rye, hay; and rye, straw. These uses are no longer registered, and, as discussed above, it is the Agency's policy to revoke tolerances in such cases. The tolerance for parsnips, tops, was also proposed for revocation, since it is not considered to be a significant food or feed commodity. No significant comments were received concerning linuron (61 FR 33054). Therefore, EPA is revoking those 14 tolerances in 40 CFR 180.184.

In the case of mevinphos, on June 30, 1994, Amvac Chemical Corporation submitted a request for voluntary cancellation when EPA was prepared to issue a Notice of Intent to Suspend all mevinphos registrations because of acute poisoning incidents involving agricultural workers. EPA accepted this request. All U.S. registrations for the insecticide mevinphos were canceled on July 1, 1994. The Agency subsequently published a Notice of Receipt of Request for Cancellation, Announcement of Cancellation Order, and FIFRA section 6(g) Notification for Mevinphos in the **Federal Register** on August 1, 1994 (59 FR 38973). The Cancellation Order was subsequently modified on January 13, 1995 to extend the sale and distribution from December 30, 1994 to November 30, 1995, and to extend use from February 28, 1995 to November 30, 1995 (60 FR 17357, April 5, 1995) (FRL–4943–4). EPA proposed to revoke all tolerances for the insecticide mevinphos on August 2, 1995 (60 FR 39302) (FRL–4967–1), proposing the effective date of revocation as May 31, 1996.

The following comments were received by the Agency in response to the documents published in the **Federal Register** of March 20, 1996 (61 FR 11359) for fenbutatin oxide and of August 2, 1995 (60 FR 39302) for mevinphos.

A. Fenbutatin oxide

Comment from DuPont Agricultural Products. A comment was received from DuPont requesting that EPA consider a revision to the hexakis (fenbutatin oxide) tolerance on citrus, dried citrus pulp, and citrus oil. DuPont claimed that new data supports a tolerance of 4 ppm on citrus, 20 ppm on citrus pulp, and 28 ppm on citrus oil.

Agency response. Since an FQPA reassessment will need to be made, the Agency will not revise tolerances for fenbutatin oxide in this document. EPA will address the issue of tolerance revision for citrus, citrus pulp, and citrus oil through the tolerance petition process. The Agency is revoking the tolerances for ''marigolds, fresh'' in 40 CFR 180.362 and for ''marigolds (dried and extract)'' in § 186.3550.

B. Mevinphos

1. *Comments from the Farmworker Justice Fund, Inc. and from the United Farmworkers of America.* These groups supported revocation of mevinphos tolerances, and supported an earlier effective date of the tolerance revocations.

2. *Comments from Rogers Foods Chili Products, from Cal-Compack Foods, and from Basic Vegetable Products.* EPA received comments which requested a delay in the revocation of the mevinphos tolerance for dehydrated parsley to May 31, 1997.

3. *Comment from the Association of Fruit and Vegetable Processors and Exporters in General, A.C.* EPA received a request that the tolerances for mevinphos use on broccoli and cauliflower not be revoked.

4. *Comments from Amvac Chemical Corporation.* Comments were received from Weinberg, Bergeson, and Neuman

on behalf of the manufacturer of mevinphos, Amvac Chemical Corporation. Weinberg, Bergeson, and Neuman in comments dated September 28, 1995 and October 16, 1995, outlined issues that concerned Amvac Chemical Corporation regarding the revocation of the mevinphos tolerances. EPA also received several follow-up comments from Amvac Chemical Corporation requesting the retention of certain tolerances to allow importation of mevinphos treated food. In a meeting with EPA on September 26, 1995, and in the letter of September 28, 1995, Amvac Chemical Corporation committed to support tolerances with data for 13 commodities imported into the United States. This was detailed in follow-up letters of October 16, 1995 and March 20, 1996, and revised on June 7, 1996 to include support for an import tolerance concerning cauliflower. In a follow-up communication of July 6, 1999, Amvac Chemical Corporation clarified its position and expressed agreement with EPA that, with the exception of broccoli, cabbage, cauliflower, celery, cucumbers, grapes, lettuce, melons, peppers, peas (succulent), spinach, summer squash, strawberries, tomatoes, and watermelon, the other mevinphos tolerances should be revoked. Amvac suggested that current residue data supports the combination of the two existing watermelon and melons tolerances into a single tolerance for the entire melon group as the raw agricultural commodity of 0.5 ppm.

Agency response. On September 26, 1995, Amvac made a commitment to generate data for 13 tolerances and any additional uses that they intend to support. In fact, Amvac revised its commitment on June 7, 1996, to include cauliflower as an import tolerance. On July 6, 1999, Amvac clarified its position to maintain the watermelon tolerance in combination with melons, but not to maintain the peavines tolerance. Therefore, EPA will not revoke the tolerances in 40 CFR 180.157 for mevinphos use on broccoli; cabbage; cauliflower; celery; cucumbers; grapes; lettuce; melons (incl. cantaloupes, honeydew mellon, and muskmelon, determined on the edible portion with rind removed); peas; peppers; spinach; squash, summer; strawberries; tomatoes, and watermelon at this time. EPA will follow-up to see that data requirements are met. When the submitted data has been reviewed, EPA will re-evaluate these tolerances under FQPA. The suggestion to combine the two watermelon and melons tolerances into a single tolerance will be considered, but not addressed at this time. In general, the Agency's goal is to harmonize U.S. tolerances with Codex Maximum Residue Limits (MRLs) and would consider the data used for establishing MRLs. However, the Agency needs representative data covering all major growing areas that mevinphos treated commodities are likely to be imported from into the United States. EPA has developed guidance on import tolerances that is available to interested persons.

EPA is revoking the tolerances in § 180.157 for alfalfa; apples; artichokes; beans; beets, garden (incl. tops); birdsfoot trefoil, forage; birdsfoot trefoil, hay; Brussel sprouts; carrots; cherries; chicory, red (tops) (also known as radicchio); citrus; clover; collards; corn, field, forage; corn, grain, field; corn, pop, forage; corn, pop, grain; corn, sweet (K+CWHR); corn, sweet, forage; eggplant; kale; mustard greens; okra; onions (green); parsley; peaches; pears; peavines; plums; potatoes; raspberries; sorghum, forage; sorghum, grain; turnips; turnips, tops; walnuts (determined on the nut meats with shell removed); and watercress; and the tolerance in § 180.524 for dehydrated parsley. In the case of dehydrated parsley, 2 years have passed since the requested delay date. Therefore, the requested delay is no longer an issue.

IV. When Do these Actions Become Effective?

These actions become effective 90 days following publication of this final rule in the **Federal Register**. EPA has delayed the effectiveness of these revocations for 90 days to ensure that all affected parties receive notice of EPA's actions. Consequently, the effective date is November 1, 1999. For this particular final rule, the actions will affect uses which have been canceled for more than a year. Therefore, commodities should have cleared the channels of trade.

Any commodities listed in the regulatory text of this document that are treated with the pesticides subject to this final rule, and that are in the channels of trade following the tolerance revocations, shall be subject to FFDCA section 408(1)(5), as established by the FQPA. Under this section, any residue of these pesticides in or on such food shall not render the food adulterated so long as it is shown to the satisfaction of FDA that, (1) the residue is present as the result of an application or use of the pesticide at a time and in a manner that was lawful under FIFRA, and (2) the residue does not exceed the level that was authorized at the time of the application or use to be present on the food under a tolerance or exemption from a tolerance. Evidence to show that food was lawfully treated may include records that verify the dates that the pesticide was applied to such food.

V. Can I Submit Objections or Hearing Requests?

Yes. Any person can file written objections to any aspect of this regulation and can also request a hearing on those objections. Objections and hearing requests are currently governed by the procedures in 40 CFR part 178, modified as needed to reflect the requirements of FFDCA section 408(g).

A. When and Where to Submit

Objections and hearing requests must be mailed or delivered to the Hearing Clerk no later than October 1, 1999. The address of the Hearing Clerk is Hearing Clerk (1900), Environmental Protection Agency, Rm. M3708, 401 M St. SW, Washington, DC 20460.

B. Fees for Submission

1. Each objection must be accompanied by a fee of $3,275 or a request for waiver of fees. Fees accompanying objections and hearing requests must be labeled ''Tolerance Petition Fees'', and forwarded to EPA Headquarters Accounting Operations Branch, OPP (Tolerance Fees), P.O. Box 360277M, Pittsburgh, PA 15251.

2. EPA may waive any fee when a waiver or refund is equitable and not contrary to the purposes of the Act. A request for a waiver of objection fees should be submitted to James Hollins, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. The request for a waiver must be accompanied by a fee of $1,650, unless the objector has no financial interest in the matter. The fee, if required, must be submitted to the address in Unit V.B.1. of this document. For additional information on tolerance objection fee waivers, contact James Tompkins, Registration Division (7505C), at the same mailing address, or by phone at (703) 305–5697 or e-mail at tompkins.jim@epa.gov.

C. Information to be Submitted

Objections must specify the provisions of the regulation considered objectionable and the grounds for the objections. If a hearing is requested, the objections must include a statement of the factual issue(s) on which a hearing is requested, the requestor's contentions on such issues, and a summary of any evidence relied upon by the objector. You may claim information that you

submit in response to this document as confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

D. Granting a Hearing Request

A request for a hearing will be granted if the Administrator determines that the material submitted shows the following:

1. There is a genuine and substantial issue of fact.

2. There is a reasonable possibility that available evidence identified by the requestor would, if established, resolve one or more of such issues in favor of the requestor, taking into account uncontested claims or facts to the contrary.

3. Resolution of the factual issue(s) in the manner sought by the requestor would be adequate to justify the action requested.

VI. How Do the Regulatory Assessment Requirements Apply to this Final Action?

A. Is this a ''Significant Regulatory Action''?

No. Under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action.'' The Office of Management and Budget (OMB) has determined that tolerance actions, in general, are not ''significant'' unless the action involves the revocation of a tolerance that may result in a substantial adverse and material affect on the economy. In addition, this action is not subject to Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because this action is not an economically significant regulatory action as defined by Executive Order 12866. Nonetheless, environmental health and safety risks to children are considered by the Agency when determining appropriate tolerances. Under FQPA, EPA is required to apply an additional 10–fold safety factor to risk assessments, in order to ensure the protection of infants and children, unless reliable data supports a different safety factor.

B. Does this Action Contain Any Reporting or Recordkeeping Requirements?

No. This final action does not impose any information collection requirements subject to OMB review or approval pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 et seq.).

C. Does this Action Involve Any ''Unfunded Mandates''?

No. This final action does not impose any enforceable duty, or contain any ''unfunded mandates'', as described in Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

D. Do Executive Orders 12875 and 13084 Require EPA to Consult with States and Indian Tribal Governments Prior to Taking the Action in this Document?

No. Under Executive Order 12875, entitled ''Enhancing the Intergovernmental Partnership'' (58 FR 58093, October 28, 1993), EPA may not issue a regulation that is not required by statute and that creates a mandate upon a State, local, or tribal government, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by those governments. If the mandate is unfunded, EPA must provide to the Office of Management and Budget (OMB) a description of the extent of EPA's prior consultation with representatives of affected State, local, and tribal governments, the nature of their concerns, copies of any written communications from the governments, and a statement supporting the need to issue the regulation. In addition, Executive Order 12875 requires EPA to develop an effective process permitting elected officials and other representatives of State, local, and tribal governments ''to provide meaningful and timely input in the development of regulatory proposals containing significant unfunded mandates.''

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

Under Executive Order 13084, entitled ''Consultation and Coordination with Indian Tribal Governments'' (63 FR 27655, May 19, 1998), EPA may not issue a regulation that is not required by statute, that significantly or uniquely affects the communities of Indian tribal governments, and that imposes substantial direct compliance costs on those communities, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by the tribal governments. If the mandate is unfunded, EPA must provide OMB, in a separately identified section of the preamble to the rule, a description of the extent of EPA's prior consultation with representatives of affected tribal governments, a summary of the nature of their concerns, and a statement supporting the need to issue the regulation. In addition, Executive Order 13084 requires EPA to develop an effective process permitting elected and other representatives of Indian tribal governments ''to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.''

Today's final rule does not significantly or uniquely affect the communities of Indian tribal governments. This action does not involve or impose any requirements that affect Indian Tribes. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

E. Does this Action Involve Any Environmental Justice Issues?

No. This action does not involve special considerations of environmental-justice related issues pursuant to Executive Order 12898, entitled *''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations''* (59 FR 7629, February 16, 1994).

F. Does this Action Have a Potentially Significant Impact on a Substantial Number of Small Entities?

No. The Agency has certified that tolerance actions, including the tolerance actions in this document, are not likely to result in a significant adverse economic impact on a substantial number of small entities. The factual basis for the Agency's determination, along with its generic certification under section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), appears at 63 FR 55565, October 16, 1998 (FRL–6035–7). This generic certification has been provided to the Chief Counsel for Advocacy of the Small Business Administration.

G. Does this Action Involve Technical Standards?

No. This tolerance final action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law 104–113, section 12(d) (15 U.S.C. 272 note). Section 12(d) directs EPA to use voluntary consensus standards in its regulatory activities, unless to do so would be inconsistent with applicable

law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, business practices, etc.) that are developed or adopted by voluntary consensus standards bodies. The NTTAA requires EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards.

H. Are There Any International Trade Issues Raised by this Action?

EPA is working to ensure that the U.S. tolerance reassessment program under FQPA does not disrupt international trade. EPA considers Codex MRLs in setting U.S. tolerances and in reassessing them. MRLs are established by the Codex Committee on Pesticide Residues, a committee within the Codex Alimentarius Commission, an international organization formed to promote the coordination of international food standards. When possible, EPA seeks to harmonize U.S. tolerances with Codex MRLs. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain in a **Federal Register** document the reasons for departing from the Codex level. EPA's effort to harmonize with Codex MRLs is summarized in the tolerance reassessment section of individual REDs. The U.S. EPA has developed guidance concerning submissions for import tolerance support. This guidance will be made available to interested persons.

I. Is this Action Subject to Review under the Congressional Review Act?

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

List of Subjects

40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and record keeping requirements.

40 CFR Part 186

Environmental protection, Animal feeds, Pesticides and pests.

Dated: July 28, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

Therefore, 40 CFR parts 180 and 186 are amended as follows:

PART 180—[Amended]

1. In part 180:

a. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

b. Section 180.157 is revised to read as follows:

§ 180.157 Methyl 3-[(dimethoxyphosphinyl) oxy]butenoate, alpha and beta isomers; tolerances for residues.

(a) *General.* Tolerances are established for residues of the insecticide methyl 3-[(dimethoxyphosphinyl)oxy]butenoate, alpha and beta isomers, in or on the following raw agricultural commodities:

Commodity	Parts per million
Broccoli	1.0
Cabbage	1.0
Cauliflower	1.0
Celery	1.0
Cucumbers	0.2
Grapes	0.5
Lettuce	0.5
Melons (incl. cantaloupes, honeydew mellon, and muskmelon, determined on the edible portion with rind removed)	0.5
Peas	0.25
Peppers	0.25
Spinach	1.0
Squash, summer	0.25
Strawberries	1.0
Tomatoes	0.2
Watermelon	0.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.184 [Amended]

c. Section 180.184 is revised to read as follows:

§ 180.184 Linuron; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the following food commodities:

Commodity	Parts per million
Asparagus	7.0
Carrots	1
Cattle, fat	1
Cattle, mbyp	1
Cattle, meat	1
Celery	0.5
Corn, field, fodder	1
Corn, field, forage	1
Corn, fresh (inc. sweet K+CWHR)	0.25
Corn, grain (inc. pop)	0.25
Corn, sweet, fodder	1
Corn, sweet, forage	1
Cottonseed	0.25
Goats, fat	1
Goats, mbyp	1
Goats, meat	1
Hogs, fat	1
Hogs, mbyp	1
Hogs, meat	1
Horses, fat	1
Horses, mbyp	1
Horses, meat	1
Parsnips (with or without tops)	0.5
Potatoes	1
Sheep, fat	1
Sheep, mbyp	1
Sheep, meat	1
Sorghum, fodder	1
Sorghum, forage	1
Sorghum, grain (milo)	0.25
Soybeans, (dry or succulent)	1
Soybeans, forage	1
Soybeans, hay	1
Wheat, forage	0.5
Wheat, grain	0.25
Wheat, hay	0.5
Wheat, straw	0.5

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* Tolerances with regional registration, as defined in § 180.1(n), are established for residues of the herbicide linuron 3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea] in or on the following food commodity:

Commodity	Parts per million
Parsley	0.25

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.362 [Amended]

d. By adding a paragraph heading to paragraph (a).

e. By redesignating paragraph (b) as paragraph (c), adding a paragraph heading to newly designated paragraph (c), and by removing from the table in newly designated paragraph (c) the entry for ''marigolds, fresh''.

f. By adding and reserving with paragraph headings new paragraphs (b) and (d).

The additions to § 180.362 read as follows:

§ 180.362 Hexakis (2-methyl-2-phenylpropyl)distannoxane;tolerances for residues.

(a) *General.* * * *

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* * * *

(d) *Indirect or inadvertent residues.* [Reserved]

§ 180.364 [Amended]

g. In § 180.364, in the table to paragraph (a)(1) remove the entries for ''citrus molasses''; ''cotton, forage''; and ''cotton, hay''.

§ 180.524 [Removed]

h. By removing § 180.524.

PART 186—[AMENDED]

3. In part 186:

a. The authority citation for part 186 continues to read as follows:

Authority: 21 U.S.C. 342, 348, and 371.

§ 186.3550 [Amended]

b. In § 186.3550, by removing paragraph (b).

[FR Doc. 99–19785 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[FRL–6411–2]

New Jersey: Authorization of State Hazardous Waste Program

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Pursuant to the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.* (''RCRA''), and the regulations thereunder, the State of New Jersey (the ''State'') applied for final authorization of its hazardous waste program adopted in October 1996. On May 11, 1999, the Environmental Protection Agency, Region 2 (''EPA'') published a proposed rule (64 FR 25258), proposing to approve and authorize the State's hazardous waste program, subject to public comment. Today's action authorizes the State's hazardous waste program as proposed, since there were no public comments submitted.

EFFECTIVE DATE: This rule is effective August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Elizabeth Butler, Division of Environmental Planning and Protection, USEPA, Region 2, 290 Broadway (22nd Floor) New York, NY 10007-1866; telephone (212) 637-4163; E mail—butler.elizabeth@epamail.epa.gov.

SUPPLEMENTNARY INFORMATION:

I. State Authorization Under RCRA

Pursuant to section 3006 of RCRA, 42 U.S.C. 6926, EPA may, upon application by a state, authorize the applicant state's hazardous waste program to operate in the state in lieu of the federal hazardous waste program. The federal hazardous waste program (the ''Federal Program'') is comprised of the regulations published in Title 40 of the Code of Federal Regulations under the authority of RCRA. To qualify for final authorization, a state's hazardous waste program must: (1) Be equivalent with the Federal Program; (2) be consistent with the Federal Program; and (3) provide for adequate enforcement. RCRA section 3006(b), 42 U.S.C. 6926(b).

II. Background—History of RCRA Authorization Within the State

In 1985, the State was granted final authorization by EPA for the RCRA base program, effective February 21, 1985 (50 FR 5260, 2/7/85). At that time the base program covered the essential core of the Federal Program as reflected in the initial enactment of RCRA prior to its amendment by the Hazardous and Solid Waste Amendments of 1984. In 1988 and 1993 EPA authorized the State for a small number of additional regulations (53 FR 30054, 8/10/88, and 58 FR 59370, 11/9/93).

On October 21, 1996, the State repealed its then existing hazardous waste program, including the authorized provisions, and adopted a new program (N.J.A.C. 7:26G–1.1 *et seq.*, 28 New Jersey Register 4606, 10/21/96). As part of this October 21, 1996 adoption, the State adopted, with certain exceptions and modifications, 40 CFR parts 124, 260–266, 268 and 270 as set forth in the July 1, 1993 CFR, by incorporation by reference, and designated these provisions N.J.A.C. 7:26G–4 through N.J.A.C. 7:26G–13, inclusive. (28 New Jersey Register 4652–4668, 10/21/96. N.J.A.C. 7:26G–4 through N.J.A.C. 7:26G–13 are referred to below as the ''State Program''). Under cover of a letter dated January 13, 1999, the State submitted an application meeting the requirements of 40 CFR part 271, requesting authorization of the State Program.[1]

III. Decision

A. Authorization of the State Program

EPA has reviewed the State's application and has determined that the State Program, with limited exceptions, possesses the requisite equivalence and consistency with the Federal Program. Furthermore, the State's application indicates that the State possesses the necessary enforcement resources and is prepared to utilize those resources to provide adequate enforcement of the State Program. Accordingly, EPA has determined that the State Program qualifies for authorization and hereby approves and authorizes the State Program, with the exceptions noted below.

In several instances the State has not incorporated a federal regulation by reference and has not adopted a substitute regulation. These instances are all clearly indicated in the State's October 21, 1996 adoption. None of these omitted federal regulations, however, are required to be adopted for authorization, for various reasons including, for example, that they are not applicable or delegable to states. Thus, the State's failure to either adopt these particular federal regulations, or to adopt substitute regulations, in no way impairs the equivalence or consistency of the State Program.

EPA notes that its determination to authorize the State Program is based on the information submitted to EPA by the State. If the criteria upon which EPA bases its approval subsequently change for any reason, including without limitation changes in State laws, regulations or administrative procedures which negate the equivalency or consistency of one or more provisions of the State Program, or in any way limit the State's ability to enforce or properly administer the State Program, EPA may revisit its approval. In such event, EPA may exercise its authority, provided in 40 CFR 271.22, to afford the State an opportunity to correct any program deficiencies, or EPA may withdraw authorization of the State Program, in whole or in part. Furthermore,

[1] The State's redesignation of the Parts of the Federal Program adopted by incorporation by reference on October 21, 1996, and comprising the State Program, is as follows: N.J.A.C. 7:26G–4 (40 CFR part 260); N.J.A.C. 7:26G–5 (40 CFR part 261); N.J.A.C. 7:26G–6 (40 CFR part 262); N.J.A.C. 7:26G–7 (40 CFR part 263); N.J.A.C. 7:26G–8 (40 CFR part 264); N.J.A.C. 7:26G–9 (40 CFR part 265); N.J.A.C. 7:26G–10 (40 CFR part 266); N.J.A.C. 7:26G–11 (40 CFR part 268); N.J.A.C. 7:26G–12 (40 CFR part 270); and N.J.A.C. 7:26G–13 (40 CFR part 124).

authorization of the State Program by EPA shall not be deemed in any way as a waiver by EPA of any of its statutory rights under RCRA including but not limited to sections 3004(v), 3005(c)(3), 3007, 3008, 3013, 3020(c) and 7003 (42 U.S.C. 6924(v), 6925(c)(3), 6927, 6928, 6934, 6939b(c) and 6973).

B. Exceptions

In N.J.A.C. 7:26G–8.1(a), the State incorporates by reference 40 CFR part 264, the part of the Federal Program fixing the standards for the owners and operators of hazardous waste treatment, storage and disposal facilities. In the remaining subparagraphs of 7:26G–8.1 ((b) through (h)) the State neither omits 40 CFR 264.101, 264.552 and 264.553, nor adopts these federal regulations with modifications. Thus, the State has adopted 40 CFR 264.101, 264.552 and 264.553 by means of incorporation by reference through 7:26G–8.1(a). The above three sections of the Federal Program are the sections implementing the corrective action provisions of RCRA, which provisions were incorporated into RCRA upon the enactment of the Hazardous and Solid Waste Amendments of 1984. The State, despite its adoption of 40 CFR §§ 264.101, 264.552 and 264.553, informed EPA in its application that it was not applying for authorization for corrective action at this time, and would apply for corrective action authorization under a separate application in the future. Accordingly, while EPA is today authorizing N.J.A.C. 7:26G–8.1(a), EPA is not authorizing the State for corrective action at this time, and 40 CFR 264.101, 264.552 and 264.553 shall remain in full force and effect. Consequently, until the State is authorized for corrective action, EPA shall continue to issue corrective action permits within the State.

In N.J.A.C. 7:26G–12.1(a), the State incorporates by reference 40 CFR 270.73(a) and (b). The State, however, does not incorporate by reference 40 CFR 270.73(c)-(g). Rather, the State replaces these subparagraphs of 40 CFR 270.73 with 7:26G–12.1(c)(16). Title 40 CFR 270.73 is the regulation in the Federal Program governing the loss of interim status (RCRA section 2)(C) and (e)(2)(3), 42 U.S.C. 6925(c)(2)(C) and (e)(2)(3)). N.J.A.C. 7:26G–12.1(c)(16) provides that the State may terminate interim status at its discretion, under a variety of circumstances subject to a hearing, if requested. By contrast, the federal loss of interim status regulations, excluded by the State and replaced by 7:26G–12.1(c)(16), are non-discretionary and operate automatically, without the opportunity for a hearing, if the requirements cited in these federal provisions are not met. Since 7:26G–12.1(c)(16) is discretionary and lacks automatic application, it is not equivalent to 40 CFR 270.73(c)-(g), is less stringent than 40 CFR 270.73(c)-(g), and therefore, cannot be authorized. Consequently, EPA is not authorizing the State for N.J.A.C. 7:26G–12.1(c)(16), and 40 CFR 270.73(c)-(g) shall remain in full force and effect.

IV. Regulatory Requirements

A. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (''UMRA''), Public Law 104–4, establishes requirements for federal agencies to assess the effects of certain regulatory actions on state, local, and tribal governments, and upon the private sector. Under section 202 of UMRA, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state or local governments in the aggregate, or to the private sector, of $100 million or more. EPA has determined that today's rule does not include a federal mandate that may result in estimated costs of $100 million or more to either state or local governments in the aggregate, or to the private sector. This federal action approves preexisting requirements of State law, and imposes no new requirements. Accordingly, no additional costs to State or local governments, or to the private sector, result from this action.

UMRA, section 203, further provides that before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments it must develop a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of such 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. Like section 202, the requirements of section 203 of UMRA do not apply to today's rule, since this rule contains no regulatory requirements that might significantly or uniquely affect small governments. Although small governments may be hazardous waste generators, transporters, or own and/or operate treatment, storage or disposal facilities, they are already subject to the regulatory requirements under existing State law which are being authorized by EPA, and thus, are not subject to any additional significant or unique requirements by virtue of today's proposed authorization of the State Program.

B. Certification Under the Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). This analysis is unnecessary, however, if the agency's administrator certifies that the rule will not have a significant economic impact on a substantial number of small entities.

EPA has determined that today's rule will not have a significant economic impact on a substantial number of small entities. Such small entities which are hazardous waste generators, transporters, or which own and/or operate treatment, storage or disposal facilities are already subject to the regulatory requirements of existing State law which EPA is authorizing today. EPA's authorization of the State Program therefore, will not add any burdens, since authorization will result only in an administrative change, rather than a change in the substantive requirements imposed on these small entities.

Accordingly, pursuant to 5 U.S.C. 605(b), I hereby certify that authorization of the State Program will not have a significant economic impact on a substantial number of small entities. This authorization approves regulatory requirements under existing State law to which small entities are already subject. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

C. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, federal agencies must consider the paperwork burden imposed by any information request contained in a proposed or final rule. Authorization of the State Program will not impose any additional information requirements upon the regulated community.

D. National Technology Transfer and Advancement Act

The National Technology Transfer and Advancement Act of 1995 (''NTTAA''), Public Law 104–113, section 12(d) (15 U.S.C. 272 note, *Utilization of Consensus Technical Standards by Federal Agencies*) directs all federal agencies to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs federal agencies to provide Congress, through the Office of Management and Budget, with an explanation in any instance where they decide not to use available and applicable voluntary consensus standards. Authorization of the State Program does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

E. Compliance With Executive Order 12866

The Office of Management and Budget has exempted this rule from the requirements of section 6 of E.O. 12866.

F. Compliance With Executive Order 12875

E.O. 12875 is intended to develop an effective process to permit elected officials and other representatives of state or local governments to provide meaningful input in the development of regulatory proposals containing significant unfunded mandates. Since today's rule authorizes preexisting regulatory requirements under State law, no new unfunded mandates result from this action. (See also the discussion under IV. A, above, Unfunded Mandates Reform Act).

G. Compliance With Executive Order 13045

E.O. 13045, *Protection of Children from Environmental Health Risks and Safety Risks,* applies only to federal rules that are ''economically significant'' as defined under Executive Order 12866 (i.e., a rule ''that has an annual effect on the economy of $100 million or more or would adversely affect in a material way the economy, a sector of the economy, productivity, competition , jobs, the environment, public health or safety, or State, local, or tribal governments or communities,'' E.O. 13045, 62 FR 19885, 4/23/97). EPA has determined that the authorization of the State Program will not have a significant effect on the economy within the meaning of E.O. 12866, since today's rule authorizes preexisting regulatory requirements of State law, and imposes no new requirements. (See also IV. A and F above). Accordingly, E.O. 13045 is inapplicable to today's rule.

H. Submission to Congress and the General Accounting Office Pursuant to the Congressional Review Act

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the United States Environmental Protection Agency submitted a report containing today's rule and other required information to the U.S. Senate, the U.S. House of Representatives and the Comptroller General of the General Accounting Office prior to publication of the rule in today's **Federal Register**. This rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

AUTHORITY: This document is issued under the authority of sections 2002(a), 3006 and 7004(b) of RCRA, 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: July 6, 1999.

Jeanne M. Fox,

Regional Administrator, Region 2.

[FR Doc. 99–19733 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 61

RIN 3067—AD00

National Flood Insurance Program (NFIP); Insurance Coverage and Rates

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule; request for comments.

SUMMARY: We (the Federal Insurance Administration) are adding an endorsement to the Standard Flood Insurance Policy (SFIP) that will establish a permanent procedure for honoring claims for buildings damaged by continuous lake flooding from closed basin lakes or under imminent threat of flood damage from those closed basin lakes.

DATES: This interim final rule is effective on August 2, 1999. Please submit any comments in writing by October 1, 1999.

ADDRESSES: Please send any comments to the Rules Docket Clerk, Office of the General Counsel, Federal Emergency Management Agency, 500 C Street SW., room 840, Washington, DC 20472, (facsimile) 202–646–4536, or (email) rules@fema.gov.

FOR FURTHER INFORMATION CONTACT: Charles M. Plaxico, Jr., Federal Emergency Management Agency, Federal Insurance Administration, 500 C Street SW., room 433, Washington, DC 20472, 202–646–3422, or (email) charles.plaxico@fema.gov.

SUPPLEMENTARY INFORMATION: Residents of the Devils Lake area in northeastern North Dakota face extraordinary flood conditions. During the last three years, the level of the lake has risen twelve feet, negating property owners' short-term flood mitigation efforts, such as temporary dikes, and flooding hundreds of properties and threatening many more.

The conditions at Devils Lake Basin are unique because the lake is part of a ''closed basin,'' that is, although it lies within the Red River-Hudson Bay drainage system, no water has flowed from the Devils Lake Basin in recorded history (since the 1830s). Instead, Devils Lake, together with adjacent Stump Lake, collects the Basin's surface runoff flowing through many small coulees and lakes. (Devils Lake collects about 86% of the runoff; Stump Lake collects the remainder.) The runoff remains in these two lakes until it evaporates or enters the groundwater table.

Since April 1996, as Devils Lake has steadily risen from 1435.2 mean sea level (MSL) to 1447.2 MSL, we have worked with State and local governments as well as Devils Lake property owners insured under the National Flood Insurance Program to provide timely, longer term solutions to this extraordinary problem. Exercising my authority under the Standard Flood Insurance Policy, as Federal Insurance Administrator, I have waived a policy requirement that was not appropriate in light of the unique circumstances at Devils Lake. This decision has permitted property owners along Devils Lake to use claim proceeds to relocate their buildings out of harm's way. (Specifically, I have waived the requirement that a building on Devils Lake be continuously flooded for 90 days before declaring it a total loss, thus honoring a claim that provides funds for the insured to take mitigation action.) This decision has meant a cost savings for the National Flood Insurance Program (NFIP).

We estimate that, by being proactive, rather than waiting for an insured building to be inundated for 90 days by the rising lake levels, we have saved the program on average 25% for each claim in the Devils Lake area. Paying in advance for these inevitable flood losses

so that policyholders can use the claim proceeds to relocate their homes so that we can recover salvage simply makes the best public policy and insurance sense under the circumstances.

Since April 1996, we have communicated this waiver to the Write Your Own companies-the private insurance companies that sell flood insurance policies and adjust claims under the NFIP-through a series of seven separate Policy Issuances to try to keep pace with revised predictions of the crests on Devils Lake. We feel that a piecemeal approach is inadequate and that a better remedy for the dynamic conditions, such as those at Devils Lake, is to offer a permanent solution—one that is comprehensive and uniform for other closed basin lakes. This interim final rule does that.

This interim final rule adds an endorsement to the Standard Flood Insurance Policy that would make buildings damaged by or imminently threatened by continuous flooding from closed basin lakes eligible to be declared a total loss without being continuously flooded for 90 days. It also establishes long-term floodplain management solutions for the imperiled property to eliminate or hold to a minimum the need for future flood insurance claims. For example, this interim final rule requires local governments having jurisdiction over the imperiled property to adopt and enforce permanent mitigation measures. Among these measures are: (1) prohibiting new construction—with limited exceptions—that may be subject to flooding by the rising lake; and (2) restricting for open space—with limited exceptions—any affected property the community may acquire an interest in.

National Environmental Policy Act

This interim final rule qualifies to be categorically excluded according to 44 CFR 10.8 (d) (2) (ii). In addition, no extraordinary circumstances have been found that would override this exclusion; therefore, an environmental assessment is not required.

Executive Order 12866, Regulatory Planning and Review

This interim final rule is not a significant regulatory action within the meaning of § 2(f) of E.O. 12866 of September 30, 1993, 58 FR 51735, and has not been reviewed by the Office of Management and Budget. Nevertheless, this rule adheres to the regulatory principles set forth in E.O. 12866.

Pub. L. 104–121, Congressional Review of Agency Rulemaking

This interim final rule is not a ''major rule'' within the meaning of section 804 of Pub. L. 104–121, Congressional Review of Agency Rulemaking. We have submitted a report to Congress summarizing the scope and effect of the rule, as required by section 801 of Pub. L. 104–121.

Paperwork Reduction Act

This interim final rule does not contain a collection of information and is therefore not subject to the provisions of the Paperwork Reduction Act.

Executive Order 12612, Federalism

This interim final rule involves no policies that have federalism implications under Executive Order 12612, Federalism, dated October 26, 1987.

Executive Order 12778, Civil Justice Reform

This interim final rule meets the applicable standards of section 2(b)(2) of Executive Order 12778.

List of Subjects in 44 CFR Part 61

Flood Insurance, insurance coverage and rates.

Accordingly, we amend 44 CFR part 61, as follows:

PART 61—INSURANCE COVERAGE AND RATES

1. The authority citation for Part 61 continues to read as follows:

Authority: 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978; 43 FR 41943, 3 CFR, 1978 Comp., p. 329; E.O. 12127 of Mar. 31, 1979, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

Appendices A (1), A (2), A (3) [Amended]

2. Amend Part 61 by adding ''Endorsement for Closed Basin Lakes'' after the last article of each of the following: Appendix A (1), Standard Flood Insurance Policy, Dwelling Form; Appendix A (2), Standard Flood Insurance Policy, General Property Form; and Appendix A (3), Standard Flood Insurance Policy, Residential Condominium Building Association Policy. The added endorsement, which is identical in each appendix, reads as follows:

* * * * *

Endorsement for Closed Basin Lakes

Under 44 CFR 61.13 (d), we are establishing this endorsement for closed basin lakes, which supplements Article 9.T of the Dwelling Policy, Article 8.V of the General Property Policy, and Article 10.V of the Residential Condominium Building Association Policy. (A ''closed basin lake'' is a natural lake from which water leaves primarily through evaporation and whose surface area now exceeds or has exceeded one square mile at any time in the recorded past. Most of the nation's closed basin lakes are in the western half of the United States where annual evaporation exceeds annual precipitation and where lake levels and surface areas are subject to considerable fluctuation due to wide variations in the climate. These lakes may overtop their basins on rare occasions.) If your insured building is subject to continuous lake flooding from a closed basin lake, we will pay your claim as if the building is a total loss even though it has not been continuously inundated for 90 days, subject to the following conditions:

1. Lake flood waters must damage or imminently threaten to damage your building.

2. Prior to approval of your claim, you must:

a. Agree to a claim payment that reflects your buying back the salvage on a negotiated basis; and

b. Grant the conservation easement contained in the Federal Emergency Management Agency's (FEMA) ''Policy Guidance for Closed Basin Lakes,'' to be recorded on the deed of the property. FEMA, in consultation with the community in which the property is located, will identify on a map an area or areas of special consideration (ASC) in which there is a potential for flood damage from continuous lake flooding. FEMA will give the community the agreed-upon map showing the ASC. This easement will only apply to that portion of the property in the ASC. It will allow certain agricultural and recreational uses of the land. The only structures it will allow on any portion of the property within the ASC are certain, simple agricultural and recreational structures. If any of these allowable structures are insurable buildings under the National Flood Insurance Program (NFIP) and are insured under the NFIP, they will not be eligible for the benefits of this endorsement. If a U.S. Army Corps of Engineers (USACE) certified flood control project or otherwise certified flood control project later protects the property, FEMA will, upon request, amend the ASC to remove areas protected by those projects. The restrictions of the easement will then no longer apply to any portion of the property removed from the ASC.

3. Within 90 days of approval of your claim, you must move your building to a new location outside the ASC. FEMA will give you an additional 30 days to move if there is sufficient reason to extend the time.

4. Prior to the final payment of your claim, you must acquire an elevation certificate and a floodplain management permit from the local floodplain administrator for the new location of your building.

5. Prior to the approval of your claim, the community having jurisdiction over your building must:

a. Adopt a permanent land use ordinance, or a temporary moratorium for a period not to exceed 6 months to be followed immediately by a permanent land use

ordinance, that is consistent with the provisions specified in the easement required in 2.b. above.

b. Agree to declare and report any violations of this ordinance to FEMA so that under § 1316 of the National Flood Insurance Act of 1968, as amended, it can deny flood insurance to the building; and

c. Agree to maintain as deed-restricted, for purposes compatible with open space or agricultural or recreational use only, any affected property the community acquires an interest in. These deed restrictions must be consistent with the provisions of 2.b. above except that even if a certified project protects the property, the land use restrictions continue to apply if the property was acquired under the Hazard Mitigation Grant Program or the Flood Mitigation Assistance Program. If a non-profit land trust organization receives the property as a donation, that organization must maintain the property as deed-restricted, consistent with the provisions of 2.b. above.

6. Prior to the approval of your claim, the affected State must take all action set forth in FEMA's ''Policy Guidance for Closed Basin Lakes.''

7. You must have NFIP flood insurance coverage continuously in effect from a date established by FEMA until you file a claim under this endorsement. If a subsequent owner buys NFIP insurance that goes into effect within 60 days of the date of transfer of title, any gap in coverage during that 60-day period will not be a violation of this continuous coverage requirement.

8. This endorsement will be in effect for a community when the FEMA

Regional Director for the affected region gives the community, in writing, the following:

a. Confirmation that the community and the State are in compliance with the conditions in numbers 5 and 6 above, and

b. The date by which you must have flood insurance in effect.

* * * * *

(Catalog of Federal Domestic Assistance No. 83.100,''Flood Insurance'')

Dated: July 27, 1999.

Jo Ann Howard,

Administrator, Federal Insurance Administration.

[FR Doc. 99–19765 Filed 7–30–99; 8:45 am]

BILLING CODE 6718–03–P

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 206

RIN 3067–AC89

Disaster Assistance; Redesign of Public Assistance Project Administration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Interim final rule; correction.

SUMMARY: On November 20, 1998, FEMA published an interim final rule that redesigned the Public Assistance Disaster Grant Program to provide money to applicants more quickly and to make the application process simpler than before. This document corrects an error in an amendatory instruction.

DATES: This correction is effective November 20, 1998.

FOR FURTHER INFORMATION CONTACT: Melissa M. Howard, Ph.D., (202)646–3053, or (email) melissa.howard@fema.gov.

SUPPLEMENTARY INFORMATION: FEMA published a document in the **Federal Register** of November 20, 1998 (63 FR 64423), which amended FEMA's rules regarding the redesign of the Public Assistance Disaster Grant Program. The document contained an error in amendatory instruction 5 on page 64426 that inadvertently would have removed paragraphs (a)(2)(i)(A) through (D) of § 206.228. This document corrects that error.

In interim final rule, FR Doc. 98–31044, published on November 20, 1998 (63 FR 64423), make the following correction:

PART 206—[Corrected]

§ 206.228 [Corrected]

On page 64426, in the first column, correct amendatory instruction 5 to read as follows:

5. Revise § 206.228(a)(2)(i) introductory test to read as follows:

Dated: July 26, 1999.

Ernest B. Abbott,

General Counsel.

[FR Doc. 99–19763 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 99–91; RM–9529]

Radio Broadcasting Services; Manson, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 259A at Manson, Iowa, as the community's first local aural transmission service. *See* 64 FR 15712, April 1, 1999. Channel 259A can be allotted to Manson in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 259A at Manson are 42–31–48 North Latitude and 94–32–00 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 259A at Manson, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–91, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Manson, Channel 259A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19680 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 99–92; RM–9530]

Radio Broadcasting Services; Rudd, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 268A at Rudd, Iowa, as the community's first local aural transmission service. *See* 64 FR 15712, April 1, 1999. Channel 268A can be allotted to Rudd in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 268A at Rudd are 43–07–34 North Latitude and 92–54–20 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 268A at Rudd, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–92, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Rudd, Channel 268A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19681 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 99–93; RM–9531]

Radio Broadcasting Services; Pleasantville, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 242A at Pleasantville, Iowa, as the community's first local aural transmission service. *See* 64 FR 15712, April 1, 1999. Channel 242A can be allotted to Pleasantville in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.9 kilometers (3.0 miles) east to avoid a short-spacing to the licensed site of Station KSOM(FM), Channel 243C1, Audubon, Iowa. The coordinates for Channel 242A at Pleasantville are 41–23–59 North Latitude and 93–14–36 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 242A at Pleasantville, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–93, adopted July 7, 1999, and released July 23, 1999.The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Pleasantville, Channel 242A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19682 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 99–95; RM–9533]

Radio Broadcasting Services; Dunkerton, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 280A at Dunkerton, Iowa, as the community's first local aural transmission service. See 64 FR 15712, April 1, 1999. Channel 280A can be allotted to Dunkerton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.9 kilometers (5.6 miles) north to avoid short-spacings to the licensed sites of Station KLTI–FM, Channel 281C, Ames, Iowa, and Station KDAT(FM), Channel 283C1, Cedar Rapids, Iowa. The coordinates for Channel 280A at Dunkerton are 42–38–59 North Latitude and 92–10–32 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 280A at Dunkerton, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–95, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may

also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Dunkerton, Channel 280A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19683 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 99–97; RM–9535]

Radio Broadcasting Services; Manville, WY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 255C1 at Manville, Wyoming, as the community's first local aural transmission service. *See* 64 FR 15712, April 1, 1999. Channel 225C1 can be allotted to Manville in compliance with the Commission's minimum distance separation requirements at city reference coordinates. The coordinates for Channel 255C1 at Manvill are 42–46–45 North Latitude and 104–37–02 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 255C1 at Manville, Wyoming, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–97, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Wyoming, is amended by adding Manville, , Channel 255C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19684 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 98–213; RM–9352]

Radio Broadcasting Services; Clifton, IL

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of STARadio Corporation, allots Channel 297A at Clifton, Illinois, as the community's first local aural transmission service. See 63 FR 38719, December 14, 1998. Channel 297A can be allotted to Clifton in compliance with the Commission's minimum distance separation requirements with a site restriction of 8.1 kilometers (5.0 miles) south to avoid a short-spacing to the licensed site of Station WZVN(FM), Channel 296A, Lowell, Indiana. The coordinates for Channel 297A at Clifton are 40–52–00 North Latitude and 87–58–00 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 297A at Clifton, Illinois, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–213, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Clifton, Channel 297A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19770 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 98–215; RM–9370]

Radio Broadcasting Services; Lennox, SD

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Ken Mills Agency, allots Channel 256C3 at Lennox, South Dakota, as the community's first local aural transmission service. See 63 FR 38720, December 14, 1998. Channel 256C3 can be allotted to Lennox in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.0 kilometers (0.6 miles) south to avoid a short-spacing to the licensed site of Station KEEZ-FM, Channel 256C1, Mankato, Minnesota. The coordinates for Channel 256C3 at Lennox are 43–21–24 North Latitude and 96–54–05 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 256C3 at Lennox, South Dakota, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–215, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under South Dakota, is amended by adding Lennox, Channel 256C3.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19771 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1394; MM Docket No. 98–219; RM–9390]

Radio Broadcasting Services; Sibley, IA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of 21st Century Radio Ventures, Inc., allots Channel 282A at Sibley, Iowa, as the community's second local FM transmission service. See 63 FR 38719, December 14, 1998. Channel 282A can be allotted to Sibley in compliance with the Commission's minimum distance separation requirements with a site restriction of 1.3 kilometers (0.8 miels) west to avoid a short-spacing to the licensed site of Station KUOO–FM, Channel 280C2, Spirit Lake, Iowa. The coordinates for Channel 282A at Sibley are 43–24–14 North Latitude and 95–45–45 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 282A at Sibley, Iowa, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–219, adopted July 7, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Iowa, is amended by adding Channel 282A at Sibley.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19772 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1426; MM Docket No. 98–209; RM–9406]

Radio Broadcasting Services; De Ridder, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In response to a petition for rule making filed on behalf of Willis Broadcasting Corporation, licensee of Station KEAZ(FM), Channel 269A, De Ridder, Louisiana, this document substitutes Channel 250A for Channel 269A at De Ridder and modifies the license for Station KEAZ(FM), as requested. The modification will enable Station KEAZ(FM) to improve its Class A facilities to six kilowatts and expand its coverage area. See 63 FR 67449, December 7, 1998. Coordinates used for Channel 250A at De Ridder, Louisiana, are 30–52–43 NL and 93–17–25 WL. With this action, the proceeding is terminated.

DATES: EFFECTIVE [September 7, 1999].

FOR FURTHER INFORMATION CONTACT: Nancy Joyner, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 98–209, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center (Room CY-A257), 445 Twelfth Street, SW., Washington, DC. The complete text of this decision may also be purchased from the

Commission's copy contractor, International Transcription Service, Inc., 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for part 73 reads as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana is amended by removing Channel 269A and adding Channel 250A at De Ridder.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19773 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1425; MM Docket No. 99–43; RM–9468]

Radio Broadcasting Services; Narrowsburg, NY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Karen L. Johnson, allots Channel 275A to Narrowsburg, NY, as the community's first local aural service. *See* 64 FR 7841, February 17, 1999. Channel 275A can be allotted to Narrowsburg with a site restriction of 5.9 kilometers (3.7 miles) northeast, at coordinates 41–38–00 NL and 74–59–46 WL, to avoid a short-spacing to Station WMGK, Channel 275B, Philadelphia, PA. Canadian concurrence in the allotment has been obtained since Narrowsburg is located within 320 kilometers (200 miles) of the U.S.-Canadian border. With this action, this proceeding is terminated.

DATES: Effective September 7, 1999. A filing window for Channel 275A at Narrowsburg, NY, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–43, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.Q02

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

2. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under New York, is amended by adding Narrowsburg, Channel 275A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and rules Division, Mass Media Bureau.

[FR Doc. 99–19774 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1425; MM Docket No. 99–82; RM–9496]

Radio Broadcasting Services; Allen, NE

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 265A to Allen, NE, as the community's first local aural service. *See* 64 FR 14422, March 25, 1999. Channel 265A can be allotted to Allen in compliance with the Commission's minimum distance separation requirements with a site restriction of 4.4 kilometers (2.7 miles) north, at coordinates 42–27–14 NL; 96–51–07 WL, to avoid a short-spacing to Station KGBI–FM, Channel 264C, Omaha, NE. With this action, this proceeding is terminated.

DATES: Effective September 7, 1999. A filing window for Channel 265A at Allen, NE, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–82, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nebraska, is amended by adding Allen, Channel 265A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19775 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1425; MM Docket No. 99–85; RM–9504]

Radio Broadcasting Services; Overton, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting,

allots Channel 295C1 to Overton, NV, as the community's first local aural service. See 64 FR 14421, March 25, 1999. Channel 295C1 can be allotted to Overton in compliance with the Commission's minimum distance separation requirements with a site restriction of 40 kilometers (24.9 miles) north, at coordinates 36–53–17 NL; 114–34–27 WL, to avoid short-spacings to Stations KSNE-FM, Channel 293C, Las Vegas, NV, KCCA, Channel 296C3, Colorado City, AZ, and to the construction permit of a new station on Channel 296B, Needles, CA. With this action, this proceeding is terminated.

DATES: Effective September 7, 1999. A filing window for Channel 295C1 at Overton, NV, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–85, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Overton, Channel 295C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19776 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1425; MM Docket No. 99–88; RM–9515]

Radio Broadcasting Services; Wells, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 280C1 to Wells, NV, as the community's first local aural transmission service. See 64 FR 15713, April 1, 1999. Channel 280C1 can be allotted to Wells in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 41–06–42 NL; 114–57–48 WL. With this action, this proceeding is terminated.

DATES: Effective September 7, 1999. A filing window for Channel 280C1 at Wells, NV, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–88, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Wells, Channel 280C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19777 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1425; MM Docket No. 99–89; RM–9516]

Radio Broadcasting Services; Caliente, NV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Mountain West Broadcasting, allots Channel 233C1 to Caliente, NV, as the community's first local aural service. See 64 FR 15713, April 1, 1999. Channel 233C1 can be allotted to Caliente in compliance with the Commission's minimum distance separation requirements without the imposition of a site restriction, at coordinates 37–36–54 NL; 114–30–48 WL. With this action, this proceeding is terminated.

DATES: Effective September 7, 1999. A filing window for Channel 233C1 at Caliente, NV, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–89, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows: Part 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334. 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Nevada, is amended by adding Caliente, Channel 233C1.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19778 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1424; MM Docket No. 99–51; RM–9454]

Radio Broadcasting Services; Annville, KY

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Vernon R. Baldwin, allots Channel 244A at Annville, Kentucky, as the community's first local aural transmission service. See 64 FR 8786, February 23, 1998. Channel 244A can be allotted to Annville in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.8 kilometers (6.7 miles) southeast to avoid a short-spacing to the licensed site of Station WGKS(FM), Channel 245C2, Paris, Kentucky, and Station WYWY(FM), Channel 241C3, Barbourville, Kentucky. The coordinates for Channel 244A at Annville are 37–14–37 North Latitude and 83–53–35 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 244A at Annville, Kentucky, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–51, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY-A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73 [AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kentucky, is amended by adding Annville, Channel 244A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19779 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1424; MM Docket No.99–52; RM–9455]

Radio Broadcasting Services; Liberty, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of West Wind Broadcasting, allots Channel 298A at Liberty, Pennsylvania, as the community's first local aural transmission service. See 64 FR 8786, February 23, 1999. Channel 298A can be allotted to Liberty in compliance with the Commission's minimum distance separation requirements with a site restriction of 11.2 kilometers (6.9 miles) southwest to avoid a short-spacing to the licensed site of Station WBYN(FM), Channel 298B, Boyertown, Pennsylvania. The coordinates for Channel 298A at Liberty are 41–29–28 North Latitude and 77–12–22 West Longitude. Since Liberty is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 298A at Liberty, Pennsylvania, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–52, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

Part 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by adding Liberty, Channel 298A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19780 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No.99–54; RM–9457]

Radio Broadcasting Services; Ridgeley, WV

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of West Wind Broadcasting, allots Channel 263A at Ridgeley, West Virginia, as the community's first local aural transmission service. *See* 64 FR 8786, February 23, 1998. Channel 263A can be allotted to Ridgeley in compliance with the Commission's minimum distance separation requirements with a site restriction of 7.8 kilometers (4.8 miles) northeast to avoid a short-spacing to the licensed and construction permit site of Station WDZN(FM), Channel 261A, Romney, West Virginia, and to the licensed site of Station WOMP–FM, Channel 263B, Bellaire, Ohio. The coordinates for Channel 263A at Ridgeley are 39–42–08 and 78–43–49 West Longitude. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 263A at Ridgeley, West Virginia, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–54, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73—[AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under West Virginia, is amended by adding Ridgeley, Channel 263A.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19781 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1424; MM Docket No.99–53; RM–9456]

Radio Broadcasting Services; Clarendon, PA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of West Wind Broadcasting, allots Channel 274A at Clarendon, Pennsylvania, as the community's second local FM transmission service. See 64 FR 8786, February 23, 1998. Channel 274A can be allotted to Clarendon in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.1 kilometers (6.3 miles) south to avoid a short-spacing to the licensed site of Station WRLP(FM), Channel 276A, Russell, Pennsylvania. The coordinates for Channel 274A at Clarendon are 41–41–30 North Latitude and 79–03–43 West Longitude. Since Clarendon is located within 320 kilometers (200 miles) of the U.S.-Canadian border, concurrence of the Canadian government has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: September 7, 1999. The window period for filing applications for Channel 274A at Clarendon, Pennsylvania, will not be opened at this time. Instead, the issue of opening a filing window for this channel will be addressed by the Commission in a subsequent order.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–53, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Information Center (Room CY–A257), 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Part 73 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 73 [AMENDED]

1. The authority citation for Part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Pennsylvania, is amended by adding Channel 274A at Clarendon.

Federal Communications Commission.

John A. Karousos, Chief,

Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19782 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Logistics Agency

48 CFR Part 5416

DLA Acquisition Directive; Types of Contracts

AGENCY: Defense Logistics Agency, DoD.

ACTION: Final rule.

SUMMARY: This rule adds a new part to the Defense Logistics Acquisition Directive (DLAD) affecting regulations on the use of solicitation provisions and contract clauses for Economic Price Adjustments (EPA). The coverage expands the use of EPA based on market price references. It also expands the use of EPA based on indexes, to encompass indexes for products or services that are identical or similar to the end products to be provided under the contract. It authorizes the development and use, subject to established agency review and approval procedures, of clauses using EPA references as described above. The coverage ensures EPA references that more closely follow market prices, are in conformance with commercial practice, and reduce price risk for both the government and the contractor.

DATES: Effective August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Helen Bailey, Procurement Analyst, Defense Logistics Agency, DLSC–PPP, at (703) 767–1374.

SUPPLEMENTARY INFORMATION:

A. Background

The Defense Energy Support Center (DESC), a major contracting activity of DLA, has historically utilized a method of price adjustment in the bulk petroleum area using price indexes for the same or similar end products and using market price assessments for products published in industry trade journals.

None of the three EPA types currently encompassed by the FAR are appropriate for many of the competitive procurements undertaken by DESC and other DLA contracting offices. Currently, FAR 16.203 recognizes EPA references based on established market or catalog prices of the individual contractor only. The new DLAD coverage expands this to include industry-wide and geographically specific market price assessments, and authorizes the development and use of clauses on that basis. FAR 16.203 also recognizes EPA references based only on indexes for labor or material costs or indexes of such costs. The DLAD coverage expands this to include indexes for the same or similar supplies, services, or end items and authorizes the development and uses of clauses on that basis.

The uses of an EPA reference based on an individual contractor's established price or cost of materials is impractical for various competitive procurements. Unique EPA references for each offeror engender relative price variations during the delivery period, making it impossible to determine the most favorable offer at time of award. This creates a significant price risk for the Government in periods where the margins are shrinking and for the contractors in periods where the margins are expanding. such fluctuations can be significant, for example, in petroleum markets. A reference based on the same or similar products as provided under the contract, results in a common EPA reference for competing offerors and minimizes the price risk for both the Government and the contractor.

A proposed rule with request for comments was published in the **Federal Register**.. (60 FR 10826, Feb. 28, 1995.) One respondent submitted comments on the proposed rule. The respondent's comments were considered in the development of the final rule. On October 5, 1995, the Director, Defense Procurement, approved a permanent class deviation for DLA to deviate from the requirements of FAR 16.203–1 and 16.203–4(a) when using fixed price contracts with economic price adjustments. Under this deviation, DLA was authorized to include conforming language in the DLA supplement.

The final rule is the same as the proposed rule with one exception. The second sentence in Subpart 5416.203–4, ''Contract clauses' of the proposed rule, which states that ''established prices in such clauses need not be verifiable using the criteria in 48 CFR (FAR) 15.804–3'' was removed in the final rule. The criteria referred to were deleted from the Truth in Negotiations Act (TINA) (10 U.S.C. 2306a.) when the statute was recently revised. Accordingly, the revised and renumbered FAR Part 15 no longer contains these criteria. Therefore, the language has been removed from the final rule as it is no longer applicable.

Regulatory Flexibility Act

The final rule does not have significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. An initial regulatory flexibility analysis was not performed. The final rule does not represent a change for small entities doing business with DLA. Comments were requested concerning the effect of the proposed rule on small entities in accordance with section 612 of the Act. No comments were received.

B. Paperwork Reduction Act

This rule does not impose any new reporting or record keeping requirements that require the approval of OMB under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Part 5416

Government procurement.

For reasons set forth in the preamble, the Defense Logistics Agency amends 48 CFR Chapter 54, by adding part 5416 to read as follows:

PART 5416—TYPES OF CONTRACTS

Subpart 5416.2—Fixed Price Contracts

5416.203 Fixed-Price Contracts with Economic Price Adjustment
5416.203–1 Description
5416.203–3 Limitations
5416.203–4 Contract Clauses

Authority: Fixed Price Contracts

4516.203 Fixed Price Contracts with Economic Price Adjustment

4516.203–1 Description.

(a)(S–90) Adjustments based on established prices. Established prices may reflect industry-wide and/or geographically based market price fluctuations for commodity groups, specific supplies or services, or contract end items.

(c)(S–90) Adjustments based on cost indexes of labor or materials. These price adjustments may also be based on increases or decreases in indexes for commodity groups, specific supplies or services, or contract end items.

4516.203–3 Limitations.

(S–90) A fixed price contract with economic price adjustment may also be used to provide for price adjustments authorized in this section.

4516.203–4 Contract clauses.

(S–90) When the contracting officer determines that an existing EPA clause is not appropriate, the contracting officer may develop and use another EPA clause in accordance with 5416.203–1 (a)(S–90) or (c)(S–90). Established prices and cost indexes need not reflect changes in the costs or established prices of a specific contractor. The established price or cost index may be derived from sales prices in the marketplace, quotes, or assessments as reported or made available in a consistent manner in a publication, electronic database, or other form, by an independent trade association, Governmental body, or other third party independent of the contractor. More than one established price or cost index may be combined in a formula for economic price adjustment purposes in the absence of an appropriate single price or cost index.

Dated: July 23, 1999.

William J. Kenny,

Executive Director, Procurement Management.

[FR Doc. 99–19630 Filed 7–30–99; 8:45 am]

BILLING CODE 3620–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AF70

Endangered and Threatened Wildlife and Plants; Listing of Nine Evolutionarily Significant Units of Chinook Salmon, Chum Salmon, Sockeye Salmon, and Steelhead

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) is adding several Evolutionarily Significant Units (ESUs) of chinook salmon (*Oncorhynchus tshawytscha*), chum salmon (*Oncorhynchus keta*), sockeye salmon (*Oncorhynchus nerka*), and steelhead

(*Oncorhynchus mykiss*) to the List of Endangered and Threatened Wildlife (List) in accordance with the Endangered Species Act of 1973, as amended (Act). The Puget Sound chinook salmon ESU in Washington, the Lower Columbia River chinook salmon ESU in Washington and Oregon, and the Upper Willamette spring-run chinook salmon ESU in Oregon are added as threatened; the Upper Columbia River spring-run chinook salmon ESU in Washington is added as endangered; the Hood Canal summer-run chum salmon ESU in Washington and the Columbia River chum salmon ESU in Washington and Oregon are added as threatened; the Ozette Lake sockeye salmon ESU in Washington is added as threatened; and the Middle Columbia River steelhead ESU in Washington and Oregon and the Upper Willamette River steelhead ESU in Oregon are added as threatened. This amendment is based on determinations by the National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration, Department of Commerce, which has jurisdiction for these species, published in the **Federal Register** on March 24, 1999 (64 FR 14308), and March 25, 1999 (64 FR 14508, 64 FR 14517, 64 FR 14528).

DATES: The effective date for listing of these ESUs is May 24, 1999. The amendments to the list in 50 CFR 17.11(h) are effective August 2, 1999.

ADDRESSES: Division of Endangered Species, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Mail Stop 420, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Richard E. Hannan, Acting Chief, Division of Endangered Species, at the above address or telephone 703–358–2171.

SUPPLEMENTARY INFORMATION:

Background

In accordance with the Act and Reorganization Plan No. 4 of 1970, NMFS has jurisdiction over west coast steelhead. Under section 4(a)(2) of the Act, NMFS must decide whether a species under its jurisdiction should be classified as endangered or threatened. The Service is responsible for the actual amendment of the List in 50 CFR 17.11(h).

On March 24, 1999 (64 FR 14308), NMFS published a final rule listing four chinook salmon ESUs as threatened; the Puget Sound chinook salmon ESU in Washington, the Lower Columbia River chinook salmon ESU in Washington and Oregon, and the Upper Willamette spring-run chinook salmon ESU in Oregon; the Upper Columbia River spring-run chinook salmon ESU in Washington was listed as endangered. On March 25, 1999 (64 FR 14508), NMFS published a final rule listing two chum salmon ESUs as threatened; the Hood Canal summer-run chum salmon ESU in Washington and the Columbia River chum salmon ESU in Washington and Oregon. On March 25, 1999 (64 FR 14528), NMFS published a final rule listing one sockeye salmon ESU; the Ozette Lake sockeye salmon ESU in Washington as threatened. On March 25, 1999 (64 FR 14517), NMFS published a final rule listing two steelhead ESUs as threatened; the Middle Columbia River steelhead ESU in Washington and Oregon and the Upper Willamette River steelhead ESU in Oregon. NMFS had previously issued proposed listing rules for the chinook salmon ESUs on March 9, 1998 (63 FR 11482), for the chum salmon ESUs on March 10, 1998 (63 FR 11774), for the sockeye salmon ESU on March 10, 1998 (63 FR 11750), and for the steelhead ESUs on March 10, 1998 (63 FR 11798).

The proposed rules identified above solicited comments from peer reviewers, the public, and all other interested parties. The final rules addressed the comments received in response to the proposed rules. Because NMFS provided public comment periods on the proposed rules, and because this action of the Service to amend the List in accordance with the determinations by NMFS is administrative and nondiscretionary, the Service has omitted the notice and public comment procedures of 5 U.S.C. 553(b) for this action.

National Environmental Policy Act

The Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Act. The Service published a notice outlining its reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Regulation Promulgation

Accordingly, the Service amends part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as follows:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*		*
Fishes							

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	
Salmon, chinook	*Oncorhyncus tshawytscha.*	North America from Ventura R. in California to Point Hope, Alaska and the Mackenzie R. area in Canada, Northeast Asia from Hokkaido, Japan to the Anadyr R., Russia.	U.S.A. (WA) all naturally spawned populations from rivers and streams flowing into Puget Sound, including the Straits of Juan De Fuca from the Elwha R. eastward, and Hood Canal, South Sound, North Sound and the Strait of Georgia.	T	664	NA	NA
Salmon, chinook	*Oncorhyncus tshawytscha.*	North America from Ventura R. in California to Point Hope, Alaska and the Mackenzie R. area in Canada, Northeast Asia from Hokkaido, Japan to the Anadyr R., Russia.	U.S.A. (OR, WA) all naturally spawned populations from the Columbia R. and its tributaries upstream from its mouth to a point east of the Hood R. and White Salmon R., including the Willamette R. to Willamette Falls in Oregon, excluding the spring run in the Clackamas R.	T	664	NA	NA
Salmon, chinook	*Oncorhyncus tshawytscha.*	North America from Ventura R. in California to Point Hope, Alaska and the Mackenzie R. area in Canada, Northeast Asia from Hokkaido, Japan to the Anadyr R., Russia.	U.S.A. (OR) all naturally spawned populations in the Clackamas R. and the Willamette R. and its tributaries above Willamette Falls.	T	664	NA	NA
Salmon, chinook	*Oncorhyncus tshawytscha.*	North America from Ventura R. in California to Point Hope, Alaska and the Mackenzie R. area in Canada, Northeast Asia from Hokkaido, Japan to the Anadyr R., Russia.	U.S.A. (WA) all naturally spawned populations in the Columbia R. tributaries upstream of Rock Island Dam and downstream of Chief Joseph Dam, excluding the Okanogan R., and the Columbia R. from a line between the west end of Clatsop jetty, OR, and the west end of Peacock jetty, WA, upstream to Chief Joseph Dam, including spring-run hatchery stocks (and their progeny) in Chiwawa R., Methow R., Twisp R., Chewuch R., White R., and Nason Creek.	E	664	NA	N

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
Salmon, chum	*Oncorhyncus keta* ..	North Pacific Rim from Korea and the Japanese Island of Honshu east to Monterey Bay, California, Arctic Ocean from the Laptev Sea in Russia to Mackenzie R. in Canada.	U.S.A. (WA) all naturally spawned summer-run populations in Hood Canal and its tributaries and Olympic Peninsula rivers between Hood Canal and Dungeness Bay.	T	664	NA	NA
Salmon, chum	*Oncorhyncus keta* ..	North Pacific Rim from Korea and the Japanese Island of Honshu east to Monterey Bay, California; Arctic Ocean from the Laptev Sea in Russia to Mackenzie R. in Canada.	U.S.A. (OR, WA) all naturally spawned populations in the Columbia R. and its tributaries.	T	664	NA	NA
*	*	*	*	*	*	*	
Salmon, sockeye	*Oncorhyncus nerka*	North Pacific Basin from U.S.A. (CA) to Russia.	U.S.A. (WA) all naturally spawned populations in Ozette Lake and its tributary streams.	T	664	NA	NA
*	*	*	*	*	*	*	
Steelhead	*Oncorhyncus mykiss*.	North Pacific Ocean from the Kamchatka Peninsula in Asia to the northern Baja Peninsula.	U.S.A. (OR) all naturally spawned winter-run populations in the Willamette R. and its tributaries from Willamette Falls to the Calapooia R., inclusive.	T	664	NA	NA
Steelhead	*Oncorhyncus mykiss*.	North Pacific Ocean from the Kamchatka Peninsula in Asia to the northern Baja Peninsula.	U.S.A. (OR, WA) All naturally spawned populations in streams above and excluding the Wind R. in Washington, and the Hood R. in Oregon, upstream to, and including, the Yakima R. Excluded are steelhead from the Snake R. Basin.	T	664	NA	NA
*	*	*	*	*	*	*	

Dated: July 12, 1999.

Marshall P. Jones,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–19712 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 072799D]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 28, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Table 2 of the Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the 1999 Initial TAC of Pacific ocean perch for the Central Aleutian District as 3,561 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC for Pacific ocean perch in the Central Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 3,261 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of Pacific ocean perch for the Central Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 28, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19739 Filed 7–28–99; 3:04 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304063–9063–01; I.D. 072799E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), July 28, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586-7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for the Groundfish Fishery of the BSAI (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

Table 2 of the Final 1999 Harvest Specifications of Groundfish for the BSAI (64 FR 12103, March 11, 1999) established the 1999 Initial TAC of Pacific ocean perch for the Western Aleutian District as 5,753 metric tons (mt). See § 679.20(c)(3)(iii).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC for Pacific ocean perch in the Western Aleutian District will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,453 mt, and is setting aside the remaining 300 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Western Aleutian District of the BSAI.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of Pacific ocean perch for the Western Aleutian District of the BSAI. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: July 28, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19740 Filed 7–28–99; 3:04 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 147
Monday, August 2, 1999

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

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–SW–07–AD]

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 407 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to BHTC Model 407 helicopters. This proposal would require visually inspecting the vertical fin (fin) for reduced skin thickness; repairing or replacing the fin, if necessary; and identifying fins that have been inspected or repaired. This proposal is prompted by a report of an inboard skin damaged during production. The actions specified by the proposed AD are intended to detect fin assemblies with reduced skin thickness which, if not corrected, reduce the strength of the skin, and could lead to failure of the fin and loss of control of the helicopter.

DATES: Comments must be received on or before October 1, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Regional Counsel, Southwest Region, Room 663, Fort Worth, Texas.

FOR FURTHER INFORMATION CONTACT: Mike Kohner, Aerospace Engineer, FAA, Rotorcraft Directorate, Rotorcraft Certification Office, Fort Worth, Texas 76193–0170, telephone (817) 222–5447, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–SW–07–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 99–SW–07–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

Discussion

Transport Canada, which is the airworthiness authority for Canada, has notified the FAA that an unsafe condition may exist on BHTC Model 407 helicopters. Transport Canada advises some fin assemblies may have a reduced skin thickness which decreases the strength of the fin. If not corrected, this situation can lead to cracking of the vertical fin assembly.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 407–98–17, Revision A, dated June 26, 1998, which specifies a visual inspection for certain fin assemblies. It also provides for the repair and fluorescent penetrant inspection of repaired fin assemblies. It further provides for marking the vertical fin to show it is in compliance with the service bulletin. Transport Canada classified this service bulletin as mandatory and issued AD No. CF–98–10R1, dated August 20, 1998, in order to assure the continued airworthiness of these helicopters in Canada.

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

Since an unsafe condition has been identified that is likely to exist or develop on other BHTC Model 407 helicopters of the same type design registered in the United States, the proposed AD would require visually inspecting certain serial-numbered fins, part number 206–020–113–223A, –223B, or –223S, for reduced skin thickness; repairing or replacing the vertical fin, if necessary; and marking fins that have been inspected or repaired. This proposal is prompted by a report of an inboard skin damaged during production. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

The FAA estimates that 124 helicopters of U.S. registry would be affected by this proposed AD, that it would take approximately 3.0 work hours to accomplish the visual

inspection; 4.0 work hours to accomplish the vertical fin replacement, and 0.5 work hour to mark the fin, and that the average labor rate is $60 per work hour. Required parts would cost approximately $18,770. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $19,220 per helicopter, or a total of $2,383,280 for the entire fleet, to accomplish all the actions including replacing the fin.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bell Helicopter Textron Canada: Docket No. 99–SW–07–AD.

Applicability: Model 407 helicopters, with vertical fin (fin) assembly, part number (P/N) 206–020–113–223A, −223B, or −223S, with a serial number with a prefix of ''BP'', up to and including 2266 (except BP2260, BP2262, and BP2265), installed, certificated in any category.

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

Compliance: Required within 100 hours time-in-service, unless accomplished previously.

To detect fin assemblies with reduced skin thickness which, if not corrected, reduce the strength of the skin, and could lead to failure of the vertical fin (fin) and subsequent loss of control of the helicopter, accomplish the following:

(a) Visually inspect the fin assembly for reduced skin thickness, indicated by notches, scratches, or grooves on the skin, in accordance with Part I of the Accomplishment Instructions contained in Bell Helicopter Textron Alert Service Bulletin No. 407–98–17, Revision A, dated June 26, 1998 (ASB). If notches, scratches, or grooves are found, repair or replace the fin assembly in accordance with Part II of the Accomplishment Instructions contained in the ASB .

(b) Identify any fin that has been inspected or repaired in accordance with Part III of the Accomplishment Instructions in the ASB.

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

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

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

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD No. CF–98–10R1, dated August 20, 1998.

Issued in Fort Worth, Texas, on July 26, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–19744 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–61–AD; Amendment 39–11061; AD 99–05–13]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking; withdrawal of final rule.

SUMMARY: This document proposes to withdraw Airworthiness Directive (AD) 99–05–13, which currently applies to Raytheon Aircraft Company (Raytheon) Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes. AD 99–05–13 requires installing a placard on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents. Since the issuance of AD 99–05–13, the Federal Aviation Administration (FAA) has re-evaluated all information related to this subject, and determined that the subject matter in this AD is an operational issue and does not address an unsafe condition. Accordingly, this action proposes to withdraw AD 99–05–13.

DATES: Comments must be received on or before September 9, 1999.

FOR FURTHER INFORMATION CONTACT: Mr. Scott West, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4146; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as

they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–CE–61–AD.'' The postcard will be date-stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–61–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Discussion

AD 99–05–13, Amendment 39–11061 (64 FR 10560), currently requires installing a placard on the fuel tank selector to warn of the no-flow condition that exists between the fuel tank detents on Raytheon Beech 17, 18, 19, 23, 24, 33, 35, 36/A36, A36TC/B36TC, 45, 50, 55, 56, 58, 58P, 58TC, 60, 65, 70, 76, 77, 80, 88, and 95 series airplanes.

The AD was the result of reports of engine stoppage on the affected airplanes where the cause was considered to be incorrect positioning of the fuel selector. The actions of AD 99–05–13 were intended to prevent a lack of fuel flow to the engine caused by the incorrect positioning of the fuel selector, which could result in loss of engine power.

Events Leading to This Proposed Action

The FAA has since evaluated all information related the subject matter of AD 99–05–13 and has determined that:

—The positioning of the fuel selector is an operational issue and not an unsafe condition under part 39 of the Federal Aviation Regulations (14 CFR part 39) and should be handled by other methods;

—Normal operating and procedural information such as this should be handled through regular revisions to the Airplane Flight Manual (AFM) or Pilot's Operating Handbook (POH); and

—By requiring a placard in an AD to convey normal operating information, the FAA reduces the pilots' sensitivity to true emergency information that should be conveyed by placards.

The FAA's Determination and Provisions of This Proposed Action

Based on the above information, the FAA has determined that there is no need for AD 99–05–13 and that it should be withdrawn.

This proposed action would withdraw AD 99–05–13. Withdrawal of AD 99–05–13 would constitute only such action; and, if followed by a final action, would not preclude the agency from issuing another notice in the future, nor would it commit the agency to any course of action in the future.

Regulatory Impact

Since this proposed action would only withdraw an AD, it is neither a proposed AD nor a final AD and, therefore, is not covered under Executive Order 12866, the Regulatory Flexibility Act, or DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Withdrawal

Accordingly, AD 99–05–13, Amendment 39–11061, published in the **Federal Register** on March 5, 1999 (64 FR 10560), is proposed to be withdrawn.

Issued in Kansas City, Missouri, on July 26, 1999.

Mike Gallagher,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–19745 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–U

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 4

Performance Data and Disclosure for Commodity Trading Advisors

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed rules.

SUMMARY: On June 18, 1998, the Commodity Futures Trading Commission (''CFTC'' or ''Commission'') published in the **Federal Register** a ''Concept Release'' seeking public comment on issues relating to the computation and presentation of rate of return information and other disclosures concerning partially-funded accounts managed by commodity trading advisors (''CTAs''). The Concept Release discussed rules proposed by National Futures Association (''NFA'') as well as several other issues related to the presentation of CTA and commodity pool operator disclosure which appeared to warrant further study and analysis. The Concept Release requested public comment on both the NFA proposal and the other issues. Based on its consideration of comments received in response to the Concept Release, the Commission has determined to propose revisions to its rules concerning the documentation, computation, and disclosure of CTA's past performance information. The rules are intended to simplify the recordkeeping and computational requirements for CTAs who accept partially-funded client accounts, while providing for meaningful and focused disclosure to clients regarding the past performance of the CTA, and the risks attendant upon trading on a partially-funded basis.

DATES: Comments must be received by October 1, 1999.

ADDRESSES: Comments on the proposed rules may be sent to Jean A. Webb, Secretary of the Commission, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5221, or by electronic mail to secretary@cftc.gov. Reference should be made to ''Performance Data and Disclosure for Commodity Trading Advisors.''

FOR FURTHER INFORMATION CONTACT: Robert B. Wasserman, Associate Director, (202) 418–5092, electronic mail: ''rwasserman@cftc.gov,'' or Eileen R. Chotiner, Futures Trading Specialist,

(202) 418–5467, electronic mail: ''echotiner@cftc.gov,'' Division of Trading and Markets, Commodity Futures Trading Commission, 1155 21st Street, NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. The Concept Release

The Concept Release sought public comment on computational and disclosure matters relating to participation in programs of commodity trading advisors (''CTAs'') on a partially-funded basis and raised specific questions regarding a number of issues: (1) Improving risk profile data for clients considering participation in CTA programs on a partially-funded basis; (2) providing CTA client account information to futures commission merchants (''FCMs'') to aid the FCM's risk management; (3) improving risk profile data on commodity pools; (4) providing a theoretically sound basis of computation and presentation for rate of return (''ROR'') and related risk profile data; (5) improving the presentation of historical performance and risk profile data; and (6) providing periodic statements of program activity and results to CTA clients.

The Commission initially provided a 60-day comment period on the Concept Release, through August 17, 1998. On August 6, 1998, the Commission extended the comment period for 30 days, through September 16, 1998. The Commission received 19 comments on the release: four from firms registered as both CTAs and commodity pool operators (''CPOs''); three from registered CTAs; one from a registered CPO; one from a bar association; one from a futures self-regulatory organization; one from a futures industry trade association; two from academicians; one from an administrative law judge; two from accounting/compliance firms; two from other financial services firms; and one from an individual investor.

The Concept Release addressed in particular rules proposed by the National Futures Association (''NFA'').[1] In the rule submissions, NFA proposed that ROR be computed on the basis of the nominal account size, rather than the beginning net asset value (''BNAV'') of the account, as currently required by Commission Rule 4.35(a)(6). NFA asserted that the amount of actual funding in a client's account does not control the CTA's trading decisions. In the Concept Release, the Commission raised questions about whether nominal account size is a legitimate basis for the computation of ROR, as well as whether NFA's proposed documentation and disclosure requirements were sufficient to address concerns about the impact of partial funding on a client's account.

In response to the questions raised in the Concept Release, some commenters indicated concern regarding the validity of the nominal account size and the ability of clients to interpret and compare performance data presented on a basis other than the actual funds deposited in a client's account. However, the majority of commenters, including NFA, the Managed Funds Association (''MFA''), and several CPOs and CTAs, expressed support for the use of nominal account size as the basis for computing ROR and presenting the CTA's past performance.

The Concept Release also discussed the current requirements for disclosure of draw-down information pursuant to Rules 4.35(a)(1)(v) and (vi), and asked for comment on the possibility of expanding draw-down disclosure in two areas. First, the Concept Release sought comment on the advisability of requiring draw-down percentage data to be presented at two or three partial-funding levels that are representative of those offered by the CTA, in addition to the fully-funded level. Second, the Concept Release sought comment on the concept of enhancing disclosure of a program's historical volatility, possibly by expanding the time period for historical performance disclosure; reducing the amount of monthly data; and requiring more detailed information concerning the volatility of the CTA's program, either through an expanded number of worst draw-down months, or by requiring presentation of the standard deviation of the monthly returns.

A number of commenters expressed concern that requiring too many items of data would result in less attention being paid to that information. The Commission has been attentive to those concerns. In seeking to highlight the increased leverage—and consequent increased risk—in partially funding accounts, the Commission has proposed a set of disclosures that is significantly limited compared to that discussed in the Concept Release.

A number of other ideas discussed in the Concept Release generated substantial opposition from commenters. These include a requirement that a CTA provide a copy of its agreement with the client to the client's FCM and additional reporting requirements for CTAs. The Commission has determined not to include these in the proposed rules.

II. The Proposed Rules

The Commission has carefully considered the comments received, and has determined to revise its rules to provide a comprehensive framework for addressing certain of the issues raised in the Concept Release. In making the current proposal, which incorporates most of the concepts included in the NFA proposal, the Commission seeks to simplify the recordkeeping and computational requirements for CTAs who accept partially-funded client accounts, while providing for meaningful and focused disclosure to clients regarding the past performance of the CTA, and the risks attendant upon trading on a partially-funded basis.

In particular, the Commission has determined to revise its rules to require that ROR be computed by dividing net performance by the nominal account size. This change is intended to reduce regulatory burdens by relieving CTAs of the responsibility for tying nominal account size to actual funding levels, and to permit a uniform method for CTAs to calculate their RORs, regardless of whether they accept partially-funded client accounts. As discussed below, CTAs who wish to measure performance on an actual funds basis may do so by setting the nominal account size equal to the actual funding level.

The risk disclosure requirements included in the proposed rules are intended to highlight critical information without overloading the client with excessive data. Other changes are proposed primarily to codify certain definitions and other information currently contained in Commission advisories.[2]

A. Documentation of Nominal Account Size

In order to address concerns regarding documentation of the nominal account size and other terms of the CTA's trading for clients' accounts, the Commission is proposing to add new paragraph (c) to Rule 4.33. This provision would require that the CTA execute a written agreement with each client that specifies: The nominal account size; the name or description of the trading program in which the client is participating; the basis for the

[1] By letters dated March 15, 1994 and March 15, 1995, NFA submitted to the Commission for its approval, pursuant to Section 17(j) of the Act, NFA Compliance Rule 2–34 and its Interpretive Notice regarding documentation and disclosure for partially-funded accounts. By letter dated February 26, 1998, NFA submitted a revision to NFA Compliance Rule 2–29 regarding the rate of return computation.

[2] CFTC Advisory 87–2 [1986–87 Transfer Binder] Comm. Fut. L. Rep. (CCH) para. 23,624 (June 2, 1987); CFTC Advisory 93–13, 58 FR 8226 (February 12, 1993).

computation fees; how additions or withdrawals of actual funds, or profits and losses will affect each of (a) the nominal account size and (b) the computation of fees; and whether the client will fully or partially fund the account. The provisions of proposed Rule 4.33(c) are substantially similar to the documentation requirements that were included in NFA's Proposal.

These requirements will apply to all CTAs, regardless of whether they accept partially-funded accounts. A CTA that intends to continue to measure its performance using actual funds may establish a nominal account size which is defined on an actual funds basis. The information specified by Rule 4.33(c) need not be contained in a separate agreement, but may be included as part of any other signed written agreement between the CTA and the client.

B. Changes to Calculations

The Commission is proposing to amend and re-order paragraphs (A)—(F) of Rule 4.35(a)(6)(i) to accommodate the use of nominal account size, rather than net asset value, as the basis for performance computation.[3] Rule 4.10(*l*) would also be amended to define the measurement of a CTA's worst peak-to-valley draw-down by net performance relative to nominal account size, rather than changes in net asset value. Proposed Rules 4.35(a)(6)(i)(D) and (E) address the fact that changes to the nominal account size may result either from changes in actual amounts, such as additions, withdrawals, profits or losses; or from changes to the nominal account size, pursuant to the terms of the CTA's agreement with the client in accordance with proposed Rule 4.33(c)(1). Proposed Rule 4.35(a)(6)(i)(B) defines net performance as the sum of the realized gain or loss on positions closed during the period plus the change during the period in unrealized gain or loss, plus interest on funds deposited with the client's FCM, less fees and expenses. This proposed rule also provides that no interest income may be imputed with respect to nominal account sizes or otherwise computed on a pro-forma basis.

Although proposed rule 4.35(a)(6)(i)(B) would include, as part of net performance, interest on actual funds deposited with the client's FCM, this raises questions regarding whether such interest should be credited as part of the CTA's performance where the interest is earned on investments directed by the FCM (as opposed to the CTA). Reasons supporting the inclusion of the interest include the following: (1) Since trading fees are charged against the CTA's performance, even though the commission rate may be negotiated by the client and the FCM, interest earned at the FCM should be credited to the CTA's performance to maintain parity; and (2) the interest is, in a real sense, part of the return on the funds. Reasons against the inclusion of the interest include the following: (1) Since the objective of performance reporting is to convey the results from the trading which a CTA performed on behalf of a client, it may be misleading to include interest earned on investments managed by the FCM (as opposed to the CTA); and (2) as one commenter explained, ''(i)f a CTA agrees with each of several clients to a nominal account size and each account is traded similarly, the performance results of the CTA as they relate to these accounts should be the same.'' But, if interest on the funds on deposit with the client's FCM is included in the CTA's performance results, then the CTA will have different performance results, depending on each client's arbitrarily selected funding level. The Commission solicits comment on this issue.

C. Disclosure of Actual Funding Levels and Funds Under Management

In accepting the use of nominal account size to compute ROR, the Commission intends to permit CTAs to disclose their trading results as they relate to the account size which governs their trading decisions. However, the Commission believes that disclosure of the amount of client assets managed by the CTA—the funds under management—should continue to reflect the amount of actual funds committed by clients to the CTA's trading program, rather than the aggregate of nominal account sizes. It would be misleading to describe ''notional funds,''[4] which the client has chosen not to place in an account over which the CTA has trading authority, as ''funds under management.'' Rule 4.35(a)(1), therefore, would be revised to clarify that the disclosure of funds under management must reflect only the actual funds committed to the CTA's trading program. The term ''Actual Funds'' is defined in new Rule 4.10(n), which codifies the definitions included in Commission Advisories 87–2 and 93–13.[5] Rule 4.35(a)(1) would permit a CTA that does not posses information about the amount of actual funds a client has deposited to meet this disclosure requirement by simply disclosing that lack of information. New provisions, set forth in Rule 4.35(a)(1)(ix), would require that the performance capsule state the percentage of client accounts in the program that are fully funded and specify that any disclosure of aggregate nominal account sizes must be identified clearly as such and presented adjacent to the actual funds amounts.

D. Disclosure Concerning Draw-Downs

If the client funds the account traded by the CTA at a level less than the nominal account size, then gains or losses will represent a greater percentage of the amount funded. In other words, the leverage will be increased. This increased leverage increased both the likelihood that the client will be faced with a margin call and the size of such a potential margin call. It also increases the risk that the client will lose more than the funds it has advanced. In order to indicate clearly to potential clients the increased leverage—and the consequent increased risk—inherent in partial funding, new Rule 4.35(a)(1)(ix)(A) would require CTAs who accept partially-funded accounts to present draw-down figures computed on the basis of the actual funds committed to the CTA's program by the client with the lowest ratio of actual funds to nominal account size in the trading program.[6] If the CTA does not have sufficient information regarding the funding level of its client accounts, or if the lowest ratio is zero, the draw-down information would be presented at a funding level of 20%. These additional draw-down figures would be presented adjacent to the worst monthly and peak-to-valley draw-

[3] For example: Under the current method of calculation, if a CTA's program has beginning net asset value (BNAV) of 100, ending net asset value (ENAV) of 150, additions (ADDS) of 40 and withdrawals (WDRS) of 0, then net performance (NET–PERF) is 10, and ROR is 10%:

NET–PERF = ENAV − BNAV − ADDS + WDRS

10 = 150 − 100 − 40 + 0

ROR = NET–PERF/BNAV

10% = 10/100

Under the proposal, the CTA is not required to monitor net asset values, and thus net performance must be calculated directly. Under the proposed method of calculation, if the total of the nominal account sizes for the CTA's program (BNOM) is 100 at the beginning of the month, the realized gain on positions closed during the period (RG) is 7, the change in unrealized gains (UN–RG) is 5, and fees and expenses (FEES) are 2, then NET-PERF is still 10, and ROR is still 10%:

NET–PERF = RG + UN–RG − FEES

10 = 7 + 5 − 2

ROR = NET–PERF/BNOM

10% = 10/100

[4] The difference between the nominal account size and the actual funding level frequently been referred to as ''notional funds.''

[5] *See supra,* note 2.

[6] For example, if the lowest funding level is 25% and the greatest monthly drawdown is 15%, the drawdown shown on the basis of actual funding would be 60% (15%÷25%).

down percentages based on the aggregate nominal account sizes.

The concept release discussed the Commission's concern regarding disclosure of the historical volatility of CTA programs and suggested that, since extreme market events do not always occur within the five-year time-frame specified by the regulations, this time-frame may permit some CTAs to omit their greatest draw-downs from their historical risk profiles. In order to address these concerns, the Commission proposes to revise Rules 4.35(a)(1)(v) and (vi) to require that the worst monthly and peak-to-valley draw-down, which will be based on the composite of accounts, be included in the performance capsule for the most recent five years and, in addition, for the life of the program, if longer than five years. The Commission does not intend that this requirement create a significant additional recordkeeping burden for CTAs, and is proposing a corresponding change to Rule 4.35(a)(6)(ii) to clarify that only the monthly figures derived from the supporting documentation, and not the supporting documentation itself, must be maintained beyond the five-year period specified in Rule 1.31. However, the Commission specifically invites comment regarding the extent to which the additional draw-down disclosure would provide a benefit to clients and details regarding the extent of any additional burden that is anticipated.[7]

E. Disclosure Concerning Range of Rates of Return

The Commission believes that disclosing the range of RORs for closed accounts in the offered program provides an important measure of the returns experienced by clients and will be useful to prospective clients considering participation in the CTA's program. Therefore, the Commission is also proposing to revise Rule 4.35(a)(1)(viii) to require that the performance capsule for the offered program include, in addition to the number of accounts closed with profits and the number closed with losses, the range of rates of return for the accounts closed with net lifetime profits and accounts closed with net lifetime losses, during the five-year period. As previously noted, Rules 4.35(a)(1)(v) and (vi) would be revised to specify that the worst draw-down information be based on the composite of accounts. Thus, the draw-down figures in the CTA's capsule would not reflect the ROR of a client account that performed worse than other accounts in composite[8] In light of the proposed changes to Rules 4.35(a)(1)(v) and (vi), the Commission believes that presentation of the range of RORs for closed accounts would provide a valuable additional perspective on the results experienced by individual clients. The Commission does not anticipate a significant additional burden as a result of this change due to the existing requirement of Rule 4.35(a)(1)(viii) that CTAs disclose the number of accounts closed with profits and the number of accounts closed with losses.

F. Disclosure of Monthly Performance

The Commission wishes to explore the possibility of requiring that the monthly RORs be presented in a bar graph, in order to provide a more direct visual representation of the variations in RORs from month to month. Currently, Rule 4.35(a)(2)(ii) specifies that monthly RORs for the offered program must be presented either in a numerical table or in bar graph. Proposed revisions to Rule 4.35(a)(2)(ii) would require the bar graph to be disclosed in addition to the tabular presentation of monthly ROR figures. The Commission is requesting comment regarding whether use of a bar graph may communicate the month-to-month changes in customer returns more effectively than a tabular presentation, as well as whether the bar graph should be required in lieu of the tabular presentation of RORs. In addition, the Commission seeks comment regarding the significance of any additional burden that may result from the requirements.

G. Illustrative Performance Capsule

An example of a performance capsule that would meet the disclosure requirements, modified as discussed in §§ II(C–F) above, is attached as Appendix A. This example is not intended to mandate a particular format, but only to serve as an illustration.

H. Changes to Definitions and Disclosure Requirements

Changes are also being proposed to codify definitions and other information currently contained in Commission advisories as well as to clarify existing rules and definitions in the context of the proposed rule revisions. New Rule 4.34(p), in the main, codifies certain of the requirements currently set forth in Commission Advisory 93-13, and also discussed as part of the NFA Proposal, for disclosure to prospective clients of material information concerning the practice of partially funding an account and the factors considered by the CTA in determining the trading level for a given nominal account size. Definitions of ''nominal account size,'' ''actual funds'' and ''partially-funded account'' are proposed to be added as Rules 4.10(m), (n) and (o), respectively.

Proposed Rule 4.10(p) contains a definition of ''most recent five years'' that is intended to simplify the terminology used to designate the five calendar years and year-to-date time period for which performance is required to be disclosed pursuant to Rules 4.25(a)(5) and 4.35(a)(5). This clarification does not affect the existing provisions of Rules 4.25(a)(7) and 4.35(a)(4) that require performance information in a Disclosure Document to be current as of a date not more than three months preceding the date of the Disclosure Document.

I. Commodity Pool Disclosure

The Concept Release included a detailed discussion of disclosure by CPOs. Due to the complexity of pool performance issues, the Commission is, generally, deferring consideration of changes to the requirements for disclosure of past performance by CPOs, other than changes primarily intended to conform the requirements for presentation of CTA past performance in pool disclosure documents with the revisions to Rule 4.35(a)(1) proposed herein. Other issues relating to pools will be considered in the context of the Commission's implementation of recommendations included in the President's Working Group on Financial Markets' April 1999 study, ''Hedge Funds, Leverage and the Lessons of Long-Term Capital Management.''

In order to highlight a use of leverage by commodity pools, the Commission is proposing one substantive revision to commodity pool disclosure in Rule 4.25(a)(1)(ii)(H). This provision would be applicable only where the CPO allocates, to any of the pool's CTAs, an amount of actual funds which is less than the nominal account size stated in the pool's written agreement with the CTA. In such cases, the CPO would be required to include in the performance capsule for each such CTA, in a column adjacent to the presentation of data based on nominal account size, the draw-down information required by Rule 4.25(a)(1)(ii)(E) and (F), computed on the basis of the ratio of the nominal account size to the pool's actual funds allocated to the CTA's program.

[7] Of course, prior to the effective date of these proposed rule changes, commodity trading advisors would not be obligated to maintain records for this purpose longer than the five years required under Rule 1.31.

[8] However, CTAs would remain subject to the requirement of Rule 4.34(o) to disclose all material information to existing or prospective clients even if such information is not specifically required by these regulations.

III. Transitional Provisions

The Commission proposes to require CTAs and CPOs to comply with the revisions proposed herein, including the requirement to obtain the documentation required by new Rule 4.33(c) for both new and existing clients, by no later than July 1, 2000. The Commission seeks comment on any difficulties anticipated in complying with these proposed requirements by July 1, 2000. CTAs and CPOs would be permitted to adopt these changes immediately upon the effective date of the proposed rules.

IV. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (''RFA''), U.S.C. 606–11 (1994), requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its rules on such entities in accordance with the RFA.[9] The Commission previously has determined that registered CPOs are not small entities for the purpose of the RFA.[10] With respect to CTAs, the Commission has stated that it would evaluate within the context of a particular rule proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of any rule.[11] In this regard, the Commission notes that the rule revisions being proposed herein create some changes to the content of the documentation and disclosure requirements for CTAs, but are not expected to increase such requirements, and, in fact, are expected ultimately to ease the computational and recordkeeping requirements for CTAs who manage partially-funded client accounts. The Commission has previously determined that the disclosure requirements governing this category of registrant will not have a significant economic impact on a substantial number of small entities [12] Therefore, the Acting Chairman, on behalf of the Commission, hereby certifies, pursuant to 5 U.S.C. 605(b), that these proposed regulations will not have a significant economic impact on a substantial number of small entities. Nonetheless, the Commission specifically requests comment on the impact these proposed rules may have on small entities.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (Pub. L. 104–13 (May 13, 1995)) imposes certain requirements on federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by that Act.

The group of rules contained in all of Part 4, ''Commodity Pool Operators and Commodity Trading Advisers,'' of which Rules 4.10, 4.25, 4.33, 4.34 and 4.35 are a part, was approved on September 4, 1998 and assigned OMB control number 3038–0005. The Commission does not anticipate that the proposed revisions to the rules will affect the total burden of this group of rules. The group of rules contained in OMB control number 3038–0005 has the following burden:

Average burden hours per response: 4.95

Number of respondents: 4,624

Frequency of response: On occasion

Copies of the information collection submission to OMB are available from the CFTC Clearance Officer, 1155 21st Street, NW, Washington, DC 20581, (202) 418–5160.

List of Subjects in 17 CFR Part 4

Brokers, Commodity futures, Commodity pool operators, Commodity trading advisors.

PART 4—COMMODITY POOL OPERATORS AND COMMODITY TRADING ADVISORS

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

Authority: 7 U.S.C. 1a, 2, 4, 6b, 6c, 6l, 6m, 6n, 6o, 12a and 23.

2. Section 4.10 is proposed to be amended by revising paragraph (l) and adding paragraphs (m), (n), (o) and (p) to read as follows:

§ 4.10 Definitions.

* * * * *

(l) *Worst peak-to-valley draw-down* means:

(1) For a commodity pool, the greatest cumulative percentage decline in month-end net asset value due to losses sustained during any period in which the initial month-end net asset value is not equaled or exceeded by a subsequent month-end net asset value. Such decline must be expressed as a percentage of the initial month-end net asset value, together with an indication of the months and year(s) of such decline from the initial month-end net asset value to the lowest month-end asset value of such decline.

(2) For an account directed by a commodity trading advisor or for a commodity trading advisor's trading program, the greatest negative net performance during any period, beginning at the start of one month, and ending at the conclusion of that month or a subsequent month. The worst peak-to-valley draw-down must be expressed as a percentage of the nominal account size at the beginning of the period, together with an indication of the months and year(s) of such draw-down.

(3)(i) For purposes of paragraph (2) of this section, net performance for a period is defined as the total of:

(A) the realized gain or loss on position closed during the period, plus

(B) The change during the period in unrealized gain or loss, plus

(C) Interest accrued on funds deposited in the client's account at a futures commission merchant, plus

(D) Other income accrued on positions held as part of the CTA's program, minus

(E) Fees and expenses.

(ii) No income may be imputed with respect to nominal account sizes or otherwise computed on a pro-forma basis.

(4) For purposes of §§ 4.25 and 4.35, a peak-to-valley draw-down which began prior to the beginning of the most recent five calendar years is deemed to have occurred during such five-calendar-year period.

(m) *Nominal account size* means the account size, designated in the written agreement specified in § 4.33(c), which establish he client's level of trading in a commodity trading advisor's program.

(n) *Actual funds* means the amount of margin-qualifying assets committed to a commodity trading advisor's program, either:

(1) On deposit in an account at a futures commission merchant to margin the client account for which a commodity trading advisor has trading authority; or

(2) In another account, so long as the commodity trading advisor has written evidence demonstrating the following:

(i) The client owns the funds and has designated such funds as committed to the commodity trading advisor's trading program;

(ii) The futures commission merchant carrying the client's account for which the commodity trading advisor directs trades has the power to transfer the funds readily from the other account for the purpose of meeting margin requirements in connection with such trades, on a routine operational basis

[9] 47 FR 18618–181621 (April 30, 1982).

[10] 47 FR 18619–18620.

[11] 47 FR 18618–18620.

[12] *See* 60 FR 38146, 38181 (July 25, 1995) and 48 FR 35248 (August 3, 1983).

and without advance notice to the client; and

(iii) The commodity trading advisor has ready access to information concerning the designated balance in the account.

(o) Partially-funded account means a client participation in the program of a commodity trading advisor in which the amount of actual funds committed to the trading program is less than the nominal account size.

(p) For purposes of §§ 4.25 and 4.35, the term *most recent five years* means:

(1) The time period beginning January 1 of the calendar year five years prior to the date of the Disclosure Document and ending as of the date of the Disclosure Document or

(2) The life of the trading program, if less than five years.

3. Section 4.25 is proposed to be amended by revising paragraphs (a)(1)(ii)(D)(*1*) and (*2*) and (E) and (F) and by adding paragraph (a)(l)(i)(H) to read as follows:

§ 4.25 Performance disclosures.

(a) * * *

(1) * * *

(ii) * * *

(D)(*1*) The aggregate of actual funds committed to all of the trading programs of the trading advisor or other person trading the account, as of the date of the Disclosure Document or, if the commodity trading advisor does not have sufficient information regarding the funding of its client's accounts to determine the aggregate of actual funds committed to its programs, a statement of that fact;

(*2*) The aggregate of actual funds committed to the specified trading program of the commodity trading advisor, as of the date of the Disclosure Document or, if the commodity trading advisor does not have sufficient information regarding the funding of its clients' accounts to determine the aggregate of actual funds which are committed to the specified trading program, a statement of that fact.

(E) The greatest monthly draw-down for the trading program specified, expressed as a percentage of aggregate nominal account sizes, and indicating the month and year of the draw-down during the most recent five years.

(F) The greatest peak-to-valley draw-down for the trading program specified, expressed as a percentage of aggregate nominal account sizes, and indicating the month(s) and year(s) of the draw-down during the most recent five years.

* * * * *

(H) In addition to the information specified in § 4.25(a)(1)(ii)(A)–(G), where the CPO allocates, to any of the pool's, CTAs, an amount of funds which is less than the nominal account size states in the written agreement with the CTA, the performance capsule for each such CTA must include, in a column adjacent to the presentation of data based on nominal account size, the draw-down information required by § 4.25(a)(1)(ii)(E) and (F), computed on the basis of the ratio of the nominal account size to the pool's actual funds allocated to the commodity trading advisor's program.

4. Section 4.33 is proposed to be amended by adding paragraph (c) to read as follows:

§ 4.33 Recordkeeping.

* * * * *

(c) A commodity trading advisor must obtain a written agreement signed by each client which, at a minimum, clearly specifies:

(1) The nominal account size;

(2) The name or description of the trading program in which the client is participating;

(3) The basis for the computation of fees;

(4) How each of the following will affect each of the nominal account size and the computation of fees: additions or withdrawals of actual funds or profits or losses; and

(5) Whether the client will deposit, maintain or make accessible to the FCM an amount equal to or less than the nominal account size, i.e., to fully or partially fund the account.

5. Section 4.34 is proposed to be amended by adding paragraph (p) to read as follows:

§ 4.34 General disclosures required.

* * * * *

(p) *Additional Disclosure by Commodity Trading Advisors Accepting Partially-funded Accounts.* A commodity trading advisor that accepts a partially-funded account (as defined in § 4.10(o)) must disclose:

(1) How the management fees will be computed, expressed as a percentage of the nominal account size, and an explanation of the effect of partially funding an account on the management fees as a percentage of actual funds.

(2) An estimated range of the commissions generally charged to an account expressed as a percentage of the nominal account size and an explanation of the effect of partially funding an account on the commissions as a percentage of actual funds;

(3) A statement that partial funding increases leverage, that leverage will magnify both profits and losses, and that the greater the disparity between the nominal account size and the amount deposited, maintained or made accessible to the futures commission merchant, the greater the likelihood and frequency of margin calls, and the greater the size of margin calls as a percentage of the amount of actual funds committed to the commodity trading advisor's program; and

(4) A description of the factors considered by the commodity trading advisor in determining the level of trading for a given nominal account size in the offered trading program and an explanation of how those factors are applied.

6. Section 4.35 is proposed to be amended by revising paragraphs (a)(1)(iv) through (a)(1)(ix), (a)(2), (a)(6)(i) and (a)(6)(ii) to read as follows:

§ 4.35 Performance disclosures.

* * * * *

(a) * * * (1) * * *

(iv)

(A) The aggregate of actual funds committed to all of the trading programs of the trading advisor or other person trading the account, as of the date of the Disclosure Document, of, if the commodity trading advisor does not have sufficient information regarding the funding of its clients' accounts to determine the aggregate of actual funds committed to its programs, a statement of that fact;

(B) The aggregate of actual funds committed to the specified trading program of the commodity trading advisor, as of the date of the Disclosure Document, or, if the commodity trading advisor does not have sufficient information regarding the funding of its client accounts to determine the aggregate of actual funds which are committed to the specified trading program, a statement of that fact.

(v) The greatest monthly draw-down for the trading program specified, expressed as a percentage of aggregate nominal account sizes, and indicating the month and year of the draw-down during each of the following periods:

(A) The most recent five years and

(B) If the commodity trading advisor has traded client accounts pursuant to the trading program for longer than the most recent five years, since the commodity trading advisor began trading the program for client accounts.

(vi) The greatest peak-to-valley draw-down for the trading program specified expressed as a percentage of aggregate nominal account sizes, and indicating the month(s) and year(s) of the draw-down, during each of the following periods:

(A) The most recent five years and

(B) If the commodity trading advisor has traded client accounts pursuant to

the trading program for longer than the most recent five years, since the commodity trading advisor began trading the program for client accounts.

(vii) Subject to § 4.35(a)(2) for the offered trading program, the annual and year-to-date rate-of-return for the program for each of the five most recent calendar years and year-to-date, computed on a compounded monthly basis; and

(viii) In the case of the offered trading program:

(A)(*1*) The number of accounts traded pursuant to the offered trading program that were closed during the period specified in § 4.35(a)(5) with positive net lifeline performance (profits) as of the date the account was closed, and

(*2*) The range of rates of return for the accounts closed with net lifetime profits; and

(B)(*1*) The number of accounts traded pursuant to the offered trading program that were closed during the period specified in § 4.35(a)(5) with negative net lifeline performance (losses) as of the date the account was closed, and

(*2*) The range of rates of return for the accounts closed with net lifetime profits; and

(ix) In addition to the information specified in § 4.35(a)(1)(i)–(viii), where the commodity trading advisor accepts partially-funded accounts, the performance capsule must include:

(A) A statement that rates of return are based on nominal account size.

(B) In a column adjacent to the presentation of data based on nominal account size, the draw-down information required by § 4.35(a)(1)(v) and (vi), divided by the percentage of actual funds committed to the commodity trading advisor's program by the client with the lowest ratio of actual funds to nominal account size in the trading program.

(*1*) If the commodity trading advisor does not have sufficient information regarding the funding level of its client accounts to determine the lowest ratio, or if the lowest ratio is zero, present this information at a funding level of 20 percent.

(*2*) The percentage basis of the computation, i.e., the actual funds ratio or the optional 20 percent, must be disclosed in the heading of the column.

(C) A statement of the percentage of client accounts in the program for which the actual funds committed equal the nominal account size. If the commodity trading advisor does not have sufficient information regarding the amount of actual funds committed by its clients to the trading program to determine the percentage of client accounts which have actual funding equal to the nominal account size, the commodity trading advisor must state that fact.

(D) If the commodity trading advisor elects to include the aggregate of the nominal account sizes of the client accounts in the trading program specified, this information must be placed adjacent to the disclosure of actual funds under management by the commodity trading advisor as required by § 4.35(a)(1)(iv).

(2) *Additional requirements with respect to the offered trading program.*

(i) (The performance of the offered trading program must be identified as such and separately presented first;

(ii) The rate of return of the offered trading program must be presented on a monthly basis for the most recent five years, in a numerical table and in bar graph.

(iii) (The bar graph used to present monthly rates of return for the offered trading program:

(A) Must show percentage rate of return on the vertical axis and monthly increments on the horizontal axis; and

(B) Must be scaled in such a way as to clearly show month-to-month differences in rates of return.

(iv) The commodity trading advisory must made available to prospective and existing clients upon request a table showing the information required to be calculated pursuant to § 4.35(a)(6). This table must be updated at least quarterly.

(6) *Calculation of, and recordkeeping concerning, performance information.*

(i) * * *

(A) The nominal account size at the beginning of the period, defined as the previous period's ending nominal account size;

(B)(*1*) The net performance for the period, which is defined as the total of:

(*i*) the realized gain or loss on positions closed during the period plus

(*ii*) the change during the period in unrealized gain or loss, plus

(*iii*) interest accrued on funds deposited in the client's account at a futures commission merchant, plus

(*iv*) other income accrued on positions held as part of the CTA's program, minus

(*v*) fees and expenses.

(*2*) no income may be imputed with respect to nominal account sizes or otherwise computed on a proforma a basis.

(C) The nominal rate of return for the period, which shall be calculated by dividing the net performance by the nominal account size at the beginning of the period.

(D) Changes to the nominal account size during the period, pursuant to the terms of the CTA's agreement with the client in accordance with § 4.33(c)(4). The records should clearly delinate the source of each change (additions or withdrawals of actual funds, profits or losses, or otherwise).

(E) Changes to the nominal account size pursuant to the terms of the CTA's agrement with the client in accordance with § 433(c)(1). The records should clearly delineate the source of each change (the opening or closing of accounts during the period or changes to nominal account size specifically directed by a client in writing.) If a client and the advisor agree that a nominal account size be changed effective at the beginning of a period, the change shall be reflected during the prior period.

(F) The nominal account size at the end of the period, defined the sum of the nominal account size at the beginning of the period (§ 4.35(a)(6)(i)(A)) and the changes specified in this § 4.35(a)(6)(i) (D) and (E).

(ii) All supporting documents necessary to substantiate the computation of such amounts must be maintained in accordance with § 1.31. With respect to the disclosures required by § 4.34(a)(1)(v)(B) and § 4.35(a)(1)(vi)(B), the monthly figures referred to in § 4.35(a)(6)(i)(a–F) must be maintained for five years subsequent to the last date on which disclosure document reflecting the specified trading program is prepared.

Issued in Washington, D.C. on July 26, 1999 by the Commission.

Jean A. Webb,

Secretary of the Commission.

BILLING CODE 6351–01–M

APPENDIX A
ILLUSTRATIVE EXAMPLE OF PERFORMANCE CAPSULE

PAST PERFORMANCE IS NOT NECESSARILY INDICATIVE OF FUTURE RESULTS

Name of CTA:	XYZ Inc.
Name of Trading Program:	Diversified Program
CTA Began Trading Client Accounts:	February 1989
CTA Began Trading Client Accounts in this Program:	March 1992
Current Number of Accounts in Program:	37
Actual Funds Managed by CTA in All Programs:	$12,749,420
Actual Funds Managed by CTA in Diversified Program:	$9,309,600
Aggregate Nominal Account Sizes —	
All Programs	$63,747,100
Diversified Program	$46,548,000

	Nominal Account Size	*20% Actual Funding Level*
Largest Monthly Draw-down — Last Five Years:	Jan 1994: -24%	-120%
Life of Program:	Dec 1992: -30%	-150%
Worst Peak to Valley Draw-down — Last Five Years:	Apr 98-Jun 98: -29%	-145%
Life of Program:	Jun 92-Apr 93: -34%	-170%

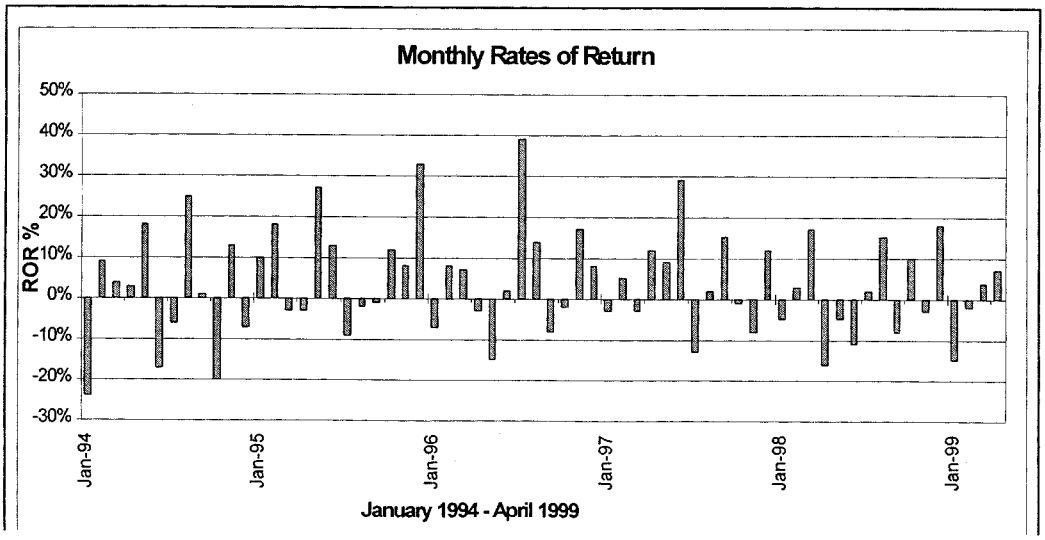
Annual Rates of Return:

1999 (YTD)	1998	1997	1996	1995	1994
-7%	10%	62%	63%	149%	-13%

Number of Accounts Closed with Profits:	25
Range of RORs for Accounts Closed with Profits:	35% — 123%
Number of Accounts Closed with Losses:	15
Range of RORs for Accounts Closed with Losses:	-12% — -68%

Rates of Return are Based on Nominal Account Size

As of May 31, 1999, 5% of the accounts in this program have actual funds equal to their nominal account size.



BILLING CODE 6351–01–C

MONTHLY RATES OF RETURN (JANUARY 1994–APRIL 1999)

[In percent]

	1999	1998	1997	1996	1995	1994
January	−15	−5	−3	−7	10	−24
February	−2	3	5	8	18	9
March	4	17	−3	7	−3	4
April	7	−16	12	−3	−3	3
May	.....	−5	9	−15	27	18
June	.....	−11	29	2	13	−17
July	.....	2	−13	39	−9	−6
August	.....	15	2	14	−2	25
September	.....	−8	15	−8	−1	1
October	.....	10	−1	−2	12	−20
November	.....	−3	−8	17	8	13
December	.....	18	12	8	33	−7
Annual/YTD	−7	10	62	63	149	−13

[FR Doc. 99–19572 Filed 7–30–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12, 113 and 141

RIN 1515–AC45

Assessment of Liquidated Damages Regarding Imported Merchandise That is Not Admissible Under the Food, Drug and Cosmetic Act

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes to amend the Customs Regulations to provide for the assessment of liquidated damages equal to the domestic value of the merchandise in the case of merchandise that is not admissible under the provisions of the Food, Drug and Cosmetic Act and that is not treated or otherwise disposed of in accordance with that Act. The document also proposes to amend various provisions of the Customs Regulations pertaining to customs bonds to provide for liquidated damages of three times the appraised value of the merchandise in the case of merchandise that is restricted or prohibited from entry. Finally, the document sets forth a proposed editorial correction within one of the sections of the Customs Regulations pertaining to Customs bonds. The substantive changes reflected in the proposed amendments are intended to enhance the effectiveness of the affected regulatory provisions by increasing and clarifying the potential liability for the payment of liquidated damages by principals and sureties on customs bonds.

DATES: Comments must be received on or before October 1, 1999.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments submitted may be inspected at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jeremy Baskin, Penalties Branch (202-927–2344).

SUPPLEMENTARY INFORMATION:

Background

Section 801 of the Food, Drug and Cosmetic Act, as amended (21 U.S.C. 381), and the regulations promulgated thereunder, provide the basic legal framework governing the importation of foodstuffs into the United States. Under 21 U.S.C. 381(a), the Secretary of Health and Human Services is authorized to refuse admission of, among other things, any article that is adulterated, misbranded or has been manufactured, processed or packed under insanitary conditions. The Secretary of the Treasury is required by section 381(a) to cause the destruction of any article refused admission unless the article is exported, under regulations prescribed by the Secretary of the Treasury, within 90 days of the date of notice of the refusal or within such additional time as may be permitted pursuant to those regulations.

Under 21 U.S.C. 381(b), pending decision as to the admission of an article being imported or offered for import, the Secretary of the Treasury may authorize delivery of such article to the owner or consignee upon the execution of a good and sufficient bond providing for the payment of liquidated damages in the event of default as may be required pursuant to regulations of the Secretary of the Treasury. In addition, section 381(b) allows the owner or consignee in certain circumstances to take action to bring an imported article into compliance for admission purposes, under such bonding and other requirements as the Secretary of the Treasury may prescribe by regulation.

Based upon the above statutory authority, imported foodstuffs are conditionally released under bond while determinations as to admissibility are made; *see* § 12.3 of the Customs Regulations (19 CFR 12.3). Under § 141.113(c) of the Customs Regulations (19 CFR 141.113(c)), Customs may demand the return to Customs custody of most types of merchandise that fail to comply with the laws or regulations governing their admission into the United States (also referred to as the redelivery procedure). The condition of the basic importation and entry bond contained in § 113.62(d) of the Customs Regulations (19 CFR 113.62(d)) sets forth the obligation of the importer of record to timely redeliver released merchandise to Customs on demand and provides that a demand for redelivery will be made no later than 30 days after the date of release of the merchandise or 30 days after the end of the conditional release period, whichever is later. Failure to meet the obligation to redeliver contained in § 113.62(d) will create a potential liability for the payment of liquidated damages under the terms of the bond.

Use of the Domestic Value Standard for Liquidated Damages

In an April 1998 report to the Chairman of the Permanent Subcommittee on Investigations, Committee on Governmental Affairs, U.S. Senate, on the subject of food

safety, the United States General Accounting Office (GAO) determined that federal efforts to ensure the safety of imported foods were inconsistent and unreliable. Among its specific conclusions, the GAO report indicated that a weakness existed in the Customs bond structure in that liquidated damages arising from breach of obligations to redeliver merchandise for which admission was refused did not represent a deterrent to the importation of unsafe products.

In response to this study, Customs is proposing in this document to amend § 12.3 of the Customs Regulations (19 CFR 12.3) by designating the present text as paragraph (a) and adding a new paragraph (b) that would refer specifically to the assessment of liquidated damages with regard to any food, drug, device or cosmetic that is not redelivered into Customs custody or otherwise treated or disposed of within the time period prescribed by law after such merchandise has been found to be inadmissible pursuant to the provisions of the Food, Drug and Cosmetic Act. The proposed new paragraph (b) specifically provides for the assessment of liquidated damages in an amount equal to the domestic value of the merchandise at the time of entry as if it had not been refused admission or otherwise found to be noncompliant. The meaning of domestic value as set forth in § 162.43(a) of the Customs Regulations (19 CFR 162.43(a)) for purposes of seized merchandise (that is, ''the price at which such or similar property is freely offered for sale at the time and place of appraisement, in the same quantity or quantities as seized, and in the ordinary course of trade'') would be used as the basis for calculating the liquidated damages.

Use of the ''Three Times'' Value Standard for Prohibited Merchandise

The conditions of the basic importation and entry bond set forth in § 113.62 of the Customs Regulations (19 CFR 113.62), the conditions of the basic custodial bond set forth in § 113.63 of the Customs Regulations (19 CFR 113.63), the conditions of the international carrier bond set forth in § 113.64 of the Customs Regulations (19 CFR 113.64), the conditions of the commercial gauger and commercial laboratory bond set forth in § 113.67 of the Customs Regulations (19 CFR 113.67), and the conditions of the foreign trade zone operator bond set forth in § 113.73 of the Customs Regulations (19 CFR 113.73) prescribe, as a consequence of default, the assessment of liquidated damages equal to three times the appraised value of the merchandise involved in the default if that merchandise is ''restricted merchandise or alcoholic beverages.'' Similar language is also used in § 141.113(h) of the Customs Regulations (19 CFR 141.113(h)), which recites the liquidated damages that may be assessed for failure to comply with a demand for return of merchandise to Customs custody.

A question has arisen whether the higher ''three times'' standard for liquidated damages would be appropriate when the merchandise involved is prohibited from entry. While it remains Customs position that the regulatory provisions referred to above permit the assessment of three times the appraised value of the merchandise when the merchandise involved is prohibited, this document proposes to amend those regulatory provisions to explicitly provide for the assessment of three times the appraised value of the merchandise involved when that merchandise is restricted ''or prohibited.''

Editorial Correction

Finally, this document proposes to make an editorial correction to the first sentence of § 113.62(l)(1) of the Customs Regulations (19 CFR 113.62(l)(1)), which sets forth consequences of default. This sentence refers to ''conditions (a), (g), or (i)'' as exceptions to the general rules regarding the amount of liquidated damages that may be assessed (that is, the value of, or three times the value of, the merchandise involved in the default). However, the sentence in question also should exclude condition (k) of § 113.62, for which a different level of liquidated damages (that is, $100 per thousand board feet of the imported lumber) is prescribed in paragraph (l)(5) of that section.

Comments

Before adopting these proposed regulatory amendments as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this proposed rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C.

Regulatory Flexibility Act And Executive Order 12866

Pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), it is certified that the proposed amendments, if adopted, will not have a significant economic impact on a substantial number of small entities. The proposed regulatory amendments will not require any additional action on the part of the public but rather are intended to facilitate Customs enforcement efforts involving existing import requirements. Accordingly, the proposed amendments are not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604. Furthermore, this document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

List of Subjects

19 CFR Part 12

Bonds, Customs duties and inspection, Labeling, Marking, Prohibited merchandise, Reporting and recordkeeping requirements, Restricted merchandise, Seizure and forfeiture, Trade agreements.

19 CFR Part 113

Bonds, Customs duties and inspection, Imports, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 141

Bonds, Customs duties and inspection, Entry procedures, Imports, Prohibited merchandise, Release of merchandise.

Proposed Amendments to The Regulations

For the reasons stated above, it is proposed to amend parts 12, 113 and 141 of the Customs Regulations (19 CFR parts 12, 113 and 141) as set forth below.

PART 12—SPECIAL CLASSES OF MERCHANDISE

1. The general authority citation for part 12 continues to read, and the specific authority citation for § 12.3 is revised to read, as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS), 1624.

* * * * *

Section 12.3 also issued under 7 U.S.C. 135h, 21 U.S.C. 381;

* * * * *

2. Section 12.3 is revised to read as follows:

§ 12.3 Release under bond; liquidated damages.

(a) *Release.* No food, drug, device, cosmetic, pesticide, hazardous substance or dangerous caustic or corrosive substance that is the subject of § 12.1 will be released except in accordance with the laws and regulations applicable to the merchandise. Where any merchandise that is the subject of § 12.1 is to be released under bond pursuant to regulations applicable to that merchandise, a bond on Customs Form 301, containing the bond conditions set forth in § 113.62 of this chapter, shall be required.

(b) *Liquidated damages.* Whenever liquidated damages arise with regard to any food, drug, device or cosmetic subject to § 12.1(a) for failure to redeliver merchandise into Customs custody or for failure to rectify any non-compliance with the applicable provisions of admission, including the failure to export or destroy the merchandise within the time period prescribed by law after the merchandise has been refused admission pursuant to the provisions of the Food, Drug, and Cosmetic Act, those liquidated damages will be assessed in an amount equal to the domestic value (see § 162.43(a) of this chapter) of the merchandise at the time of entry as if the merchandise were admissible and otherwise in compliance.

PART 113—CUSTOMS BONDS

1. The authority citation for Part 113 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

§ 113.62 [Amended]

2. In § 113.62, paragraph (l)(1) is amended by removing the words ''conditions (a), (g), or (i)'' and adding, in their place, the words ''conditions (a), (g), (i), or (k)'' and by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.63 [Amended]

3. In § 113.63, paragraph (h)(1) is amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.64 [Amended]

4. In § 113.64, the second sentence of paragraph (b) is amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.67 [Amended]

5. In § 113.67, paragraphs (a)(2)(i) and (b)(2)(i) are amended by adding the words ''or prohibited'' after the word ''restricted''.

§ 113.73 [Amended]

6. In § 113.73, the second sentence of paragraph (a)(2) is amended by adding the words ''or prohibited'' after the word ''restricted''.

PART 141—ENTRY OF MERCHANDISE

1. The authority citation for part 141 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1448, 1484, 1624.

* * * * *

Section 141.113 also issued under 19 U.S.C. 1499, 1623.

§ 141.113 [Amended]

2. In § 141.113, the first sentence of paragraph (h) is amended by adding the words ''or prohibited'' after the word ''restricted''.

Raymond W. Kelly,

Commissioner of Customs.

Approved: June 17, 1999.

John P. Simpson,

Deputy Assistant Secretary of the Treasury.

[FR Doc. 99–19636 Filed 7–30–99; 8:45 am]

BILLING CODE 4820–02–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD07 99–056]

RIN 2115–AE46

Special Local Regulations: ''Winston Offshore Cup, San Juan, Puerto Rico

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: Temporary special local regulations are being proposed for the Winston Offshore Cup, San Juan, Puerto Rico. The event will be held from 1 p.m. to 2:30 p.m. Atlantic Standard Time (AST) on October 10, 1999, in and north of San Juan Harbor, Puerto Rico. These regulations are needed to provide for the safety of life on navigable waters during the event.

DATES: Comments must be received on or before September 16, 1999.

ADDRESSES: Comments may be mailed to Commander, U.S. Coast Guard Greater Antilles Section (aton), P.O. Box S–3666, San Juan, Puerto Rico, 00902, or may be delivered to the Aids to Navigation Office at the Coast Guard Base in Old San Juan between 7:30 a.m. and 3:30 p.m. Monday through Friday, except federal holidays. The telephone number is (787) 729–5381.

FOR FURTHER INFORMATION CONTACT: Mr. John Reyes at (787) 729–5381.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD07–99–056) and the specific section of this proposal to which each comment applies, and give a reason for each comment.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in the view of the comments. The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address under **ADDRESSES**. The request should include the reasons why a hearing would be beneficial. If the Coast Guard determines that the opportunity for oral presentations will aid this rulemaking, it will hold a public hearing at the time and place announced by a notice in the **Federal Register**.

Background and Purpose

These proposed regulations would create a regulated area in an north of San Juan Harbor that would prohibit entry to non-participating vessels. The participating race boats will be competing at high speeds with numerous spectator craft in the area, creating an extra or unusual hazard on the navigable waterways. These regulations are required to provide for the safety of life on navigable waters during the Winston Offshore Cup, San Juan, Puerto Rico.

Regulatory Evaluation

This proposed regulation 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)(f) of that order. The Office of Management and Budget has excepted it from review under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT (44FR 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 regulated policies and procedures of DOT is unnecessary. The regulated area will only be in effect for three and one half hours in the vicinity of San Juan Harbor, Puerto Rico.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) the Coast Guard

must consider whether this proposed rulemaking 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 under their fields, and governmental jurisdictions with populations of less than 50,000.

Therefore, the Coast Guard certifies under 5 U.S.605(b) that this proposed rule will not have a significant economic impact on a substantial number of small entities, as the regulations will only be in effect for approximately three and one half hours on one day in a limited area of San Juan Harbor and its vicinity.

Collection of Information

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

Federalism

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

Environmental Assessment

The Coast Guard has considered the environmental impact of this proposed rule consistent with Figure 2–1, paragraph 34(h) of Commandant Instruction M16475.1C, and has determined that this action has been categorically excluded from further environmental documentation.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 100 of Title 33, Code of Federal Regulations as follows:

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233 through 1236; 49 CFR 1.46; 33 CFR 100.35.

2. Add temporary § 100.35T–07–056 to read as follows:

§ 100.35T–07–056 Winston Offshore Cup, San Juan, Puerto Rico.

(a) *Regulated Area:* A regulated area is established for an area starting in San Juan Bay, out the bay entrance around Punta El Morro, then East 2 nautical miles to Penon San Jorge, then back around the bay. The regulated area is established beginning at 18°28′4″N, 066°08′0″W, then North to 18°28′9″N, 066°08′0″W, then East to 18°28′7″N, 066°05′5″W, then South to 18°28′2″N, 066°05′5″W, then directly South to the Shore. This area includes San Juan Bay, except San Antonio Approach Channel, San Antonio channel, Army Terminal Channel, Army Terminal Turning Basin, and Puerto Nuevo Channel, and Graving Dock Channel. All coordinates referenced use Datum: NAD 1983.

(b) *Special Local Regulations:* Entry into the regulated area by other than event participants is prohibited, unless otherwise authorized by the Patrol Commander. Spectator craft are required to remain in a spectator area to be established by the event sponsor Puerto Rico Offshore Tour, San Juan, Puerto Rico.

(c) *Dates:* This section is effective at 12 p.m. and terminates at 3:30 p.m. AST on October 10, 1999.

Dated: July 22, 1999.

G.W. Sutton,

Captain, U.S. Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 99–19690 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AB99

Glacier Bay National Park, Alaska; Commercial Fishing Regulations

AGENCY: National Park Service, (NPS), Interior.

ACTION: Re-Proposed rule.

SUMMARY: This re-proposed rule satisfies the requirement in Pub. L. 106–31 for the Secretary of Interior to provide an opportunity for public comment of not less than 45 days. This rule implements section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (''the Act''), as amended, and establishes special regulations for commercial fisheries within the marine waters of Glacier Bay National Park (NP), Alaska. This rule, in part, amends the general regulatory prohibition on commercial fishing activities in units of the National Park System, and instead, authorizes various existing commercial fisheries to continue in most marine waters of the park subject to a cooperatively developed state/federal fisheries management plan consistent with the requirements of the Act. The rule limits commercial fisheries in Glacier Bay proper to pot and ring net fishing for Tanner crab, longlining for halibut, and trolling for salmon. The rule describes eligibility criteria that allow certain fishermen with a sufficient, reoccurring recent history of participation in Glacier Bay fisheries to continue fishing in Glacier Bay proper for their lifetimes. Moreover, the rule describes application requirements and procedures for those fishermen to follow to obtain a special use permit for lifetime access to a particular Glacier Bay proper fishery. The rule would close certain inlets and areas in the upper reaches of Glacier Bay proper to all commercial fishing by a variety of closure dates set forth in the Act, and would limit certain other areas only to winter season trolling for king salmon by qualifying fishermen. Additionally, the rule would reaffirm closure of all designated wilderness areas in the park to commercial fishing activities.

Nothing in this rule is intended to modify or restrict non-commercial fishing activities otherwise authorized under federal and non-conflicting state fishing regulations, nor to effect legislatively authorized commercial fishing activities within Glacier Bay National Preserve.

In summary, section 123 of the Act laid out four major sets of directives on commercial fishing in Glacier Bay National Park. First, it closed specifically identified areas of non-wilderness waters in Glacier Bay proper and all wilderness waters to all commercial fishing. Second, it established a process for ''grandfathering'' certain qualifying fisherman who would be allowed to continue fishing in the remaining waters of Glacier Bay proper under lifetime permits. Third, it clarified that the marine waters outside of Glacier Bay proper would remain open to commercial fishing. And fourth, it directed that the commercial fisheries that would be allowed to continue be managed in accordance with a cooperatively developed State/Federal fisheries management plan. This rule addresses the first three of these directives. The cooperative State/Federal fisheries management plan is being developed independent of this rule and will be announced at a later date.

DATES: Written comments will be accepted through September 16, 1999.

ADDRESSES: Comments should be directed to Tomie Lee, Superintendent,

Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

FOR FURTHER INFORMATION CONTACT: Tomie Lee, Superintendent, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska, 99827, telephone: (907) 697–2230.

SUPPLEMENTARY INFORMATION:

Background

Establishment of Glacier Bay National Park and Preserve Glacier Bay National Park and Preserve is a 3.3 million acre, glacier-crowned, marine wilderness that stretches northward from Alaska's Inside Passage to the Alsek River, encircling the magnificent, saltwater Glacier Bay. The park derives its name and much of its biological and cultural significance from this great Bay, which harbors spectacular tidewater glaciers and a unique assemblage of marine and terrestrial life.

Glacier Bay National Monument was established by presidential proclamation dated February 26, 1925. 43 Stat. 1988. The monument was established to protect a number of tidewater and other glaciers, and a variety of post glacial forest and other vegetative covering, and also to provide opportunities for scientific study of glacial activity and post glacial biological succession. The early monument included marine waters within Glacier Bay north of a line running approximately from Geikie Inlet on the west side of the bay to the northern extent of the Beardslee Islands on the east side of the bay. The monument was expanded by a second presidential proclamation on April 18, 1939. 53 Stat. 2534. The expanded monument included additional lands and marine waters consisting of all of Glacier Bay proper; portions of Cross Sound, North Inian Pass, North Passage, Icy Passage, and Excursion Inlet; and Pacific coastal waters to a distance of three miles seaward between Cape Spencer to the south and Sea Otter Creek, north of Cape Fairweather.

Glacier Bay National Monument was designated as Glacier Bay National Park and Preserve and enlarged in 1980 by the Alaska National Interest Lands Conservation Act (ANILCA). 16 U.S.C. 410hh–1; see Sen. Rep. No. 413, 96th Cong., 1st Sess. 163 (1979). The legislative history of ANILCA indicates that certain NPS units in Alaska, including Glacier Bay National Park, ''* * * are intended to be large sanctuaries where fish and wildlife may roam freely, developing their social structures and evolving over long periods of time as nearly as possible without the changes that extensive human activities would cause.'' Id. at 137; see Cong. Rec. H10532 (1980). Congress described the park as including the adjacent marine waters, and depicted the park accordingly on the official maps.

In addition, ANILCA designated several marine areas within and near Glacier Bay proper as additions to the National Wilderness Preservation System. 16 U.S.C. 1132 note. These areas include upper Dundas Bay, Adams Inlet, the Hugh Miller Inlet complex, Rendu Inlet, and waters in and around the Beardslee Islands.

Within the park's jurisdiction are over 600,000 acres of marine waters, including 53,000 acres of designated wilderness. As a result, Glacier Bay National Park is one of only a handful of conservation areas in the world that includes extensive saltwater habitat. It is also the largest marine area managed by the National Park Service (NPS). As such, it provides valuable opportunities to study and enjoy marine flora and fauna in an unimpaired state, and to educate the public about the biological richness of marine systems and relationship to adjacent glacial and terrestrial systems.

Management of Glacier Bay National Park and Preserve

In addition to the national monument proclamations and relevant ANILCA provisions, the management of Glacier Bay National Park and Preserve has been governed by the NPS Organic Act, 16 U.S.C. Section 1, *et seq.* The NPS Organic Act authorizes the Secretary of the Interior to manage national parks and monuments to ''conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.'' Id. Section 1. This act further directs that ''[t]he authorization of activities shall be construed and the protection, management, and administration of [NPS areas] shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established, except as may have been or shall be directly and specifically provided by Congress.'' Id. Section 1a–1. The NPS national general regulations and policies prohibit the commercial extraction of any resources—including fish—for personal profit from areas of the National Park System, absent specific direction to the contrary from Congress. This regulatory prohibition on the commercial extraction of resources from national park areas forms the origins of the longstanding conflict regarding commercial fishing activities in the nonwilderness marine waters of Glacier Bay National Park.

The NPS Organic Act authorizes the Secretary to implement ''rules and regulations as he may deem necessary or proper for the use and management of the parks, monuments and reservations under the jurisdiction of the National Park Service.'' Id. Section 3. The Secretary has additional specific authority to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters located within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *.'' Id. Section 1a–2(h).

The designated wilderness areas within Glacier Bay NP, including the marine areas, are additionally governed by the Wilderness Act, Id. section Sec. 1131, *et seq.*, which defines wilderness ''as an area where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain.'' The Wilderness Act requires that wilderness be ''administered for the use and enjoyment of the American people in such manner as will leave them unimpaired for future use and enjoyment as wilderness, and so as to provide for the protection of these areas, the preservation of their wilderness character, and for the gathering and dissemination of information regarding their use and enjoyment as wilderness.'' Id. Section 1131(a). Among other things, the Wilderness Act prohibits ''commercial enterprise * * * within any wilderness area * * * except as necessary to meet minimum requirements for the administration of the area for the purpose of this Act * * *'' Id. Section 1133(c).

In addition, Congress recently passed the Omnibus Consolidated and Emergency Supplemental Act for FY1999 (Pub. L. 105–277), signed into law on October 21, 1998. Section 123 of this Act contained a series of compromises that were designed to provide final resolution of the dispute over the appropriateness of commercial fishing in Glacier Bay. Congress subsequently enacted legislation amending section 123 on May 21, 1999 in order to provide further clarification of commercial fishing phase-out and compensation provisions. This rule is designed to implement the various provisions of section 123 of the Act, as amended by section 501 of the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106–31, 113

Stat. 57). The requirements of the Act, as amended, are more fully described in a following section of this rulemaking.

Commercial Fishing History

The marine waters of Glacier Bay National Park have been fished commercially since prior to the establishment of Glacier Bay National Monument. Commercial fishing continued under federal regulation after the national monument's establishment in 1925 and its subsequent enlargement in 1939.

The Act of June 6, 1924, 43 Stat. 464, authorized the Secretary of Commerce to ''set apart and reserve fishing areas in any of the waters of Alaska * * * and within such areas may establish closed seasons during which fishing may be limited or prohibited * * *.'' The first Alaska Fishery Regulations of the Bureau of Fisheries, promulgated between 1937 and 1939, addressed fisheries in an area designated as the Icy Strait district including Glacier Bay National Monument. See 2 FR 359 (February 12, 1937); 4 FR 927 (February 15, 1939). Those regulations, and regulations promulgated by the U.S. Fish and Wildlife Service (FWS) between 1941 and 1959, set allowances for and restrictions on commercial fisheries in areas within the boundaries of Glacier Bay National Monument. See 6 FR 1252 (March 4, 1941), 50 CFR Part 222; 16 FR 2158 (1951), 50 CFR Part 117; 24 FR 2153 (March 19, 1959), 50 CFR Part 115.

Early NPS fishing regulations prohibited any type of fishing ''with nets, seines, traps, or by the use of drugs or explosives, or for merchandise or profit, or in any other way than with hook and line, the rod or line being held in the hand * * *.'' 6 FR 1627 (March 26, 1941), 36 CFR 2.4. However, in conjunction with the aforementioned FWS regulations, the 1941 NPS regulations also stated that ''commercial fishing in the waters of Fort Jefferson and Glacier Bay National Monuments is permitted under special regulations.'' Id. NPS regulations continued to allow commercial fishing in Glacier Bay National Monument through 1966 in accordance with special regulations approved by the Secretary. See 20 FR 618 (1955), 36 CFR 1.4; 27 FR 6281 (July 3, 1962).

In 1966, NPS revised its fishing regulations so as to prohibit commercial fishing activities in Glacier Bay National Monument. Although the 1966 NPS regulations, unlike previous versions, only prohibited fishing ''for merchandise and profit'' in park fresh waters, these same regulations generally prohibited unauthorized commercial activities, including commercial fishing, in all NPS areas. See 31 FR 16653, 16661 (December 29, 1966), 36 CFR Secs. 2.13(j)(2), 5.3. In contrast to earlier NPS regulations, the 1966 regulations did not contain specific authorization for commercial fishing in Glacier Bay National Monument.

The 1978 NPS ''Management Policies'' reiterated that ''[c]ommercial fishing is permitted only where authorized by law.'' Furthermore, in 1978, the Department of the Interior directed FWS to convene an Ad Hoc Fisheries Task Force to review NPS fisheries management. See 45 FR 12304 (February 25, 1980). The task force concluded that the extraction of fish for commercial purposes was a nonconforming use of park resources.

As already noted, in 1980, ANILCA designated Glacier Bay National Monument as Glacier Bay National Park and Preserve, enlarged the area, and designated wilderness that included marine waters within the park. 16 U.S.C. 410hh–1, 1132 note. ANILCA specifically authorized certain park areas where commercial fishing and related activities could continue, including the Dry Bay area of Glacier Bay National Preserve, but not in any area of Glacier Bay National Park. Id. section 410hh–4.

The 1983 revision of the NPS general regulations included the current prohibition on commercial fishing throughout marine and fresh waters within park areas system-wide, unless specifically authorized by law. 48 FR 30252, 30283; 36 CFR 2.3(d)(4). The 1988 version of NPS ''Management Policies,'' still current, reiterates this approach.

However, in the 1980's NPS concluded that some commercial fishing would be tolerated and allowed to continue in Glacier Bay despite National Park Service general policies to the contrary. For example, the 1980, 1983 and 1985 Glacier Bay whale protection regulations implicitly acknowledged commercial fishing operations in Glacier Bay proper. 36 CFR 13.65(b). Also, the park's 1984 General Management Plan stated the following:

> Traditional commercial fishing practices will continue to be allowed throughout most park and preserve waters. However, no new (nontraditional) fishery will be allowed by the National Park Service. Halibut and salmon fishing and crabbing will not be prohibited by the Park Service. Commercial fishing will be prohibited in wilderness waters in accordance with ANILCA and the Wilderness Act.

The General Management Plan defined ''traditional commercial fishing practices'' to include ''trolling, longlining and pot fishing for crab, and seining (Excursion Inlet only) in park waters * * *.'' General Management Plan at p.51. Finally, the 1988 Final Environmental Impact Statement concerning wilderness recommendations for Glacier Bay National Park referred to the continuation of commercial fishing in nonwilderness park waters.

Events Leading to This Rule

The Wilderness Act has prohibited commercial fishing in the wilderness waters within Glacier Bay NP since 1980. Nevertheless, commercial fishing activities were allowed to continue through a policy of non-enforcement by park management in both wilderness and non-wilderness marine waters of the park. Ultimately recognizing the need to conform Glacier Bay management practices with NPS national policies against commercial fishing in the Park System, there have been several attempts since 1990 to resolve this situation through proposed rulemaking, proposed legislation and negotiation.

In 1990, the Alaska Wildlife Alliance and American Wildlands filed a lawsuit challenging the NPS's failure to bar commercial fishing activities from Glacier Bay NP. Alaska Wildlife Alliance v. Jensen, No. A90–0345–CV (D. AK.). In 1994, the U.S. District Court for Alaska concluded that ''there is no statutory ban on commercial fishing in Glacier Bay National Park provided, however, that commercial fishing is prohibited in that portion of Glacier Bay National Park designated as wilderness area.'' The District Courts' decision was affirmed in March 1997 by the United States Court of Appeals for the Ninth Circuit (Alaska Wildlife Alliance v. Jensen, 108 F.3d 1065 (9th Cir. 1997)). Close to the time that the plaintiffs referenced above initiated the litigation, the State of Alaska's Citizens Advisory Commission on Federal Areas hosted a series of public meetings in local communities to discuss the issues. Following these meetings, NPS decided to draft a regulatory approach to resolving the issues.

NPS published its first proposed rule on August 5, 1991 (56 FR 37262). In essence, the 1991 proposed rule would have: (a) Clarified the statutory prohibition on commercial fishing in designated wilderness waters, and (b) phased out commercial fishing in other park waters over a seven year period. NPS held ten public meetings on the proposed rule, received over 300 comments, and drafted a final rule. At the State's request, however, the Department of the Interior refrained

from issuing a final rule in 1993, and instead agreed to discuss with state and Congressional staff the possibility of resolving the issues through a legislative approach.

Between fall 1995 and spring 1996, officials from Glacier Bay National Park and the Alaska Department of Fish and Game (ADFG) co-hosted several meetings in Southeast Alaska involving ''stakeholders'' interested in trying to resolve the commercial fishing controversy. The stakeholders included representatives of the commercial fishing industry; Native groups; and local, regional and national conservation organizations.

The 1997 Proposed Rule

The National Park Service introduced a new proposed rule for commercial fishing on April 16, 1997 (62 FR 18547). The 1997 proposed rule was intended to provide a further opportunity for public participation and discussion—including ongoing efforts with the State of Alaska—toward a comprehensive resolution of commercial fishing issues in the park. NPS also recognized that new regulations would be necessary to exempt any ongoing commercial fisheries from the general NPS regulatory prohibition found at 36 CFR 2.3(d)(4).

This proposed rule varied significantly from the 1991 NPS proposed rule that would have phased out commercial fishing throughout the park after seven years. In general, the 1997 proposed rule: (a) Prohibited all commercial fishing in Glacier Bay proper but provided certain limited exemptions over a fifteen-year phase-out period for fishermen with a qualifying history of participation in four specified fisheries; (b) closed Glacier Bay proper to commercial fishing during the visitor use season; (c) allowed most commercial fisheries in the park's marine waters outside Glacier Bay proper to continue, subject to reexamination at the end of fifteen years; (d) implemented the statutory prohibition on commercial fishing in designated marine wilderness waters; and, (e) contemplated a management regime for those commercial fisheries allowed to continue that would be based upon a cooperatively developed fisheries management plan developed by NPS and the State, implemented through the Alaska Board of Fisheries, and subject to the Secretary of the Interior's authority to protect park resources and values. Moreover, the preamble of the proposed rule offered for public comment ideas for halibut and Dungeness crab studies, a Hoonah Tlingit cultural fishery, and additional protections for Lituya and Dundas bays. The full text of the 1997 proposed rule should be referred to for a complete description of the proposed actions and additional background information.

NPS described several objectives for resolution of commercial fishing issues in the 1997 proposed rule and an accompanying Environmental Assessment (EA) published in April 1998 and discussed later in more detail in this document. These objectives included: preserving habitats and natural population structure and species distribution; allowing natural succession and evolutionary processes to proceed; maintaining biological and genetic diversity; minimizing visitor and vessel-use conflicts; protecting wilderness values; honoring Native cultural ties, and, expanding existing knowledge and understanding of marine ecosystems. NPS also sought to treat individual commercial fishermen fairly, and to develop an effective partnership with the State that would enhance understanding and conservation of fisheries and marine resources within the park.

In October 1997 (62 FR 54409) NPS extended the public comment deadline from October 15th to June 1, 1998 to provide additional opportunity for comment on the proposed rule and pending EA.

From November 1997 to February 1998 NPS sponsored 3 additional full-day public workshops in Juneau, Alaska to continue discussing the issues associated with the park's commercial fisheries. The first of these public workshops was noticed in the **Federal Register** (62 FR 58932, October 31, 1997), while subsequent workshops were publicized in local media. These workshops contributed to the scoping process for the NPS EA.

Scheduled concurrently with the NPS public workshops, the Alaska Department of Fish and Game sponsored 6 public meetings in Juneau from November 1997 to June 1998. This Glacier Bay Work Group, as it was termed, included several representatives of the commercial fishing industry, Native corporations and governments, and local, regional and national conservation groups. The meetings were open to and attended by various members of the public. NPS and DOI representatives attended all of the meetings. The objective of the work group was to reach an overall consensus agreement regarding commercial fishing activities in the park that could be reflected in either regulation or legislation. Considerable progress was made by the work group, under the State's leadership and in a good faith effort by all involved, to address a number of substantive and difficult issues. The group was unable to achieve a consensus agreement at conclusion of its last meeting in June 1998 and collectively agreed to a final effort toward the goal of consensus in October and November—after the close of the summer fishing season. However, action on the part of Congress—by introducing the issue of commercial fishing into the legislative arena and passing the Act in October—interceded and resolved many issues considered by the work group. Notes from each of the State's work group meetings are included in the administrative record of this rulemaking.

The 1998 Environmental Assessment

In April 1998, NPS released a comprehensive Commercial Fishing Environmental Assessment in support of the 1997 proposed rule for Glacier Bay. The EA described the proposed action (the 1997 proposed rule) and four other alternatives for managing commercial fishing activities in the marine waters of the park. Collectively, the EA's five alternatives described a broad range of potential strategies for managing commercial fishing activities in the nonwilderness marine waters of the park. Alternative One described the 1997 proposed rule. Alternative Two was considered the no action alternative because it would implement existing NPS regulations; this alternative described immediate closure of the park to all commercial fisheries. Alternative Three emphasized use of scientific information to protect resident and sensitive fisheries, while allowing harvest of more transitory species moving in and out of the park. Alternative Four described continuation of commercial fishing throughout the park, consistent with sustainability and habitat protection. Finally, Alternative Five described the 1991 proposed rule's seven-year phase-out of all commercial fisheries. Marine wilderness waters in the park were closed to commercial fishing under each of the alternatives, reflecting the Wilderness Act's prohibition on commercial fishing in wilderness waters, and the federal district and appellate court decisions.

Following publication and distribution of the EA in April 1998, NPS held seven public hearings and seven open houses during May in six Southeast Alaska communities (Elfin Cove, Gustavus, Hoonah, Juneau, Pelican, and Sitka) and in Seattle to solicit comment on the EA and proposed rule. On June 1, 1998, NPS extended the public comment deadline for the EA and proposed rule to

November 15, 1998 (63 FR 30162). NPS held additional informal public meetings in Wrangell and Petersburg during September 1998 following requests from residents of those communities.

The FY1999 Omnibus Supplemental Appropriations Act and Amendment

The Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999 (Public Law 105–277, 112 Stat. 2681) (''the Act''), was passed by Congress and signed into law on October 21, 1998. Section 123 of the Act contained a variety of specific statutory requirements for the management or phase out of commercial fishing in the marine waters of Glacier Bay National Park. Section 123 of the Act contained the following provisions:

The Secretary of the Interior was directed to cooperate with the State of Alaska in the development of a management plan for the regulation of commercial fisheries in Glacier Bay National Park pursuant to existing state and federal statutes and any applicable international conservation and management treaties. This management plan is to provide for the continuation of commercial fishing in the marine waters within Glacier Bay National Park outside of Glacier Bay Proper, and in the marine waters within Glacier Bay Proper as specified in paragraphs (a)(2) through (a)(5) of section 123. The management plan is also to provide for the protection of park values and purposes, prohibit any new or expanded fisheries, and provide for the opportunity for the study of marine resources.

Section 123 limits commercial fisheries within Glacier Bay proper to ring or pot fishing for Tanner crab, longlining for halibut and trolling for salmon. That section limits participation in these commercial fisheries to the lifetimes of individual fishermen with a qualifying history, but notes that the qualifying criteria are to be determined by the Secretary of the Interior. Certain inlets or areas of inlets of Glacier Bay proper were closed immediately to all commercial fishing, or were limited to winter season king salmon trolling by qualifying fishermen. Section 123 also restated the statutory prohibition on commercial fishing within the park's designated wilderness areas. Last, Section 123 authorized compensation for qualifying Dungeness crab fishermen who had fished in designated wilderness waters of the Beardslee Islands and Dundas Bay.

The congressional managers of this legislation suggested NPS '' extend the public comment period on the pending regulations (62 FR 18547, April 16, 1997) until January 15, 1999, modify the draft regulations to conform to [section 123's] language and publish the changes in the final regulations.'' See H.R.4328 Conf. Rep. No.105–825, p.1213. Subsequently, the public comment period on the 1997 proposed rule and 1998 EA was reopened and extended until February 1, 1999 (63 FR 68666, December 11, 1998; 64 FR 1573, January 11, 1999). The 1,400 persons who had provided comment by December 1998 were mailed a copy of the **Federal Register** extension and invited to provide additional public comment in light of the new legislation. A second **Federal Register** notice (63 FR 68668, December 11, 1998) describing application procedures for the Dungeness crab commercial fishery compensation program authorized by the Act was published and distributed concurrently with the extension of the public comment deadline.

On May 21, 1999 new legislation passed by Congress amending section 123 of the Act was signed into law. This legislation, section 501 of the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106–31), modified the Dungeness crab fishery compensation program and created a new compensation program for fishermen, processors, crewmembers, communities and others adversely affected by restrictions on commercial fishing activities in the park. Twenty-six million dollars were appropriated for compensation programs under section 501; this is in addition to $5,000,000 in compensation Congress had previously appropriated for qualifying Dungeness crab fishermen under section 123 of the 1998 Act. Section 501 also established delayed implementation dates for the non-wilderness closures in Glacier Bay proper relative to ongoing halibut and salmon commercial fisheries in 1999. Finally, section 501 required the Secretary of the Interior to publish this rule, provide a forty-five day public comment period, and then publish a final rule no later than September 30, 1999. The prohibition on commercial fishing in designated wilderness was not affected by the amendments found in section 501.

This rule implements the requirements of section 123, as amended, and establishes eligibility requirements and application procedures for qualifying fishermen to obtain a special use permit for lifetime access to the three commercial fisheries authorized to continue in Glacier Bay proper. Many ideas described in the 1997 proposed rule and the other four alternatives in the 1998 EA were resolved by the section 123 of the Act. Simultaneously with the publication of this rule, NPS intends to accelerate and expand its collaboration with the State of Alaska to develop a fisheries management plan for the park as contemplated by section 123 of the Act.

Analysis of Public Comments

Comment Period

This rule reflects an extensive and lengthy public involvement process that began with the publication of the 1997 proposed rule on April 16, 1997 and ended with the close of the public comment period on the proposed rule and 1998 EA on February 1, 1999. The comment period for the proposed rule was extended four times and the comment period for the EA was extended three times over the course of twenty-one months to insure adequate opportunities for public involvement.

NPS held seven public hearings during the month of May in the previously noted communities. Each public hearing was preceded by a two-hour open house question and answer period. NPS also established an Internet website that allowed the public to access information regarding the proposed rule and the EA, and provide public comment.

The NPS recorded testimony at public hearings from 66 individuals and received 1,557 written public comments. Written comments included surface mail, faxes and electronic mail. NPS staff read all written public comments, reviewed the transcripts of public hearings, and prepared a summary document of substantive comments.

Overview of Public Comment

The majority (75%) of the 66 individuals testifying at the public hearings (6 hearings were held in Southeast Alaskan communities and 1 in Seattle) supported the continuation of commercial fishing in Glacier Bay National Park. The remaining individuals commenting at public hearings supported some form of commercial fishing phase-out. Slightly more than one-third (570) of the written comments indicated support for the NPS's preferred alternative and/or the proposed regulations. A few (25) commenters simply urged NPS to support a fair process to end commercial fishing. One hundred thirty-four individuals supported the preferred alternative and proposed regulations with a shorter phase-out period and 72 individuals wrote in support of a general, non-specific phase-out of

commercial fishing in park waters. A few individuals (14) supported Alternative Five that reflects the 1991 proposed regulations. Many comments were received (136) supporting Alternative Two that would close all fisheries immediately. Eleven percent (177 individuals) of commenters wrote letters that did not identify support for a particular alternative, but expressed general opposition to commercial fishing. Comments that supported reducing or eliminating commercial fishing in park waters indicated that commercial resource extraction is inappropriate in a National Park and expressed concern about potential impacts to the park's unique marine ecosystem and visitor experiences. Many noted that park waters should be managed for scientific study and public enjoyment.

Ninety-seven individuals signed a petition supporting ongoing commercial fishing in park waters. An additional 432 individuals (28%) signed form letters and 132 commenters wrote general letters of support for ongoing commercial fishing. Commenters supporting ongoing commercial fisheries indicated that the fisheries were currently well managed by the State and were not negatively affecting park resources or visitors. Most commenters supporting commercial fishing stated that fishery closures would severely impact fishermen, their families, and local communities in Southeast Alaska.

NPS Response: Congress passed the Act in October 1998, toward the end of what had already been an extended public involvement and comment period on the 1997 proposed rule and 1998 EA. Congress, in passing the Act, resolved a number of issues that had previously been presented for public comment. The new law contained comprehensive statutory requirements regarding management of commercial fisheries in the marine waters of the park. Congress further expanded and clarified the law in the amendment passed on May 21, 1999. This rule largely implements the requirements of the Act, as amended. All public comments have been analyzed, but many of them have been overridden by the enactment of legislation.

General Comments

Numerous commenters expressed surprise that commercial fishing had been occurring in Glacier Bay National Park; most of these individuals indicated that they believed commercial fishing was inappropriate and/or incompatible with the NPS mission as defined in the Organic Act. Many individuals noted that National Parks were ''special places'' where activities should be managed differently than elsewhere. Several commenters noted that commercial ventures of any kind are inappropriate in national parks and several mentioned that National Parks and the resources contained therein belong to all Americans and should not be harvested for private profit. Several commenters noted that most Alaskan waters were open to commercial fishing and recommended that Glacier Bay be set aside as one small closed area. Many commenters indicated that NPS should not allow commercial fishing until there was incontrovertible evidence that such activities would not harm park resources.

On the other hand, NPS received many comments noting that commercial fishing had occurred for more than 100 years in park waters with no evidence of resource or visitor impacts. Several individuals noted that commercial fishing is allowed in other National Parks, so it could be allowed in Glacier Bay. Many individuals felt that other activities taking place in Glacier Bay including cruise ship traffic likely resulted in far more impact than commercial fishing.

Jurisdiction

The State, the Alaska Trollers Association (ATA), the Citizens Advisory Commission on Federal Areas (CACFA), Petersburg Vessel Owners Association (PVOA), and others said that the State rather than NPS holds jurisdiction over the marine waters of Glacier Bay. The State offered that the Submerged Lands Act, the Alaska Statehood Act and the Alaska Constitution all indicated that the State ''owns and therefore manages all water columns, shorelands, tidelands, and submerged lands, including the resources located within or on such lands and waters.'' They further noted, however, that ''the Act overcomes some of our jurisdictional concern'' because it clarifies that NPS may act as provided in the legislation as long as they work directly with the State to address issues.

NPS Response: We acknowledge a legal disagreement with the State of Alaska and others who share the State's view over issues of ownership and jurisdiction with respect to the marine waters of the park. The establishment of Glacier Bay National Monument in 1925, and its 1939 expansion to include the current marine boundaries, predate Alaska statehood by decades. Congress has recognized the park's marine boundaries and waters—and described the Secretary of the Interior's authority and responsibility to manage these marine waters for the purposes of the park—in several federal laws, the most recent example being passage of section 123 of the Act, as amended. Court cases on similar jurisdictional issues in Alaska and elsewhere clearly support the federal view. Importantly, this is the only national park area in Alaska that includes marine waters, and it is the largest marine area included in our National Park System.

We concur with the State of Alaska's conclusion in its comments that the 1998 Act, as amended, should serve to resolve or redress many of the jurisdictional concerns and issues between the federal government and State of Alaska. The Act outlines appropriate roles and authorities for both the federal government and state with respect to management of commercial fisheries in the park. It provides both a requirement and an important opportunity for ongoing cooperation and collaboration between the state and federal government in the implementation of a jointly developed fisheries management plan. We will strive, working together with the State, to provide public opportunity to participate in the development of the fisheries management plan independent of this rulemaking. We believe that the best long-term remedy for jurisdictional issues is an effective state/federal cooperative relationship that outlines and respects individual and collective agency roles and responsibilities, keeps lines of communication open, incorporates opportunities for public involvement in decision making processes, and, ultimately, serves to implement the letter and spirit of the Act, as amended. This is where we intend to devote our energies.

Economic Issues

Many commenters—both those in support of and opposed to ongoing commercial fisheries in Glacier Bay—expressed concern that fishery closures would severely affect numerous individuals and communities. Commenters stated that commercial fishing is the largest employer in Southeast Alaska, that most private sector income in Southeast is derived from the seafood industry, and that the value of fisheries trickles throughout Southeast Alaska and the State. Many commenters mentioned that local fishing villages owe their existence to commercial fishing and depend on raw fish taxes. Commenters opposed to ongoing commercial fishing often cited their concern regarding economic impacts as a reason for recommending a gradual phase-out of commercial fishing. These individuals felt that a

phase-out would allow individuals and communities a transition period, thus reducing economic impacts.

Several commenters said that previous actions or issues were already negatively impacting fishermen's economics (including the IFQ program, low prices for halibut and salmon, state closures of fisheries) and expressed concern that Glacier Bay closures represented an additional economic burden. Many commenters stated that closures would affect not only permit holders but also deckhands, vessel owners, processors and other local business. Several commenters felt that closing Glacier Bay to commercial fishing would devalue fishing permits and IFQ shares.

NPS received numerous comments expressing concern for individual communities and/or businesses or individuals. For example, the cities of Petersburg, Wrangell, Coffman Cove and Pelican wrote comments stating that their communities would be severely impacted by fisheries closures. Individual commenters expressed concern that the community of Pelican could not survive if park waters were closed. One commenter recommended that NPS set up a Glacier Bay Economic Disaster Fund for communities such as Pelican that have a history of raw fish tax revenues from resources harvested in Glacier Bay.

NPS Response: We expect that the Act, as amended, and the ''grandfathering'' eligibility criteria described in this rule, will significantly reduce economic impacts to fishermen, communities, and others associated with the commercial fishing industry in Glacier Bay. Specifically, the Act authorizes existing commercial fisheries to continue in outer waters where well over 80% of the harvest from park waters occur: we support continuation of these locally important commercial fisheries. Additional harvest will continue in most of Glacier Bay proper during the life tenancy period of qualifying fishermen, supporting fishermen and communities for many years to come. Only about 18% of the park's marine waters (wilderness and non-wilderness) will be immediately closed to commercial fishing pursuant to the closure schedules set forth in the Act, as amended; these closed waters have historically accounted for less than 10% of total commercial harvest in the park. Within Southeast Alaska, Glacier Bay proper has historically accounted for only 2–4% of the commercial halibut harvest; approximately 7–12% of commercial Tanner crab harvest; and an indeterminate, but presumably small percentage of the salmon harvest.

We expect that some portion of the revenue previously harvested in the closed areas of the park will be recovered in Icy Strait and/or other Southeast waters: this is particularly likely in the halibut fishery with its individual quota system and eight month fishing season. Some fishermen not meeting the ''grandfather'' eligibility criteria for Glacier Bay proper will be displaced. However, these fishermen presumably have not established a regular or sustained dependence on Glacier Bay fisheries and are already fishing and established elsewhere. Moreover, the various compensation packages outlined in the Act, as amended, should alleviate economic impacts to Dungeness crabbers who commercially fished in designated wilderness as well as others directly and substantially dependent upon various fisheries in Glacier Bay proper.

We recognize that wilderness water closures and eventual phase-out of commercial fishing in Glacier Bay proper—as required by Congress—will have an adverse effect on some individuals and communities. However, it is important to note, as several commenters stated, that other external factors including changes in state regulations, establishment of the IFQ system for halibut, and international market forces have also affected fisheries-related incomes in Southeast Alaska. For example, declining fish tax revenues in recent years in small communities such as Hoonah and Pelican have not been the result of any commercial fishing changes within the park. Congress has appropriated a total of $31,000,000 through the 1998 Act and its 1999 amendment to mitigate economic impacts to fishermen, crewmembers, processors, communities and others adversely affected by restrictions on commercial fishing within Glacier Bay.

The State and the ATA were concerned that NPS has not made economic information compiled by an NPS paid contractor available to the public or included it in the 1998 Environmental Assessment analysis.

NPS Response: Data used in the economic analysis presented in the 1998 EA as well as in the Regulatory Flexibility Analysis described below, came from landing information provided by the State of Alaska Commercial Fishery Entry Commission. We therefore believe that the data is readily available to the public at large. Moreover, by publishing this document as a rule with an additional 45-day public comment period, we will be providing the public with and additional opportunity to review and comment on the economic data associated with this rule.

Regulatory Flexibility Act

Many commenters including the Alaska State Legislature, ATA, PVOA, and the State felt that the certification of ''no significant economic impact'' under the Regulatory Flexibility Act was unfounded, that NPS had inaccurately analyzed the effects of the proposed regulation on small business entities and communities, and that NPS should complete a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act. The State believed that NPS certification of no significant impact was deficient because it did not include an adequate factual basis, did not provide any analysis to support the conclusion, and did not include public input on its assumption and conclusions. The State offered that the findings of this analysis must be made available for public review and comment before proceeding with a final rule.

NPS Response: NPS and the Department of Interior have responded to these comments by completing a Regulatory Flexibility Act analyses of different eligibility criteria under consideration for participation in the three Glacier Bay fisheries authorized by section 123(a)(2) of the Act. Congress, in passing the Act, as amended, resolved various issues about commercial fishing in the park and precluded most decisions by the Secretary of the Interior except the grandfather eligibility criteria. Accordingly, the Regulatory Flexibility Act analysis has focused only on these eligibility criteria. The analysis reviewed the effects of the Department's decision regarding eligibility criteria on the small businesses, organizations and communities in the Glacier Bay area. The analysis is summarized in this preamble.

Grandfather Eligibility Requirements for Continued Fishing in Glacier Bay Proper

NPS received numerous general comments that ongoing fisheries should be limited to those individuals with a ''history'' of fishing in Glacier Bay or ''dependent on'' Glacier Bay fisheries. The Wilderness Society and many individuals wrote in support of the proposed 6 of 10-year eligibility requirements and asked NPS not to relax this requirement. The Wilderness Society further stated that NPS bears the burden of proving that criteria selected will not result in resource impacts during the phase-out period. While NPCA did not specify criteria, they offered that ''two days or several months of fishing in the Bay over a period of a

decade should not be considered adequate for demonstrating historical dependence.'' A few individuals recommended stringent criteria including: only individuals who fished prior to 1990 should be allowed to continue, only individuals with a familial history of 100+ years of fishing should be allowed to continue, and only individuals older than 50 years should be allowed to continue. One commenter felt that fishing six years was not a serious enough commitment to be entitled to continue fishing.

Conversely, numerous other commenters recommended more liberal eligibility criteria. The State, ATA and numerous individuals supported criteria that would allow any individual holding a Commercial Entry Permit (including T series, B series, S05, S15, and K series permits) with a history of fishing the waters of Glacier Bay to continue. A few individuals supported criteria that would allow any fishermen with a permit for a fishery that occurs in the Bay to fish there. Several individuals suggested that NPS use fishermen's catch history (percentage of landings) from Glacier Bay rather than number of years as a base for eligibility criteria. Several commenters believed that NPS should use different criteria for different fisheries. One commenter recommended that 3 of 5 years be used to determine eligibility for the Tanner crab fishery because this fishery had only recently become commercially valuable. Several individuals commented that their children and grandchildren should be eligible to continue fishing. One commenter recommended that grandfather rights should be 100% transferable with no expiration date, but NPS should be able to buy this right as well as the associated limited entry permit.

Many commenters felt that stringent criteria (including the proposed 6/10 years) would be unfair and difficult to implement. Individuals stated that fishermen typically ''lumped'' fish landings on a fish ticket, reporting landing locations based on where they caught most fish on a given trip. In these cases, fish tickets would not necessarily reflect fishing effort in Glacier Bay. One commenter indicated that fish ticket information was frequently changed by the processor and was therefore not accurate. Several individuals were concerned that the 6 of 10-year criteria would eliminate many young fishermen who often have very limited experience fishing elsewhere and large investments to support. A few individuals said that some fisheries were closed during the 10-year period being considered, so perhaps no fishermen could qualify for those fisheries. A few individuals felt that strict criteria would displace many fishermen out of Glacier Bay proper, resulting in crowding in Icy Strait which could effect both commercial and recreational catch there. One commenter said that stringent criteria would lower the number of fishermen qualifying resulting in a ''bonanza'' for remaining fishermen. One commenter stated that the proposed criteria would reward individuals who reported landings for 2 permit holders on a given boat (typical when a crewmember wishes to qualify for an upcoming limited entry fishery and must report landings to do so).

Commenters indicated that lenient criteria would not increase fishing pressure on Glacier Bay because individual fishermen have typical fishing locations and would be unlikely to shift into the Bay if they had not fished there previously. One commenter felt that the number of permits reporting landings in the park had remained stable in past years and would not be expected to increase in the future.

Many individuals stated that the criteria did not address the needs of crewmembers or individuals that leased vessels to permit holders. A few individuals said that crew (in particular family members) invested considerable time in learning how to fish a particular location assuming they would ''inherit'' that location in the future. One commenter stated that he often obtained crew jobs because of his knowledge of Glacier Bay and noted that he would not have that opportunity if the fishing fleet were reduced. One commenter stated that he would not meet strict eligibility criteria because he had been leasing a permit. One commenter offered that other limited entry processes have considered the number of years as a crewmember, boat owner or gear owner in determining eligibility for a particular fishery.

A few commenters, including the Petersburg Vessel Owners Association, felt that NPS should determine how many fishermen and/or how much harvest was acceptable and then set criteria for eligibility rather than letting these numbers be a ''fallout'' from the criteria. One commenter recommended that NPS use ''good standing'', as a means of determining eligibility by allowing only those individuals whom had never been cited for resource or permit violations. Another commenter recommended that continued eligibility should depend on continued compliance with Glacier Bay and state regulations. The State commented that eligible fishermen should be able to continue using the vessel and crew of the permittee's choice.

NPS Response: Section 123(a)(2) of the Act authorizes the Secretary of the Interior to establish eligibility criteria to determine which fishermen will be issued a non-transferable lifetime access permit to continue to fish in those waters of Glacier Bay proper which were left open for grandfathered commercial fishing under the Act. The Secretary of the Interior has now selected eligibility criteria intended to allow those fishermen with a sufficient reoccurring history of participation in the authorized Glacier Bay fisheries to continue fishing for their lifetimes. The 1997 NPS proposed regulations outlined criteria that would have permitted only those individuals who had fished 6 of the last 10 years in Glacier Bay proper to continue fishing. However, based on public comment and the Regulatory Flexibility Analysis, we believe that the criteria described in the 1997 proposed rule would have adversely affected the economic well being of an unacceptably high number of fishermen as well as local communities.

This rule would allow continued access to Glacier Bay proper to those fishermen who have fished in Glacier Bay proper in one of the three authorized commercial fisheries as follows: For the halibut fishery, 2 years of participation would be required in Glacier Bay proper during the 7-year period, 1992–1998. For the salmon and Tanner crab fisheries, 3 years of participation would be required in Glacier Bay proper during the 10-year period, 1989–1998. The 7-year qualifying period—as further explained below—for halibut is based, in large part, on the establishment of a unique statistical sub-area for Glacier Bay proper in 1992. Use of this qualifying period will assist fishermen in documenting a history of fishing within Glacier Bay proper. A 10-year qualifying period is used for the Tanner crab and salmon fisheries. These longer qualifying periods (of 7 and 10 years, respectively) are intended to provide a better opportunity for fishermen with a variable but reoccurring history of participation in these fisheries in Glacier Bay proper to qualify for the lifetime access permits. Essentially, these criteria require fishermen to have fished in Glacier Bay proper for approximately 30% of the years during the 7 and 10-year base periods to qualify for continued lifetime access to an authorized fishery. We believe that these criteria reflect a reasonable and balanced approach on appropriate eligibility criteria for lifetime access to the authorized Glacier Bay proper commercial fisheries.

A base period of less than 7 to 10-years was considered too short in duration and would not, at least in the case of the Pacific halibut fishery, allow for recent and dynamic changes in the character of the fisheries. We did not consider longer qualifying periods because participation in the three authorized fisheries has only recently stabilized. These fisheries have all become limited entry fisheries in recent times; fewer permit transfers have occurred in recent years. Recent permit holders are most likely to still be fishing and have a current economic reliance on a Glacier Bay proper fishery.

The 2 out of 7-year criteria for the Pacific halibut fishery takes into consideration a recent change in statistical area configuration—the 1992 creation of a separate regulatory sub-area (184) specific to Glacier Bay proper—and allows fishermen to more accurately document their participation in the fishery within Glacier Bay. Before 1992, Glacier Bay was part of regulatory area 182, a larger reporting area combined with Icy Strait. Therefore, it would be difficult for fishermen to document commercial halibut harvest from Glacier Bay proper prior to 1992. This 7-year qualifying period accommodates changes in the commercial halibut fishery since 1995 when it became a limited entry fishery and the entire nature of the fishery changed with prolonged seasons and Individual Fishing Quotas.

The 3 out of 10-year criteria for the Tanner crab fishery accommodates the recent increase in participation in this fishery within Glacier Bay proper from fewer than 10 vessels per year from 1984–1989, to 14–25 vessels per year since 1991. The Tanner crab pot fishery became a limited entry fishery during the latter part of the 1980s.

The troll fishery for salmon in Glacier Bay proper is almost exclusively focused on king salmon during the winter commercial fishing season. Because there is no way to separate out Glacier Bay proper harvest from that occurring elsewhere within District 114, we will consider salmon landing reports from District 114 as indirect evidence of participation in the fishery within Glacier Bay proper, provided it is supported by additional corroborating documentation in making application for a lifetime access to the salmon troll fishery in Glacier Bay proper.

The qualifying periods described in this rule are considerably longer than those typically used by the State of Alaska when establishing a limited entry fishery. For example, the Alaska Commercial Fisheries Entry Commission used preceding 5-year periods in recently establishing limited entry permit fisheries in Southeast Alaska for Dungeness crab and pot fished shrimp. Under Alaska State law, applicants for these limited entry fisheries were ranked and awarded permits according to their participation and economic dependence on the fisheries over the 5-year qualifying period. We decided in favor of longer qualifying periods in interest of minimizing economic impacts to fishermen who have participated in the authorized fisheries in Glacier Bay proper. However, like the State of Alaska, we would require recent and multiple years of participation in a given fishery. We do not believe that a single occurrence of commercial fishing within Glacier Bay proper over the past 7 or 10-years demonstrates a sufficient sustained dependency on those park waters to warrant grandfathering such fishermen in for lifetime permits.

A special use permit will be required to participate in any of the three Glacier Bay fisheries beginning in calendar year 2000. The procedures for applying for and obtaining a special use permit, as well as the eligibility criteria, are described in this rule. Fishermen meeting the eligibility criteria may apply for a special use permit so long as they hold a valid permit for the fishery. The special use permit will be renewed on a 5-year cycle for the life time of each fisherman who continues to hold the necessary license for a Glacier Bay fishery, and is otherwise eligible to participate in the fishery. The special use permits are non-transferable under the Act. However, NPS may consider an emergency transfer of a permit in the event or temporary illness or disability, as otherwise authorized by the Commercial Fisheries Entry Commission. These are hardships of an unexpected and unforeseen nature, and a permit transfer would be limited to 1-year in duration.

The Act is specific to permit holders and does not provide for individuals who own and lease vessels to Glacier Bay fishermen, or for crewmembers. While these individuals do not qualify, under the law, to receive a special use permit to fish in Glacier Bay, nothing in the Act affects the ability of a special use permit holder to continue to lease the vessel or hire the crew of their choice.

Documentation of Eligibility

Many commenters felt that fishermen should supply ''evidence'' or ''definite proof'' of fishing history, but only a few commenters addressed specifically what NPS should accept in terms of documentation of fishing history. One commenter indicated that the documentation process discussed in the proposed rule was ''too easy.'' Another commenter indicated that evidence of historic fishing should include official ADFG landing tickets, ATA logbook data, ship's log data and a valid ADFG license. A few commenters, including the State, indicated that an affidavit of catch history should be sufficient. The State also recommended that NPS design a validity review and appeals program consistent with due process. Several individuals were concerned that documenting past fishing effort in Glacier Bay would be quite difficult because ADFG statistical areas do not match park boundaries and because fish tickets reflect only the area where the majority of a landing was harvested. ATA and the State felt that requiring documentation beyond an affidavit would be time consuming and expensive for both agencies and fishermen and would reduce the number of eligible fishermen.

NPS Response: The Act requires individuals to establish their eligibility to participate in one or more of the three authorized Glacier Bay commercial fisheries. This rule would require that an individual hold a valid commercial fishing permit for the fishery in Glacier Bay, provide a sworn and notarized affidavit attesting to their history and participation in the fishery within Glacier Bay proper, and provide other available documentation that would assist in corroborating their participation in the fishery in Glacier Bay during qualifying years. We are requiring applicants to provide two types of corroborating documentation readily available from the State of Alaska: permit histories and landing reports. The permit history documents an individual's years as a permit holder in a fishery, and the landing report documents years and reported harvest locations for fishery landings by an individual. This required corroborating documentation—copy of a valid permit or license, affidavit, permit history, landing report—is less than that typically required by the State of Alaska or National Marine Fisheries Service (halibut) for similar limited entry programs. We encourage any other forms of corroborating documentation—for example, vessel logbook data or affidavits from other fishermen or processors—that can assist in establishing an applicant's history of participation in the fishery.

We recognize the limitations of landing report data based on fish tickets. Although Alaska statute requires accurate reporting of fish harvest information by statistical area,

fishermen often lump catches from Glacier Bay and Icy Strait statistical areas, reporting them as Icy Strait landings on fish tickets. Moreover, no statistical reporting area exists specific to Glacier Bay for salmon. Because of this, for the salmon fishery we will consider landing reports from District 114—along with other corroborating documentation (this could be affidavits from crewmembers, other fishermen, processors, log books, etc) provided—as indirect evidence of participation in the fishery in Glacier Bay proper. Because both the halibut fishery (regulatory subarea 184) and the Tanner crab fishery (statistical areas 114–70—114–77) do have reporting areas specific to Glacier Bay, we intend to require some form of additional corroborating documentation beyond the personal affidavit (see suggestions above for the salmon fishery) where landing data for these fisheries are inconclusive. In any event, landing reports must be from the reporting area immediately adjacent to Glacier Bay before they will be considered. In the case of halibut, this is regulatory subarea 182; in the case of Tanner crab, this is statistical area 114–23. These approaches are intended to address concerns regarding the difficulty of attributing harvest to Glacier Bay proper from landing reports, most particularly for the salmon troll fishery.

We intend to work closely with the Alaska Commercial Fisheries Entry Commission, the National Marine Fisheries Service and other knowledgeable sources to notify and identify permit owners who meet the eligibility criteria defined for the Glacier Bay commercial fisheries.

Management Process for Ongoing Fisheries

The State, the CACFA, the Alaska State Chamber of Commerce, the PVOA, the ATA and others requested that NPS clarify particular aspects of the Act. In particular, commenters asked NPS to clarify that ongoing fisheries would be managed by ADFG through the Alaska Board of Fisheries process. They asked for further clarification that NPS's role in joint management would be to contribute expertise in defining and protecting park purposes and values. The State requested that NPS develop specific criteria for the Secretary to use in recommending actions associated with ongoing fisheries. The State also suggested that subsequent rulemaking recognize the authority of the International Halibut Commission, National Marine Fisheries Service, North Pacific Fisheries Management Council, and the Salmon treaty with Canada in managing ongoing fisheries.

The State indicated that an existing Master Memorandum of Understanding between NPS and ADFG commits the NPS ''to utilize the State's regulatory process to the maximum extent allowed by federal law in developing new or modifying existing federal regulations or proposing changes in existing state regulations governing or affecting the taking of fish and wildlife on Service lands in Alaska'' and requested that NPS reference this MMOU in subsequent rulemaking. They further requested that a written finding be prepared if state regulations appear to conflict with federal law.

NPS Response: The scope and nature of the cooperative fisheries management program for Glacier Bay is beyond the subject matter of this rulemaking. Nevertheless, a few brief comments on the NPS/State cooperatively developed management program are in order. We have already begun collaborative discussions with the State of Alaska regarding the fisheries management program authorized under section 123(a)(1) of the Act. We recognize the fisheries management expertise of the State and the effectiveness of the established regulatory and public involvement process of the Alaska Board of Fisheries. We believe that the spirit and intent of the Act—indeed, its balance—envisions a cooperatively developed fisheries management plan and process that is respectful of and maintains the state and federal governments' traditional management roles. We expect the State to continue its role in the day to day management of the authorized commercial fisheries in the park, and that any changes to state managed fisheries will be implemented through the Alaska Board of Fisheries. We support the State's role and regulatory processes. We view the fisheries management plan as the primary vehicle for interagency and public agreement on fisheries management and research objectives in the park. As the planning and management processes are now envisioned, the State would contribute expertise in management of commercial fisheries and NPS will contribute expertise in park management, purposes and values. State and federal agencies, along with input from interested parties, could jointly develop appropriate marine research and assessment programs to improve understanding and management of park fisheries and the marine environment. Ultimately, the Secretary retains the authority and responsibility to protect park resources and values, especially with regards to new or expanded fisheries. Halibut fisheries in the park are managed by the International Pacific Halibut Commission under international treaty and may require separate cooperative planning and research efforts.

Cooperative Development of Fisheries Management Plan

Many commenters supported the cooperative development of a fisheries management plan. The Wilderness Society requested that NPS prepare an EIS as part of this planning process and ensure that the plan was in compliance with ANILCA and other applicable laws and compatible with park values and purposes. NPCA and numerous other commenters expressed general support for the joint management concept; NPCA recommended that the plan be produced with public involvement and suggested that an advisory committee representing various stakeholders guide the process. The State and others stated that ''cooperative development of a management plan'' was not synonymous with cooperative management. These commenters reiterated that ongoing fisheries should be managed using the existing state process rather than a cumbersome ''dual management'' process implied by co-management.

One commenter felt that joint management would be difficult because NPS and ADFG biologists would not have similar escapement goals and might disagree about research needed. One commenter suggested that NPS fund an ADFG position because managing Glacier Bay fisheries would be expensive and it is unfair to use license fees for this management. The State requested that subsequent rulemaking clarify that the Alaska-specific provisions under 36 CFR part 13 and 43 CFR part 36 supercede the closure provisions in 36 CFR part 2.

NPS Response: We will work with the State of Alaska in developing a fisheries management plan for the park. The plan must be consistent with the requirements of the Act and all other applicable federal and state laws. We expect the State and NPS will continue their respective management roles, and do not foresee a duplicative management structure.

Our general goals in the development of the fisheries management plan are to insure that fisheries subject to harvest are prudently managed, and that park areas and fish populations not subject to commercial harvest are protected. We will also work to insure that ongoing fisheries are managed in context with the park's purposes and values. And we will work to optimize opportunities for research and monitoring programs that

can improve understanding, management and conservation of fisheries and the marine system.

We acknowledge the potential merits of creating an advisory committee comprised of a balanced representation of local, state and national interests that could assist in development of a fisheries management plan. The concept of an advisory committee warrants further discussion with the State, but is beyond the scope of this rule.

Additional Closures

Numerous commenters, including the Sierra Club recommended that commercial fishing be phased out of the park's outer fjords including the non-wilderness portion of Dundas Bay and the complex of small fjords from Cape Spencer to Lituya Bay. The State, the CACFA, the Alaska State Chamber of Commerce, the PVOA, and the ATA believe that the Act did not authorize any additional seasonal or area restrictions or closures including the closures of Lituya and Dundas bays or the closure of areas for research projects.

NPS Response: This rule does not implement any additional closures or address restrictions on commercial fisheries beyond those imposed by Congress in passing the Act, as amended. We do not anticipate any additional closures or restrictions specific to commercial fishing in the outer waters of the park (outside Glacier Bay proper) at this point unless those restrictions or closures emerged through the normal course of events in the State's fisheries management administrative process.

15-Year Review for Outer Waters

Several commenters stated that the Act did not allow for a 15-year review of outer water fisheries and requested that this language be omitted from future rulemaking language.

NPS Response: We agree that the Act does not provide for a 15-year review of outer water fisheries. We do expect that ongoing fisheries will be routinely reviewed to determine whether fisheries management objectives are being met. This routine review should serve to resolve any issues or concerns that arise regarding the fisheries. Reference to a 15-year review, therefore, has been deleted from this rule.

New or Expanding Fisheries

A few commenters including the ATA expressed concern about NPS's definition of ''new or expanding fisheries.'' Commenters felt that fisheries that have been closed for conservation reasons should not be considered ''expanding fisheries'' if they could be sustained in the future. ATA also indicated that this definition must not limit the number of boats or harvest levels permitted in a given area. One commenter offered that this definition must not include increased troll effort as it is unclear what past troll effort has been. The City of Pelican commented that recent changes in the groundfish fishery might result in reallocation or expansion of this fishery in Southeast Alaska and indicated that this quota should be allowed to be harvested. The State recommended that NPS avoid defining key fishery management guidelines in subsequent rulemaking such as the prohibition on ''new or expanded fisheries'' prior to working with the State. The State and ATA indicated that new and expanded fisheries are already limited under existing mechanisms and that NPS should defer to the Alaska Board of Fisheries ''Management Plan for High Impact Expanding Fisheries.''

NPS Response: Issues associated with the prohibition in the Act on ''any new or expanded fisheries'' are largely beyond the scope of this rule and will be addressed in the State/Federal park fisheries management plan to be collaboratively developed with public input.

Commercially Viable Fisheries

ATA and the State objected to NPS's use of the term ''commercially viable'' for determining which fisheries would continue in park waters and requested that future rulemaking omit reference to continuation of these fisheries. ATA indicated that even small, seemingly unprofitable fisheries might be important to individuals who rely on diversification in several fisheries.

NPS Response: These issues are beyond the scope of this rule and will be addressed in the subsequent State/Federal fisheries management plan for the park.

Permit and/or License Requirements

ATA and the State opposed any permit or license system for ongoing fisheries in outer waters beyond those already implemented by the State, NMFS, or IPHC.

NPS Response: We do not intend to implement a permit requirement for participation in commercial fisheries outside Glacier Bay, nor is one described in this rule. We do recognize a general need to obtain better harvest and effort data for fisheries in the park, but believe that there are other actions that should be fully explored in cooperation with fishermen and the State to obtain this data.

Procedure

Public Hearings

Commenters raised several procedural concerns. Several commenters at public hearings felt that the hearings were not well advertised and that they took place during the commercial fishing season, which limited participation by fishermen. These individuals recommended that NPS hold additional public hearings in the fall. One commenter stated that the release of the EA and the hearing schedule conflicted with fishing season and would reduce the number of fishermen able to attend hearings and/or comment in writing.

Two commenters requested in writing that additional public hearings be held in Port Alexander, Angoon, Petersburg, Wrangell, Craig and Ketchikan. Several individuals phoned in requests for public hearings in Wrangell and Petersburg.

NPS Response: We advertised the local hearings extensively via news releases, public announcements on local radio stations, and flyers posted in local communities. Attendance at the seven hearings and two informal public information meetings was typical of, or greater than, attendance at most NPS hearings. Importantly, because of the many recent public workshops and working group meetings coordinated by the State and NPS, much local attention focused on this issue. We believe that most individuals in Southeast communities were aware that proposed regulations regarding commercial fishing had been published. The public comment period was repeatedly extended over the course of twenty-one months and provided significant opportunities for public input.

We scheduled and held public hearings in 6 Southeast Alaskan communities and Seattle and held informal public information meetings upon request in Petersburg and Wrangell. NPS staff heard testimony at the formal hearings from 66 individuals and heard informal comments from many more individuals during informal open houses in these communities as well as at informal public meetings in Petersburg and Wrangell. NPS also received, and reviewed 1,557 written comments that expressed diverse views regarding the commercial fishing issue. We believe that this extensive public input is representative of the various interests and views regarding the issue of commercial fishing in the park.

Rulemaking and NEPA Process

Many commenters including the State, the Southeast Conference, the State Chamber of Commerce, the Pacific

States Marine Fisheries Commission, The CACFA, the State Legislature, Representative Gail Phillips, and the cities of Petersburg and Pelican, requested that NPS terminate the rulemaking effort and reissue a proposed rule that reflected the changes rendered by the Act and clarifies how NPS intends to proceed with implementation of the Act. The CACFA felt that NPS has a responsibility under the Administrative Procedures Act to first publish a proposed regulation and provide the public the opportunity to comment. The CACFA also felt that the 60-day extension period for public comment was ineffective because it took 51 days from the date the Act was signed until NPS issued the notice to reopen the comment period.

NPS Response: Prior to Congress passing the Act in October 1998, the NPS public comment deadline on the EA and proposed rule was scheduled to run until November 15, 1998. Upon passage of the Act, the congressional managers of the legislation directed the NPS to ''extend the public comment period on the pending regulations until January 15, 1999, modify the draft regulations to conform to [the Act's] language and publish the changes in the final regulations.'' Accordingly, we extended the public comment period until February 1 and mailed notice to the 1,400 individuals who had provided comment by December 1998. We responded by letter in December and January to the State of Alaska and the several others who requested a new rulemaking process following passage of the Act. These responses articulated yet other reasons why we were not then pursuing a new proposed rule to implement the Act, including the view that the Act was within the range of actions addressed and analyzed in the EA, and a concern about negating the efforts and ideas of the many individuals who had provided public comment to date.

Notwithstanding the above history, after the close of the public comment period on February 1, 1999, Congress again enacted further directions and clarification language for management of commercial fishing activities within Glacier Bay National Park (section 501 of Pub. L. 106–31, May 21, 1999). Section 501 amended the October 1998 Act and required the Secretary of the Interior to publish an interim final rule without an effective date and a forty-five day public comment period. This rule responds to congressional requirements and the requests from the State of Alaska, fishermen, the Small Business Administration, and others for a new rule describing the Act, as amended. It also provides a Regulatory Flexibility Act analysis of eligibility criteria for the Glacier Bay lifetime access permits. We welcome additional public comments on all aspects of this rule.

These commenters also felt that the EA should be redrafted because it does not reflect the current statutory regime, is based on the previously proposed rule, and does not accurately analyze the environmental and socio-economic effects of the alternatives. One commenter believed that the impacts of the Act were not covered in the EA. Moreover, these commenters suggested that the redrafted document should be prepared as a full Environmental Impact Statement (EIS).

NPS Response: The Council on Environmental Quality regulations, which describe requirements for implementing the National Environmental Policy Act (40 CFR Parts 1500–1508), indicate that a federal agency will determine whether an EIS must initially be prepared based on agency-specific supplemental procedures. NPS staff reviewed agency-specific procedures and determined that an EIS was not initially required, as the effects of the proposed alternatives were not known to result in significant impacts upon the quality of the human environment. As a result, we proceeded with the preparation of an Environmental Assessment (EA). Had the EA analysis determined that the proposed action would result in a significant effect, a full EIS would have been prepared.

Because the published EA included a broad range of alternatives, including an alternative in which all fisheries would continue and an alternative in which no fisheries would continue, the agency has essentially reviewed and displayed the effects of the full range of eligibility criteria. Any decisions regarding eligibility requirements were fully analyzed and are within the scope of the existing Environmental Assessment. We have developed an errata sheet to amend the EA based on past public comment and solicit public comment on the errata sheet as well as on the rule.

Several commenters noted that the proposed rule and the EA falsely outlined the required ''No Action'' alternative as immediate closure of all fisheries.

NPS Response: We recognize that the designation of the No Action alternative as an alternative that involved immediate closure of all park waters to fishing was confusing to the public because No Action alternatives typically reflect the status quo, which—from a fisherman's viewpoint—would be the continuation of commercial fishing throughout the park's marine waters. However, the No Action alternative—required in all EA or EIS processes—actually requires description and analysis of what would occur under the existing ''status quo'' of federal laws and regulations. This meant that the ''No Action'' alternative—given the existing NPS general regulatory prohibition on commercial fishing in the park and the statutory prohibition on commercial fishing in designated wilderness areas—actually described closure of all of the park's marine waters to commercial fishing. In any event, Congress has now twice enacted legislation since the original EA was prepared which further clarified the status of various fisheries in Glacier Bay National Park as a matter of federal statutory law.

Resource Issues

Almost all comments received in support of reducing or eliminating commercial fishing in park waters cited natural resource concerns. Numerous commenters indicated that the NPS is charged with maintaining naturally functioning ecosystems and should not allow commercial fishing because the agency has not proven that such activities do not harm park values. Commenters felt that commercial fishing could result in depletion of fish stocks with concurrent food web effects that might impact other parts of the marine ecosystem. Several individuals commented that commercial fishing activities might alter natural population dynamics even if stocks remained healthy. Numerous individuals cited examples of the effects of overfishing elsewhere in the United States and expressed concern that overharvests could occur in Glacier Bay. A number of commenters indicated that NPS should not allow specific fisheries such as purse seining or scallop dredging. Other resource concerns expressed included potential bycatch effects, water pollution, marine mammal and gear entanglement, vessel-related impacts to the marine system, or impacts to specific species (harbor seals, sea otters, common murre, Kittlitz murrelet, glacier bear, tufted puffin).

On the other hand, almost all comments received from individuals in support of ongoing fisheries indicated that there was no evidence that commercial fisheries resulted in long-term biological harm. These individuals stated that park fisheries have been sustained for over 100 years with no observable biological harm.

NPS Response: We acknowledge the State's expertise and experience in managing fisheries in Southeast Alaska, as well as the strong conservation ethic

of Alaskan fishermen. The State is charged with managing fisheries to maintain sustainable yield. The NPS must manage its lands and waters in a manner that leaves all resources unimpaired. Both of these management approaches are embraced by the Act, as amended, which essentially allows commercial fisheries to continue under the management regime of the State in the outer waters of the park, while establishing a more protective fisheries management regime within Glacier Bay proper.

Many individuals felt that the resource impacts of other commercial ventures (i.e., cruise ships, other tourist operations) in Glacier Bay were likely far greater than commercial fishing impacts. A few individuals believed that logging and mining are precluded from National Parks because they do impact resources while commercial fishing does not.

NPS Response: We analyzed the potential effects of vessel traffic, both commercial and personal, in the 1996 Vessel Management Environmental Assessment and Plan. Based on this assessment, we outlined strict vessel quotas, defined vessel operating conditions, and developed mitigation measures designed to ensure that park resources are not impaired by vessel traffic. Importantly, the NPS has a dual mandate to protect park resources while providing visitors the opportunity to see and learn about parks. Vessel access is the primary means by which the public visits Glacier Bay National Park. In general, commercial ventures associated with providing visitor services—such as cruise ship and tour boat operations and kayak concessions in Glacier Bay—are permitted in national parks, while other commercial ventures—in particular, those that remove resources from park areas for profit—are deemed inappropriate.

Several commenters noted that most of the fish species harvested in Glacier Bay were migratory (salmon, halibut, lingcod) and consequently were not ''park resources''; a few commenters indicated that 98% of the salmon caught in Glacier Bay were hatchery raised fish and were not park resources.

NPS Response: Salmon, halibut and lingcod have been documented to range widely and may move in and out of park waters throughout their life span. However, National Parks consider fish and wildlife species to be park resources during their period of residence within park boundaries and manage them as such, regardless of their place of origin or primary area of residency. We do not believe that there are definitive research results available regarding the percentage of hatchery-raised fish using—or caught in—park waters. We have found no data to verify the claim that 98% of salmon caught in Glacier Bay are hatchery-raised; this figure appears to be a misinterpretation of coded wire tag data collected by ADFG. In any event, Congress has resolved the debate over whether salmon should be considered ''park resources'' by passing the Act, as amended, and assigning the Secretary of the Interior/NPS the responsibility of developing grandfather criteria for lifetime fishing permits in Glacier Bay proper and enforcing a winter king salmon trolling season as well.

Cultural Issues

Many commenters, both Native and non-Native, expressed concern about how the proposed regulations would affect Native fishing activities in park waters. Many commenters, including NPCA supported some form of ongoing Native fisheries including commercial, subsistence, and an undefined ''Native fishery.'' These individuals cited several reasons for supporting ongoing Native fishing including: it is a basic Native right; the Tlingit people have harvested fish with limited impact to the environment; and it is important to preserve cultural traditions, maintain the economic viability of Native villages, and continue Native people's connection to resources.

Several commenters remarked that commercial fishing and subsistence activities were tightly linked for Native peoples. These individuals felt that reducing opportunities for commercial fishing would reduce subsistence products available in Tlingit households. One commenter noted that Tlingit traditional fishing is protected by treaty. One commenter indicated that wilderness water closures eliminated access to waters traditionally used by the Hoonah hand-trolling fleet. A few individuals commented that they did not support ongoing Native fisheries because all people must learn to adapt to change. One commenter thought that fishery closures would protect the Tlingit homeland and therefore protect Native culture.

The State expressed concern that Tlingit historical activities are being ignored and that the residents of other local communities have a cultural and historical dependence upon the Glacier Bay area. They further indicated that NPS's intention with regard to the proposed cultural fishery is unclear.

NPS Response: This issue is generally beyond the scope of this rulemaking which concerns implementation of congressional requirements for commercial fishing activities within the park and the development of appropriate criteria for lifetime nontransferable fishing permits for Glacier Bay proper. That said, we recognize that the Tlingit people have fished the waters of Glacier Bay and Icy Strait for many generations and are intimately connected to both the fish resources and the park itself. Similarly, for over a century, non-Native peoples of Southeast Alaska have come to rely on the waters of the park for sustenance. We recognize that the park represents more than just an economic resource for these groups—it is a place of cultural identity. The Act provisions that authorize lifetime tenancy and continued fishing in outer waters will, to some extent, preserve both Native and non-Native cultural ties to most of Glacier Bay National Park. Moreover, nothing in these regulations or the Act preclude fishermen from participating in other authorized activities including sport or personal use fisheries, or visiting and enjoying the park for other reasons.

We cannot legally provide differential commercial fishing opportunities for Natives and/or local peoples and The Alaska National Interest Lands Conservation Act (ANILCA) does not authorize Title VIII subsistence activities in Glacier Bay National Park.

However, we signed a Memorandum of Understanding with the Hoonah Indian Association (HIA), the federally recognized tribal government, in 1995 which commits NPS and HIA to work together on numerous issues of mutual concern regarding Glacier Bay National Park. We have initiated several ongoing projects and programs designed to maintain and strengthen Tlingit cultural ties to Glacier Bay and to perpetuate important cultural traditions. As part of this effort, we intend to pursue the development of a cultural fishery for the local Tlingit community in cooperation with the HIA and the State. This cultural fishery will allow the Tlingit people to maintain a cultural tradition established by their ancestors that they can pass on to future generations.

Visitor Issues

Many commenters expressed concern that commercial fishing activity, including vessel disturbance and potential ecosystem changes, could affect visitors' experience of Glacier Bay. Many of these individuals felt that commercial fishing vessels destroyed the solitude and serenity of park waters. Several past visitors cited specific instances of having been disturbed by commercial fishing vessels or gear.

On the other hand, many individuals in support of commercial fishing indicated that park visitors enjoyed seeing and learning about commercial fishing. These commenters cited specific examples of passengers on tour boats and cruise ships photographing commercial fishing vessels. Two kayak concessionaires in the park indicated that they had never received complaints from their clients about commercial fishing in park waters. Several commenters explained that many of the fisheries took place during a time period when few visitors were present (i.e., Tanner crab season in February) or in areas where few visitors were present (i.e., the outer coast). Several commenters felt that the presence of commercial fishing vessels enhanced visitor safety for boaters, kayakers, and airplane passengers. One commenter expressed concern that trolling activities were a navigational hazard, particularly in Glacier Bay. One commenter felt that commercial fishing was, in and of itself, a valid way to visit the park. Many commenters described their commercial fishing trips in Glacier Bay as an experience beyond simple economic gain.

NPS Response: We recognize that park visitor opinion on commercial fishing, as with most issues, differs. For some park visitors, seeing and learning about commercial fishing is an important part of their experience in Glacier Bay. Others wish to have park experiences less influenced by human contact. The Act, as amended, attempts to balance this spectrum of visitor interests by authorizing ongoing fisheries in the park's outer waters while designating certain areas—including five wilderness water areas, and in Glacier Bay proper, the upper west arm, the upper east arm, and Geikie Inlet—as closed to commercial fishing. Some of these areas are already closed to motorized traffic under the park's 1996 Vessel Management Plan regulations. Congress also set in motion a process for limiting and phasing out commercial fishing in the rest of Glacier Bay proper through the use of grandfathered nontransferable lifetime permits to qualified fishermen in the three authorized commercial fisheries. We believe that this mixture of closed and open areas will provide diverse visitor experience opportunities; we anticipate few if any new visitor concerns regarding commercial fishing in Glacier Bay under this rule.

Marine Reserve

Numerous individuals supported the concept of providing a marine reserve in Glacier Bay where commercial fishing would be prohibited. Over 200 scientists signed a petition called ''Protecting Marine Life in Glacier Bay National Park'' which called for the closure of all commercial fishing in Glacier Bay and the establishment of a marine reserve. The Center for Marine Conservation, the Marine Conservation Biology Institute and several individual commenters cited benefits of protected zones including: they may serve as refugia when regional fisheries management fails; they provide a naturally functioning ecosystem for scientific study; they conserve marine species; they enhance non-consumptive uses of the park; and they benefit commercial, recreation, and subsistence fishing outside protected area. One commenter noted that Alaska has 150% more coastline than the rest of the United States, but only one small marine reserve. On the other hand, several commercial fishermen believed that the wilderness area closures would serve as adequate marine reserves. A few commenters indicated that there was little evidence that marine reserves were beneficial. One commenter indicated that outer coast waters were essentially ''no-take'' areas for much of the year as salmon trolling is limited to one week in July within one mile of shore.

NPS Response: This issue is beyond the scope of this rule which implements congressional requirements for commercial fishing activities in the park and deals with criteria for nontransferable lifetime fishing permits for Glacier Bay proper. Nevertheless, we acknowledge that interest in no-take marine reserves is growing worldwide. Researchers and managers note numerous benefits of areas where limited or no resource extraction takes place including: opportunities for research, preservation of marine species and naturally functioning ecosystems, preservation of biological and genetic diversity, enhanced non-consumptive activities, and potential benefits to fisheries outside the no-take area. The Act, as amended, went far toward establishing no-take marine reserves in Glacier Bay proper by closing several areas to all commercial fishing. Although sport and personal use fisheries continue to be authorized in these areas, very little participation is expected to occur in these areas. The wilderness waters of the Beardslee Islands, Adams Inlet, Hugh Miller Complex, and Rendu Inlet—and portions of Muir Inlet—are closed to motorized traffic during the visitor season and hence receive very little, if any, sport fishing pressure. As a result, the areas closed to commercial fishing by the Act will virtually be no-take areas by default. These areas will allow unparalleled opportunities—previously non-existent in Alaska and rare in northern latitudes worldwide—for researching the effects of marine reserves. The particular elements of a marine reserve research program for Glacier Bay proper will be developed cooperatively with the State of Alaska as required.

Research

Numerous commenters in support of reducing or eliminating commercial fishing in park waters indicated that as a national park, Glacier Bay could serve as an unfished control area, thus providing a unique baseline for future research. Several commenters indicated that one important value of ''no-take'' marine reserves was the opportunity to compare fished and unfished areas and apply this knowledge to the management of ongoing fisheries. Several commenters felt that NPS should monitor any ongoing fisheries carefully to ensure sustainability and compatibility with park values. A few commenters suggested specific studies including bycatch studies, stream colonization processes, and the effects of fishing on fish, marine mammals, birds, and benthic communities. Several commenters felt that the cooperatively developed fisheries management plan for Glacier Bay should outline cooperative research projects that would be coordinated with existing agencies and agreed to by a joint management board. A few commenters including NPCA recommended that NPS pursue additional funding to support ongoing research needs. The Alaska State Legislature recommended that NPS define what is meant by cooperative research and outline a peer review process and quality standards. The State indicated support for a cooperatively designed research program.

Numerous commercial fishermen indicated that ongoing fisheries would not preclude research and would in fact support research because fishermen could provide valuable information on harvest. Several commenters opposed the Dungeness crab research project proposed in the 1997 draft regulations because it involved private profit from sale of crabs caught; other commenters opposed the halibut study outlined in the preamble of the proposed regulations because it would involve closing a valuable fishing area. ATA commented that they did not support additional closures beyond those described in the Act for research purposes. Several commenters expressed concern about the USGS BRD

crab and halibut studies, indicating that they may not be accurate and unbiased. PVOA believed that research at Glacier Bay would not be applicable to other areas of Southeast because park ecosystems were newly deglaciated and were therefore not representative of other Southeast ecosystems.

NPS Response: We believe that the commercial fishing closures described in the Act, as amended, will provide unique opportunities to compare fished and unfished areas. The specific elements of a research program for Glacier Bay will be cooperatively developed with the State of Alaska as required by section 123(a)(1) of the Act. We look forward to developing a cooperative research program with ADFG and others and envision that, while each agency will likely pursue agency-specific research questions, cooperative studies will be designed to address questions of mutual interest. Development of a cooperative program will also benefit from the input of other stakeholders, in particular, local fishermen who remain fishing in Glacier Bay. We acknowledge that much important information can be gleaned from fishermen's logs as well as from fishermen's traditional knowledge. Importantly, we would like to work with ADFG, IPHC and fishermen to develop better harvest tracking mechanisms for the park.

Phase-Out Period

Most comments received discussed the phase-out of commercial fishing in Glacier Bay proper. Many individuals supported the preferred alternative's phase out period of 15 years. Many commenters supported a shorter phase-out period; recommendations included 7 years (including Sierra Club recommendation), 3–5 years, and 2–4 years. One commenter recommended a 30-year phase-out. Many individuals indicated that commercial fishing should be prohibited immediately in all park waters with no phase-out period. Commenters who supported a phase-out typically indicated that this time period would allow local communities to transition from fishing to a different economy and for fisherman to be retrained for other occupations while ultimately protecting the marine resource. Individuals who recommended a shorter or no phase-out period typically expressed concern that irreversible resource impacts could occur during the phase-out period and/or fishing constituencies would work to overturn decisions regarding fishing closures during that period. The Wilderness Society stated that NPS must show that ongoing fisheries would not compromise resources during the phase-out.

Conversely, many commenters recommended at least lifetime tenancy for fishermen with a history of fishing in Glacier Bay or no phase-out at all. Many of these individuals indicated a phase-out even for the period of their lifetime was unfair because it would preclude fishermen's children and grandchildren from ''inheriting'' the right to fish in Glacier Bay.

NPS Response: The Act, as amended, grants qualifying fishermen a non-transferable permit for lifetime access to an authorized Glacier Bay proper commercial fishery. Thus, the question of the duration of any phase-out has now been resolved by Congress. We expect that this condition will result in gradual attrition from the commercial fisheries as fishermen retire. At some point in time (likely decades off), all commercial fishing in Glacier Bay proper will cease following the retirement of all fishermen qualified to continue to fish under section 123 of the Act, as amended. Life tenancy will allow individual fishermen with a sufficient history of fishing in Glacier Bay proper to continue harvesting fish and will provide a long time period for communities to make the transition to a different based economy.

Displaced Fishermen

NPS received many comments that expressed concern that fisheries closures would displace fishermen to other areas impacting the displaced fishermen, other fishermen already fishing those areas, and processors. The State disagreed with NPS's assumption as presented in the EA for the halibut and salmon fisheries that displaced fishermen can be redistributed to other areas without significant impact to their economic well being. Commenters indicated that displaced fishermen would potentially have to travel farther from their home port increasing travel costs (fuel, ice, insurance) and would be less productive in fishing new areas they weren't familiar with. Several commenters also indicated that fishermen already in the areas Glacier Bay fishermen were displaced to would be impacted because of increased fishing pressure.

Several individuals indicated that concentrating fishermen could result in resource depletion in those areas and/or state mandated gear or harvest reductions to preclude resource depletion. A few individuals were concerned that increased concentration of fishermen in smaller areas could increase the risk of collision, entanglement, etc. Several commenters indicated that fishery closures in Glacier Bay would force small boats to fish outer waters, which they are not equipped to do. A few commenters felt that closures of outer waters could displace fishermen to the Gulf of Alaska exposing them to more severe weather with limited anchorages. A few commenters indicated that displaced Glacier Bay fishermen could impact subsistence, personal use or recreational fisheries if they were forced to move into areas used for these fisheries.

NPS Response: We expect that few fishermen will be displaced outside of park waters because: (1) The Act, as amended, authorizes ongoing commercial fisheries in outer waters where well over 80% of historic harvest from the park has occurred; (2) the Act requires that any Dungeness crab fishermen compensated retire their limited entry permits (and pots) from the fishery; (3) the Act provides for life tenancy for qualifying fishermen in Glacier Bay; and (4) these regulations outline relatively lenient and inclusive eligibility criteria for the authorized fisheries in Glacier Bay proper.

Compensation

NPS received several general comments indicating that individuals and communities should be compensated for revenue lost due to fisheries closures. Several commenters recommended that all fishermen displaced from wilderness waters be compensated regardless of their fishery. A few individuals stated that deckhands/crewmembers should be compensated; one commenter recommended that crew should be compensated at the standard crew share of 10–12% of the permit holder's settlement. Several commenters indicated that processors should be compensated. The State provided a list of adversely affected entities who should be considered for compensation including commercial fishery entry permit holders, vessel owners, crewmembers, seafood processors, the State, communities and fishermen who have not historically made landings in Glacier Bay but will be impacted by increased competition or loss of opportunities.

A few commenters recommended compensation strategies that included providing business opportunities for displaced fishermen, providing job training or education tuition, and unspecified financial compensation. One commenter felt that NPS should pay displaced fishermen an average of their gross yearly take for life and compensate fishermen's children and grandchildren similarly. The Alaska

State Legislature recommended that a bipartisan effort be initiated to seek additional compensation funds for deckhands and communities impacted by fishery closures.

Several commenters indicated that compensation for displaced fishermen was inappropriate. These individuals offered that ''nothing is guaranteed for life.'' Several individuals felt that the government should not financially compensate individuals who had been making a living from a public resource. One commenter indicated that the compensation package for Dungeness crabbers should be cut in half. A few individuals offered that the government should not compensate Dungeness crabbers because sea otters moving into crabbing areas would have eventually reduced crab harvest. Several commenters indicated that fishermen should compensate the American public for past use of public resources.

NPS Response: In May 1999 Congress passed section 501 of the 1999 Emergency Supplemental Appropriations Act that significantly expanded federal compensation available for commercial fishermen, communities and others who are directly affected by fisheries closures within Glacier Bay. We are working closely with the State of Alaska to implement this additional $23 million compensation program as rapidly and as prudently as possible.

The Act passed by Congress in October 1998, as amended, also authorized a compensation program specific to Dungeness crab commercial fishermen who fished in the Beardslee Island or Dundas Bay wilderness waters for at least 6 of 12 years during the period 1987–1998. We are currently administering this compensation program and several fishermen have received compensation.

The State urged NPS to publish a formal rulemaking, which clarifies all aspect of the Dungeness crab buyout program. They further urged that an affidavit be sufficient to establish qualification for the buyout program. The State clarified that the State does not intend to participate actively in the permit relinquishment process whereby Dungeness crabbers would relinquish their Dungeness crab permit. Last, the State indicated that it was not clear how NPS intended to calculate fair market value of vessels and gear and urged NPS to be as lenient as possible. One commenter stated that the application period for Dungeness crab compensation process should be extended because all permit holders were not contacted.

NPS Response: A formal rulemaking process to complete the Dungeness crab compensation program, as described by the Act, as amended, is neither required nor warranted. A new rulemaking on the Dungeness crab fishery would take months to complete and actually serve to delay compensation of qualifying fishermen. Moreover, the Act, as amended, imposes strict timeframes for completion of the compensation program. Fair market values for vessels, gear and permit, where needed, will be carefully determined with assistance of professional appraisers. Following passage of the 1998 Act, notice of the compensation program was provided to all 1,400 individuals who had provided comment or participated in workshops, described in extensive media coverage of the Act, and published in the **Federal Register**. More recently, as part of the May 1999 amendment to the Act, Congress changed the eligibility criteria and extended the application period for the Dungeness crab fishery compensation program. Notice of these changes was published in the **Federal Register** (64 FR 32888, June 18, 1999) and subsequently mailed to every permit holder in the Southeast Alaska Dungeness crab commercial fishery.

Safety

Several commenters expressed concern that smaller boats that typically fished Glacier Bay proper could not safely fish outer waters if they were displaced. A few commenters expressed concern that fishery closures on the outer coast would preclude use of the bays and protected anchorages during inclement weather. The ATA expressed concern that the ability of fishermen to seek safe harborage would be impacted if they had to receive permission from the superintendent for it. The State requested that the language providing for safe harborage in the 1997 rulemaking preamble be included in the body of subsequent rulemaking.

NPS Response: We expect that relatively few fishermen will be displaced and little crowding will occur based on the conditions outlined in the Act (continued fishing in outer waters/ life tenancy for qualifying fishermen in Glacier Bay proper) and the relatively lenient and inclusive eligibility criteria described in this rule for the authorized Glacier Bay proper fisheries. Moreover, nothing in this rulemaking, existing park regulations, or the Act would affect the ability of fishermen or other vessel operators to seek safe harbor at any time within the park under hazardous weather or sea conditions, when experiencing mechanical problems, or in other exigent circumstances.

Personal Use, Subsistence and Sport Fishing

One commenter felt that NPS should continue to provide for personal use fisheries. Several commenters indicated that NPS should provide for subsistence fishing. Many commenters indicated that it was unfair to preclude commercial fishing while allowing guided sport fishing to continue. The State offered that NPS rulemaking should not restrict the State's ability to manage personal use fisheries. They further indicated that subsistence and personal use fisheries have occurred within park boundaries for many years and are not limited to residents of particular communities or areas. And they indicated that residents of Hoonah are authorized to participate in these fisheries in Glacier Bay, as are residents of other communities.

NPS Response: Nothing in these regulations on grandfather criteria for lifetime permits for commercial fishing in Glacier Bay proper alters or supercedes existing authorities for personal use or sport fisheries. Existing personal use and sport fishing opportunities will continue consistent with NPS and non-conflicting state regulations. ANILCA specifically authorizes sport fishing in the park; ANILCA does not, however, authorize any Title VIII subsistence activities, including subsistence fishing, in Glacier Bay National Park. We have proposed to the State that all fisheries in Glacier Bay National Park—including authorized commercial, sport and personal use fisheries—be addressed in the cooperatively developed fisheries management plan.

Environmental Assessment

While several commenters noted that portions of the Environmental Assessment were inaccurate, very few comments (with the exception of the State, ATA, PVOA and one individual commenter) provided specific details on which information and/or analysis was incomplete or inaccurate. Several commenters in support of ongoing fisheries felt that, in general, the EA overstated the impacts of commercial fishing on park resources and visitors and understated the effects of closures on fishermen and the local economy.

NPS Response: We acknowledge that commenters provided valuable information with which to improve the analysis presented in the Commercial Fishing Environmental Assessment. Specific comments, particularly regarding economic effects have been incorporated within the context of the Regulatory Flexibility Analysis

presented below. Specific comments associated with biological issues will be addressed in the fisheries management plan. Notwithstanding these specific comments, we believe that the document, with an errata sheet, is balanced and fairly reflects the mix of potential effects associated with continued authorized commercial fishing activities and/or closures.

A few commenters believed that the EA described potential impacts that were unlikely to occur and implied that commercial fishing vessels are the sole or main source of vessel effects on marine and terrestrial systems when in fact they are a minor component of vessel traffic in Glacier Bay. A few commenters offered that preparing separate environmental documents for commercial fishing, sport fishing, vessel management, new park infrastructure, etc. does not allow the public to see the ''whole'' picture or to understand the cumulative effects of these activities.

NPS Response: One purpose of an Environmental Assessment is to outline all the potential social and biological effects of a proposed federal action. Consequently, the Commercial Fishing Environmental Assessment described the potential effects of commercial fishing on the human and biological environment in and near Glacier Bay National Park. We determined that the commercial fishing issue and associated analysis should be addressed separately from other related issues including vessel management (addressed in the 1996 Vessel Management Plan and Environmental Assessment) and other ongoing fisheries (which will be addressed in the cooperatively developed fisheries management plan). The cumulative impacts section of the Commercial Fishing Environmental Assessment was provided to assist the public in placing this issue within the context of other related park actions and programs. Moreover, many of the original issues addressed in the 1997 proposed rulemaking and its accompanying EA have now been definitively resolved by Congress in the Act, as amended, and are no longer discretionary Federal actions requiring the same scope of NEPA analysis as before.

Section by Section Analysis

The regulations in this section implement the statutory requirements of section 123 of the Omnibus Emergency and Supplemental Appropriations Act for FY 1999 (the ''Act'') (Pub. L. 105–277), as amended by section 501 of the 1999 Emergency Supplemental Appropriations Act (Pub. L. 106–31). Where possible, the language used in this section of the regulations mirrors the language used in the Act, as amended.

Section 13.65(a)(1) of the regulations provides definitions for the terms ''commercial fishing'', ''Glacier Bay'' and ''outer waters.'' The definition for ''commercial fishing'' is the same as used for the park's vessel regulations in section 13.65(b) of Title 36 of the Code of Federal Regulations. The terms ''Glacier Bay'' and ''outer waters'' are used in these regulations to describe marine water areas of the park that are to be regulated differently under requirements of the Act, as amended. The definition for ''Glacier Bay'' mirrors the definition for ''Glacier Bay Proper'' that is provided in section 123(c) of the Act. This definition is essentially the same as that provided in the park's vessel management and resource protection regulations found at section 13.65(b)(1) of Title 36 of the Code of Federal Regulations. The term ''outer waters'' is used to describe all of the marine waters of the park outside of Glacier Bay proper. This includes areas of Icy Straits, Cross Sound, and coastal areas on the Gulf of Alaska running from Cape Spencer to Sea Otter Creek, beyond Cape Fairweather.

Section 13.65(a)(2) of the regulations provides authorization for commercial fishing to continue in some of the non-wilderness marine waters of the park, as specifically provided for by the Act. The Act calls for the State of Alaska and the Secretary of the Interior to cooperatively develop a fisheries management plan for the regulation of commercial fisheries in the park. We anticipate that the fisheries management plan will reflect the requirements of the Act and other applicable federal and state laws, as well as international treaties, and serve to protect park values and purposes, prohibit new or expanded commercial fisheries, and provide opportunity for the study of marine resources. This authorization for commercial fishing supercedes the general regulatory prohibition on commercial fishing in the park found at 2.3(d)(4) of this chapter. The authorization does not, however, exempt commercial fishing activities from other park regulations and programs in place to protect park resources and visitor use opportunities. Commercial fishing activities are to be conducted and managed in concert with park purposes and values.

Section 13.65(a)(3) of the regulation reaffirms the statutory closure of marine wilderness waters as required by the Wilderness Act and restated by section 123(b) of the Act. Two recent federal court decisions have made clear the statutory prohibition on most commercial activities—including commercial fishing—in designated wilderness areas.

Section 13.65(a)(4) of this regulation affirms that, consistent with the requirements of Section 123(a)(1) of the Act, commercial fishing is authorized in the marine outer waters of the park subject to a cooperatively developed State/Federal park fisheries management plan and applicable federal and non-conflicting state laws and regulations.

Section 13.65(a)(5) describes specific requirements and limitations on commercial fisheries in Glacier Bay proper, consistent with the Act, as amended. Section 13.65(a)(5)(i) of the regulation limits Glacier Bay proper commercial fisheries to longlining for halibut, pot or ring net fishing for Tanner crab, and trolling for salmon. These are the only commercial fisheries authorized to continue in Glacier Bay proper. Section 13.65(a)(5)(ii) of the regulations limits participation in the authorized Glacier Bay proper commercial fisheries only to individuals who have a nontransferable lifetime special use permit for access to the fishery issued by the Superintendent. This section clarifies that the requirement for this lifetime special use permit is not currently scheduled to go into effect until January 1, 2000. The delayed implementation date is intended to provide adequate opportunity for the public to comment on this rule, to review those comments and make any adjustments to the rule as may be warranted, and to allow sufficient time for fishermen to apply for and receive the access permits before a permit requirement is put into effect. This section also makes clear that the permits are non-transferable—reflecting the language and requirements of the Act. However, if a temporary emergency transfer of a permit is approved by CFEC due to illness or disability of a temporary, unexpected and unforeseen nature, we will also consider issuing a temporary special use permit transfer for the period (generally, a year or less).

Section 13.65(a)(5)(iii) describes how to apply for a special use permit for access. Subsection (A) restates the Act in requiring an applicant to possess a valid commercial fishing permit for the district or statistical area encompassing Glacier Bay proper. Subsection (B) outlines the specific eligibility requirements that must be met to obtain a special use permit for access to the Glacier Bay fisheries. These eligibility criteria have undergone a Regulatory Flexibility Act analysis, and have been determined to meet the goals of this regulation, while seeking to minimize

impacts to commercial fishermen and other affected small businesses to the extent consistent with the Act, as amended. A 12-month application period to obtain a special use permit for access is described; conclusion of the eligibility determinations by October 1, 2000 may be important to completion of the $23,000,000 compensation program authorized by Congress in the 1999 amendment to the Act. This subsection also outlines the specific type of documentation that an applicant must provide to the Superintendent to obtain an access permit. The Act requires fishermen to provide a sworn and notarized affidavit describing their particular history in one or more of the three authorized commercial fisheries. NPS will provide a simple affidavit form to applicants upon request. The Act also requires applicants to provide other available documentation that corroborates their history of participation in the fishery. Licensing and landing histories—two types of readily available corroborating documentation—are required by this regulation. A certified printout of a fisherman's licensing history in a fishery is available at no charge from the CFEC. The licensing history corroborates participation in the fishery during the qualifying years. Landing reports, documenting a fisherman's harvest activities in a specific commercial fishery by year and location, are available at no charge from the ADFG. A form is required from ADFG to obtain this information. We are aware of the limitations of some landing data—there is, for example, no separate statistical reporting unit for Glacier Bay for salmon trolling. Accordingly, we intend to consider salmon landing reports for District 114 as indirect evidence of participation in the Glacier Bay fishery; this indirect evidence must be supported by additional corroborating documentation. For the halibut and Tanner crab fisheries, because specific reporting areas are described for Glacier Bay, additional corroborating documentation will be required where landing data are not conclusive. In any event, landing reports must be for the reporting area immediately adjacent to Glacier Bay to be considered. Finally, subsection (C) describes the delivery address to apply for an access permit, and subsection (D) clarifies that the Superintendent will make a written determination and provide a copy to the applicant. Fishermen will be afforded opportunity to provide additional information, as warranted or needed. We anticipate that it could take 30 days or more to process and respond to an application, depending on the volume and completeness of the applications received. For this reason, fishermen are advised to apply at least 30 days in advance of anticipated fishing activities in Glacier Bay proper that will require a special use permit.

Subsection 13.65(a)(5)(iv) describes special use permit denial and appeal procedures for an applicant. These procedures are similar to those in place for other NPS permit programs in Alaska.

Subsection 13.65(a)(5)(v) makes clear that the special use permits for access to the Glacier Bay proper commercial fisheries are renewable for the lifetime of an access permit holder, provided they continue to hold a valid commercial fishing permit and are otherwise qualified to participate in the fishery. We expect to reissue the special use permits for access on a five-year cycle. This will provide a recurring opportunity to update the list of fishermen authorized to commercial fish in Glacier Bay. NPS will not charge a fee for these special use permits. No special use permits will be required to participate in commercial fisheries otherwise authorized in the marine waters of the park outside Glacier Bay.

Section 13.65(a)(5)(vi) describes non-wilderness areas closed to commercial fishing within Glacier Bay proper, as required by the Act, as amended by section 501 of the 1999 Emergency Supplemental Appropriations Act (May 21, 1999). The 1999 amendment delays implementation of these non-wilderness closures during the 1999 fishing seasons with respect to the commercial halibut and salmon troll fisheries. Wilderness areas remained closed to all commercial fishing under the 1999 amendment, with no delay in implementation; these closures were put into effect by NPS on June 15, 1999. NPS will provide detailed maps and charts depicting these non-wilderness and wilderness closures to every fisherman who receives a special use permit for access to the three authorized Glacier Bay proper commercial fisheries. Subsection (A) describes the general closure of the west arm of Glacier Bay to commercial fishing, with the exception of trolling for king salmon during the State's winter season troll fishery. Subsection (B) implements the closure of Tarr Inlet, Johns Hopkins Inlet, Reid Inlet, and Geike Inlet to all commercial fisheries. These closures include the entirety of each of these inlets, as depicted on the maps and charts available from the Superintendent. Subsection (C) closes the east arm of Glacier Bay north of a line drawn across the mouth of the arm from Point Caroline through the southern point of Garforth Island to the east shore mainland. The Act provides an exception to this prohibition that allows trolling for king salmon during the State's winter troll fishery ''south of a line drawn across Muir Inlet at the southernmost point of Adams Inlet.'' This line is described in this subsection as 58° 50′N latitude, a description more readily understood by commercial fishermen.

Drafting Information

The primary authors of this rule are Randy King, Chief Ranger, Glacier Bay National Park and Preserve; Mary Beth Moss, Chief of Resource Management, Glacier Bay National Park and Preserve; and Donald Barry, Assistant Secretary of the Interior for Fish and Wildlife and Parks. Other key contributors include Molly Ross, Special Assistant to the Assistant Secretary for Fish and Wildlife and Parks; Marvin Jensen and John Hiscock of the National Park Service.

Compliance With Other Laws

Regulatory Flexibility Act

Under the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601 *et seq.*, we have prepared an initial regulatory flexibility analysis on the expected impact of this rule on small business entities and have determined that the rule will have a significant economic effect on a substantial number of small entities.

With this rule we are establishing eligibility requirements and application procedures for obtaining a special use permit for lifetime access to the three commercial fisheries authorized in Glacier Bay proper.

At issue is the effect that fishing eligibility restrictions in Park waters would have on numerous individuals and several communities. Commercial fishing is one of the largest employers in Southeast Alaska. The majority of private sector income in the Southeast is derived from the seafood industry, and the economic effect of these fisheries extends throughout Southeast Alaska and the State. Local fishing village governments are supported by commercial fishing, and in some cases depend on raw fish taxes. Restricted eligibility would not only directly affect fishermen unable to meet the participation criteria, but is also likely to affect deckhands, vessel owners, processors, other local business that either directly or indirectly support and are supported by the commercial fishing industry, and village governments.

In designing the eligibility criteria, we attempted to minimize the economic

impacts to fishermen, communities, and others associated with the commercial fishing industry. The Act authorizes existing commercial fisheries to continue in outer waters where it is estimated that over 80% of the harvest from Park waters occurs. Additional harvest will continue in most of Glacier Bay during the life tenancy period of qualifying fishermen, supporting fishermen and communities over the course of the current generation. About 18% of the Park's marine waters (wilderness and non-wilderness) will be closed immediately to commercial fishing. These closed waters have historically accounted for approximately 10% of total biomass harvested in the Park. Within Southeast Alaska, the Bay has historically accounted for only 2–4% of the commercial halibut harvest; approximately 7–12% of commercial Tanner crab harvest; and an indeterminate, but presumably small percentage of the salmon harvest. 1

We expect that some portion of the revenue previously harvested in the closed areas of the Park will be recovered in Cross Sound and Icy Strait and/or other Southeast waters. This is particularly likely for fishermen pursuing highly migratory species like halibut and salmon. The stocks of these species do not confine themselves to the Bay. They move throughout the local aquatic environment, and fishermen are used to pursuing them more widely. Halibut fishermen operate under an individual quota system and with a fairly lengthy (8-month) fishing season. They should be able to select time and fishing location to achieve their quotas, avoiding the excessive costs and competitive pressures created by derby fishing conditions. Despite the fact that salmon are less broadly distributed in space or in time than halibut, most displaced salmon trollers (power and hand) are likely to be able to recoup the harvest lost from Glacier Bay proper. However, small hand troll operators will probably encounter increased safety risks and other increased costs due to more exposed weather conditions and associated reduced access to migratory king salmon. The governing conditions are less accommodating for Tanner crab fishermen. Tanner crab fishing grounds are fully utilized with few, if any unexploited areas. Displaced Tanner fishermen are unlikely to recover their lost harvest.

In addition, although fishermen who do not meet the eligibility criteria will be displaced or excluded from the Bay, the above statistical data on the distribution of harvests from Park waters suggests that most fishermen who operate in Park waters are not heavily dependent on Glacier Bay proper fisheries. The data indicate that most of these fishermen have been harvesting fish and earning revenues outside the Bay. Moreover, in the Act and amendments thereto, Congress provided for compensation to affected communities and individuals.

Based largely on data collected by the Commercial Fisheries Entry Commission (CFEC) and two studies conducted by Jeff Hartman, Alaska Department of Fish and Game (Hartman 1998 and 1999), we estimate that the economic effects of the eligibility conditions established in the interim rule (direct, indirect, and induced) have a present value of $9.2M (1997$).

- The estimate is inclusive, covering losses of income to fishing permit holders, vessel owners, crew members, seafood processing firms and their employees, local businesses and communities, and the State. The restrictions on fishing may also diminish property values (fishing vessels and gear; real estate and other investment capital), but no estimate was made of these losses.
- The estimate is conservative. With unemployment in the local communities already higher than the State average, employment opportunities are limited. The NPS assumed that for many of the affected individuals the income losses would be perpetual. This and other assumptions explained below lead to an overestimate of the effects of the rule.

The Commercial Fisheries Entry Commission (CFEC) maintains detailed, annual information on permit holders, including size, location, and value of catch (gross earnings). There are two problems with the harvest reporting system which preclude using these data alone to estimate the economic effects of limiting access to the fisheries in the Bay:

- The earnings information is gross, not net.
- The statistical areas for which data are reported frequently do not coincide with Park boundaries, making it difficult to apportion harvest to Park waters.

Fortunately, in 1994, Hartman conducted an in-depth survey of permit holders, vessel owners, crews, and processing firms and their workers, collecting detailed cost information (Hartman 1998). This survey information allows one to estimate net income and profits for the various groups.

In 1999, Hartman utilized the information and results of his 1994 survey in conjunction with decadal (1987–96) CFEC data on harvests size and value, location of catch, and permitee participation by venue to estimate the losses associated with phasing out commercial fishing at Glacier Bay (Hartman 1999). Hartman found that the present value of losses in income to the fishing industry and communities in Southeast Alaska ranged between $16M and $23M (1997$). These estimates do not include diminutions in the value of assets, but they do account for:

- All regional income losses (direct, indirect, and induced), using a multiplier of 1.5. The relatively small multiplier reflects the extent to which the region is dependent upon imports.
- Lost tax revenues to the State. Alaska levies a tax on commercial fishing businesses as well as a corporate income tax. The State shares the fishing tax with local communities based on location of landing.
- Certain transactions cost and administration costs for the compensation program. Hartman estimates the present value of these costs at $4.3M. Over-compensation of firms and individuals ($3.4M) due to the difficulty of precisely identifying affected entities and the magnitude of their losses constitutes the largest component of the transactions costs.

We are puzzled by the inclusion of these transactions and administration costs, especially the transaction costs. They are a transfer payment, not an income loss, and since Congress has funded the compensation program, this $3.4M constitutes an increase in regional income at the expense of taxpayers nationally. In our use of Hartman's analysis, we exclude these expenditures together with $200K for Dungeness crabbers. Losses sustained by Dungeness crabbers are due to the Act, not the promulgation of eligibility conditions for Tanner, halibut, and salmon fishermen. Excluding these costs leaves $670K in administrative expenses. The cost of administering the compensation program is a burden on the State and the NPS, but not a loss to the regional economies. Indeed, depending upon how the monies are disbursed, they may be a gain to the regional economies, especially since these expenses are likely to be covered by taxpayers nationally. Excluding all transactions and administration costs reduces the estimated regional income effects to $12–19M.

We have confidence in Hartman's analysis, both because of the care with which it was designed and executed and because Congress based its $23M appropriation for compensation on this analysis. This latter is a strong

endorsement. Hartman's analysis of income losses is more comprehensive than that required of us, however. Hartman wanted to identify all impacts to the region from phasing out commercial fishing in the Bay. We are only responsible for estimating the impacts associated with the promulgation of eligibility conditions for participating in the Tanner, halibut, and salmon troll fisheries. Hartman's upper bound estimate for this subset is $12.1M.

In conducting his analysis, Hartman adopted much more restrictive eligibility criteria than those selected by the Secretary, excluding fishermen with less than 6 years of participation in 10. Scaling back Hartman's results to exclude only those with less than 3 years of participation during the decade reduces the upper bound estimate of the present value of the income effects to $9.2M. At a discount rate of 3% in perpetuity this is an annual impact of $276K. Annualizing over 50 years gives an impact of $358K.

We believe these to be conservative estimates of the economic effect of the eligibility criteria selected by the Secretary on small entities (individuals, firms, communities, and village governments) in Southeast Alaska. First, our estimate is based on Hartman's upper bound, which assumes among other things that most displaced fishermen never work again. Secondly, because CFEC statistical areas do not coincide with Park boundaries, the data overestimate lost harvest and income due to the eligibility criteria. Further, participation data for 1989–1998, the period used by the Secretary in selecting the eligibility criteria, indicate that fewer participants would be excluded from the Bay fisheries than data for the period 1987–1996, the period underlying Hartman's analysis. No effort was made to correct for these influences and refine our estimates further.

We have placed a copy of the regulatory flexibility analysis on file in the Administrative Record at the address specified in the **ADDRESSES** section. Public comment is invited on the regulatory flexibility analysis.

Regulatory Planning and Review

This document is a significant rule and has been reviewed by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an annual economic effect of $100 million or adversely affect an economic sector, productivity, the environment, or other units of government. Jobs in local Alaska communities will be lost and a Federally funded compensation programs will mitigate the economic impacts on individuals and the communities. An economic analysis has been completed and is attached (See Regulatory Flexibility Act Section). With this rule we are establishing eligibility requirements and application procedures for obtaining a special use permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper.

b. This rule will not create inconsistencies with other agencies' actions. The Act calls for the Secretary and the State of Alaska (State) to cooperate in the development of a management plan to regulate these ongoing commercial fisheries. Certain inlets or areas of inlets of Glacier Bay proper are either closed to all commercial fishing, or limited to trolling by qualifying fishermen for king salmon during the winter season. The Act confirms the statutory prohibition on commercial fishing within the Park's designated wilderness areas, and authorizes compensation for qualifying Dungeness crab fishermen who had fished in designated wilderness waters of the Beardslee Islands and Dundas Bay.

c. This rule will not materially affect entitlements, grants, user fees, loan programs, or the rights and obligations of their recipients. This rule implements and establishes eligibility requirements and application procedures for obtaining a special use permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper.

d. This rule will not raise novel legal or policy issues. States and other Federal programs have used similar measures to compensate individuals to accomplish program initiatives.

Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

a. Does not have an effect on the economy of $100 million or more, as demonstrated in the economic analysis (see Regulatory Flexibility Act Section).

b. Will not cause an increase in costs or prices for consumers, individual industries, Federal, State or local governments entities, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises (See Regulatory Flexibility Act Section).

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. This rule does not change the relationship between the NPS and small governments. (See Regulatory Flexibility Act Section).

b. The Department has determined and certifies pursuant the Unfunded Mandates Reform Act, that this rule will not impose a cost of $100 million or more in any given year on local, State or tribal governments or private entities.

Takings

In accordance with Executive Order 12630, the rule does not have significant takings implications. No takings of personal property will occur as a result of this rule. Perceived takings due to job loss will be offset by the compensation program. This rule implements and establishes eligibility requirements and application procedures for obtaining a special use permit for lifetime access to three commercial fisheries authorized in Glacier Bay proper. (See Regulatory Flexibility Act Section).

Federalism

In accordance with Executive Order 12612, the rule does not have significant Federalism effects. The primary effect of this rule is to implement eligibility requirements and application procedures for obtaining a special use permit for lifetime access to three commercial fisheries authorized in waters of Glacier Bay National Park.

Civil Justice Reform

The Department has determined that this rule meets the applicable standards provided in Section 3(a) and 3(b)(2) of Executive Order 12988. The rule does not unduly burden the judicial system. NPS drafted this rule in ''Plain-English'' to provide clear standards and to ensure that the rule is easily understood. We consulted with the Department of Interior's Office of the Solicitor during the drafting process.

Paperwork Reduction Act

This rule contains information collection requirements subject to Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1995. The collection of information contained in section 13.65 (a)(5)(iii) of this rule is for issuing a special use permit for lifetime access to three authorized commercial fisheries within Glacier Bay proper based upon sufficient historical participation. The

information collected will be used to determine who qualifies for the issuance of a special use permit for lifetime access. It is necessary for someone to apply to obtain a permit.

Specifically, NPS needs the following information from an applicant to issue a special use permit for lifetime access to the salmon troll fishery, Tanner crab pot and ring net fishery, and halibut longline fishery authorized within Glacier Bay proper: (1) Full name, date of birth, mailing address and phone number. (2) A sworn and notarized personal affidavit attesting to the applicant's history of participation as a limited entry permit or license holder in one or more of the three authorized Glacier Bay fisheries during the qualifying years. (3) A copy of a current State or—in the case of halibut—International Pacific Halibut Commission commercial fishing permit card or license that is valid for the area including Glacier Bay proper. (4) Documentation of commercial landings within the statistical units or areas that include Glacier Bay proper during the qualifying period. (5) Any available corroborating information that can assist in a determination of eligibility for the lifetime access permits for the three authorized fisheries within Glacier Bay proper.

NPS has submitted the necessary documentation to the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*, and received approval for the collection of this information for all areas covered by this rule under permit number 1024–0125. A document will be published in the **Federal Register** establishing an effective date for Sec. 13.65(a)(5)(iii).

The public reporting burden for the collection of this information is estimated to average less than two hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden of these information collection requests, to Information Collection Officer, National Park Service, 800 North Capitol Street, Washington, DC 20001; and the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Desk Officer for Department of the Interior (1024–0125), Washington, D.C. 20503.

National Environmental Policy Act

An Environmental Assessment (EA) that described five alternatives for management of commercial fishing activities within the marine waters of Glacier Bay National Park was distributed for public comment on April 10, 1998. That document described the major issues associated with commercial fishing activities within the park as identified through public meetings, written comments and staff analysis, and examined the social and biological consequences of the five alternatives. The 1997 proposed regulations were described in Alternative 1, and represented the preferred alternative for purposes of the EA. Public comment on the proposed rule and EA were taken at the same time.

Congress, in passing section 123 of the Omnibus Consolidated and Emergency Supplemental Appropriations Act for FY 1999, clarified and limited the Secretary of the Interior's discretionary authority with respect to authorizing commercial fishing in the park. Thus, the Act required the Secretary to describe eligibility criteria for the lifetime access permits for Glacier Bay proper, closed certain named inlets and wilderness waters, and clarified that the outer marine waters of the park should remain open to commercial fishing under a cooperatively developed State/Federal fisheries management plan.

Consistent with the requirements of the Act, as amended, we are providing a 45-day public comment period on this rule. All comments received on this rule will be considered prior to any decision under the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). By requiring completion of the final rule by September 30, 1999, the Act, as amended, does preclude any opportunity to prepare an EIS instead of an EA on this rulemaking. We have placed copies of the 1998 EA on file in the administrative record; copies of the EA may be obtained by contacting the park at the address or phone number listed under **FOR FURTHER INFORMATION CONTACT**.

Clarity of the Rule

Executive Order requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more (but shorter) sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? What else could we do to make this rule easier to understand? Please send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW, Washington, DC 20240. You may also e-mail the comments to this address: exsec@ios.doi.gov.

Public Comment Solicitation

If you wish to comment you may mail comments to Tomie Lee, Superintendent, Glacier Bay National Park and Preserve, P. O. Box 140, Gustavus, Alaska 99826. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the rulemaking record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and record keeping requirements.

In consideration of the foregoing, NPS proposes to amend 36 CFR part 13 as follows:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

1. The authority citation for part 13 is amended to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101 *et seq.*; Sec. 13.65 also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681, October 21, 1998; Pub. L. 106–31, 113 Stat. 57, May 21, 1999.

2. Section 13.65 is amended by adding paragraph (a) and removing and

reserving paragraphs (b)(5) and (b)(6) to read as follows:

§ 13.65 Glacier Bay National Park and Preserve.

(a) *Commercial Fishing*—(1) *Definitions.* As used in this section:

Commercial fishing means conducting fishing activities under the appropriate commercial fishing permits and licenses as required and defined by the state of Alaska.

Glacier Bay means all marine waters within Glacier Bay, including coves and inlets, north of an imaginary line drawn from Point Gustavus to Point Carolus.

Outer waters means all of the non-wilderness marine waters of the park located outside of Glacier Bay.

(2) *Authorization.* Commercial fishing is authorized in the non-wilderness marine waters of the park in compliance with paragraph (a) of this section, and applicable federal and non-conflicting state laws and regulations.

(3) *Wilderness.* Commercial fishing and associated buying and processing operations within designated wilderness are prohibited. Maps and charts showing designated wilderness areas are available from the Superintendent.

(4) *Outer waters.* Commercial fishing is authorized within the marine outer waters of the park subject to a cooperatively developed State/Federal park fisheries management plan and applicable federal and non-conflicting state laws and regulations.

(5) *Glacier Bay.* (i) *Authorized fisheries.* Commercial fisheries within Glacier Bay are limited only to longline fishing for halibut, pot or ring net fishing for Tanner crab, and trolling for salmon. All other commercial fisheries are prohibited.

(ii) *Limits on participation.* After January 1, 2000, longlining for halibut, pot or ring net fishing for Tanner crab, or trolling for salmon in Glacier Bay is prohibited without a special use permit for access to the fishery issued by the Superintendent. The special use permit for access is non-transferable.

(iii) *Obtaining a special use permit.* The special use permits for access to the three authorized Glacier Bay commercial fisheries are available to fishermen who-(A) Possess a valid commercial fishing permit for one or more of the three fisheries authorized in Glacier Bay; and,

(B) Provide documentation to the Superintendent prior to October 1, 2000, which demonstrates that the individual participated as a permit holder in the Glacier Bay commercial halibut fishery for at least two years during the period 1992—1998, or, in the case of the Glacier Bay salmon or Tanner crab commercial fisheries, participated as a permit holder for at least three years during the period 1989—1998. The documentation provided must include: full name, date of birth, mailing address and phone number; a sworn and notarized personal affidavit attesting to the applicant's history of participation as a permit holder in one or more of the three authorized fisheries within Glacier Bay during the qualifying period; a copy of a current State of Alaska or, in the case of halibut, International Pacific Halibut Commission commercial fishing permit or license that is valid for the area including Glacier Bay; documentation of licensing history for the fishery during the qualifying period; documentation of commercial landings for the fishery during the qualifying periods and within the statistical unit or area that includes Glacier Bay or Icy Straits. Fishermen are requested to provide any additional corroborating documentation that might be available to assist in a timely determination of eligibility for the special use permits for access.

(C) This information should be delivered to the Superintendent, Attn: Access Permit Program, Glacier Bay National Park and Preserve, P.O. Box 140, Gustavus, Alaska 99826.

(D) The Superintendent will make a written determination of eligibility for the special use permit for access based on information provided by the applicant. A copy of this written determination will be provided to the applicant. If additional information is required to make an eligibility determination, applicants will be notified in writing of that need and be afforded an opportunity to provide it.

(iv) *Special use permit denial and appeal procedures.* If an applicant is determined not eligible for a special use permit for access, the Superintendent will provide the applicant with the reasons for the denial in writing within 15 days of the decision. Any applicant adversely affected by the Superintendent's determination may appeal to the Regional Director, Alaska Region, within 180 days. Applicants must substantiate the basis of their disagreement with the Superintendent's determination. The Regional Director will provide an opportunity for an informal meeting to discuss the appeal within 30 days of receiving the applicant's appeal. Within 15 days of receipt of written materials and informal meeting, if requested, the Regional Director will affirm, reverse, or modify the Superintendent's determination and set forth in writing the basis for the decision. A copy of the decision will be forwarded promptly to the applicant and will constitute final agency action.

(v) *Special use permit renewal.* A special use permit for access to an authorized Glacier Bay fishery will be renewed at 5-year intervals for the lifetime of a fisherman who continues to hold a valid commercial fishing permit or license and is otherwise eligible to participate in the fishery under federal and state law.

(vi) *Areas closed to fishing.* Maps and charts showing marine areas of Glacier Bay closed to commercial fishing are available from the Superintendent.

(A) After December 31, 1999 the west arm of Glacier Bay north of 58°50′N latitude is closed to all commercial fishing, with exception of trolling for king salmon during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(B) After December 31, 1999 Tarr Inlet, Johns Hopkins Inlet, Reid Inlet and Geike Inlet are closed to all commercial fishing.

(C) After December 31, 1999 the east arm of Glacier Bay, north of an imaginary line running from Point Caroline through the southern point of Garforth Island and extending to the east side of Muir Inlet, is closed to commercial fishing, with exception of trolling for king salmon south of 58°50′N latitude during the period October 1 through April 30, in compliance with state commercial fishing regulations.

(b) * * *

(5) [Reserved]

(6) [Reserved]

* * * * *

Dated: July 2, 1999.

Donald J. Barry,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 99–19703 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–70–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6410–3]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Sand Springs Petrochemical Complex site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its

intent to delete the Sand Springs Petrochemical Complex Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended. The EPA and the State of Oklahoma, acting through the Oklahoma Department of Environmental Quality (ODEQ), have determined that all appropriate response actions under CERCLA have been implemented and that no further cleanup is appropriate. Moreover, EPA and the have determined that response activities conducted at the Site to date have been protective of public health and the environment.

DATES: Written comments concerning this Site must be submitted on or before September 1, 1999.

ADDRESSES: Comments may be mailed to: Ms. Nancy Stonebarger, Community Relations Coordinator, U.S. EPA, Region 6 (6SF–P), 1445 Ross Avenue, Dallas, Texas 75202–2733, Telephone (214) 665–6619 or 1–800–533–3508.

Comprehensive information on this site is available through the EPA Region 6 Public Docket, located at the EPA Region 6 library. It is available for viewing from 8:00 a.m. to 12:00 p.m., Monday through Friday, excluding holidays. The Sand Springs Petrochemical Complex Site Document Repositories are as follows:

U.S. EPA Region 6 Library (6MD–II), 12th Floor, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6424 or 665–6427.

Page Memorial Library, 6 East Broadway, Sand Springs, Oklahoma 74063.

Oklahoma Department of Environmental Quality, Attn: Mr. Scott A. Thompson, P.O. Box 1677, Oklahoma City, Oklahoma 73101, (405) 702–5156,, Hours of Operation: 8:00 a.m. to 4:30 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Shawn Ghose, M.S., P.E., Remedial Project Manager, Mail Code (6SF–AP), U.S. Environmental Protection Agency Region 6 1445 Ross Avenue, Dallas, Texas 75202–2733, Phone: (214) 665–6782 or 1–800–533–3508.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II NPL Deletion Criteria
III. Deletion Procedures
IV. History and Basis for Intended Site Deletion

I. Introduction

The U.S. Environmental Protection Agency Region 6 announces its intent to delete the Sand Springs Petrochemical Complex Site (Site), Sand Springs, Oklahoma, from the National Priorities List (NPL), which constitutes appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on the proposed deletion. The EPA identifies sites that appear to present a significant risk to public health or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substance Superfund Response Trust Fund (Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions if conditions at the site warrant such action.

The EPA will accept comments concerning this proposal for 30 days after publication of this document in the **Federal Register** and a major local newspaper of general circulation at or near the site (newspaper of record).

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses the procedures that EPA is using for this action. Section IV discusses the history of this Site and explains how this Site meets the deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that EPA uses to delete sites from the NPL. In accordance with 40 CFR 300.425(e), sites may be deleted from the NPL where no further response is appropriate to protect public health or the environment. In making such a determination pursuant to § 300.425(e), the EPA will consider, in consultation with the State, whether any of the following criteria have been met:

(a) Section 300.425(e)(1)(i): Responsible parties or other persons have implemented all appropriate response actions required;

(b) Section 300.425(e)(1)(ii): All appropriate Fund-financed response under CERCLA has been implemented, and no further response action by responsible parties is appropriate; or

(c) Section 300.425(e)(1)(iii): The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

III. Deletion Procedures

Deletion of a site from the NPL does not itself create, alter, or revoke any person's rights or obligations. The NPL is designed primarily for informational purposes and to assist the EPA management.

Upon determination that at least one of the criteria described in § 300.425(e) of the NCP has been met, EPA may formally begin deletion procedures. The following procedures were used for the intended deletion of the Site from the NPL:

(1) The EPA consulted with the State of Oklahoma on this proposed deletion from the NPL prior to developing this notice of intent for deletion.

(2) The EPA provided the State of Oklahoma at least 30 working days for review of this notice of intent for deletion prior to its publication in the **Federal Register**, and the State of Oklahoma, through the Oklahoma Department of Environmental Quality (ODEQ), concurred with this proposed deletion.

(3) Concurrently with publication of this notice of intent for deletion a notice is being published in a newspaper of record and is being distributed to appropriate Federal, State, and local officials, and other interested parties. Both documents announce a 30-day public comment period concerning this proposed deletion, which commences on the date of publication of this document in the **Federal Register**.

(4) The EPA has placed copies of information supporting the proposed deletion in the information repositories listed above, which information is available for public inspection and copying. The notice in a newspaper of record also announces the availability of this notice of intent for deletion. The public is asked to comment on the EPA's proposal to delete the Site from the NPL. All critical documents needed to evaluate EPA's decision are listed on the Deletion Docket and are available for review and copying at the information repositories.

(5) Upon completion of the 30-day public comment period, the EPA will evaluate the comments and all new data submitted before issuing a final decision on the proposed deletion. The EPA will prepare a responsiveness summary that will address concerns presented by comments and new data and respond to each significant comment and all significant new data submitted during the comment period. Such responsiveness summary will be included in the final deletion package. Members of the public are encouraged

to contact the EPA to obtain a copy of the responsiveness summary.

(6) If, after review of all public comments, the EPA determines that the deletion from the NPL is appropriate, the EPA will publish a final notice of deletion in the **Federal Register**. The deletion of the Site does not actually occur until a final notice of deletion is published in the **Federal Register**. The EPA will place the final deletion package in the information repositories listed above once the final notice of deletion has been published in the **Federal Register**.

IV. History and Basis for Intended Site Deletion

The following summary provides the EPA's rationale for deleting the Sand Springs Petrochemical Complex Site from the NPL.

Site History

The Site was formerly operated as a petroleum refinery beginning in the early 1900s. The refinery was acquired by the Sinclair Oil Corporation in the early 1930s and continued to operate until 1948 when most of the refinery operations were shut down. Dismantling of the inactive portions of the refinery commenced shortly thereafter. All remaining refining operations were shut down in 1952. By October 1953, Sinclair had conveyed all but approximately 38 acres of the refinery property to the Sand Springs Home. In 1969, Sinclair merged with the Atlantic Richfield Company (ARCO), and the 38-acre tract of land was absorbed in the merger.

From 1964 through 1983, several solvent and oil recycling facilities operated on a portion of the Site. The area encompassing the recycling operations is now referred to as the ''Glen Wynn'' portion of the site. The Site (Figure 1) was proposed for inclusion on the Superfund National Priorities List (NPL) in September 1983, and the Site was officially added to the NPL in June 1986.

After the addition to the NPL, the Site was divided into two operable units (OUs): the Source Control OU and the Main Site OU (groundwater and soils).

The remedial investigation/feasibility study (RI/FS) for the Source Control OU was completed in 1987. The Source Control OU consists of eleven areas consisting of surface liquids, sludges, and heavily contaminated soils (Figure 2). The spray ponds were later determined to require no further action.

Records of Decision

Two Records of Decision (ROD) were developed for the Sand Springs Petrochemical Complex. The first was issued on June 28, 1987, for the Main Site OU and the second on September 29, 1987, for the Source Control OU.

The first ROD was issued for the groundwater for the main site, and a no action alternative was selected because the endangerment assessment concluded that, although the groundwater was minimally contaminated, it was not used for drinking water, and samples from the Arkansas River indicated no contamination. This remedy required placement of appropriate warning signs, restriction of access, and sampling and analyses of the groundwater and the Arkansas River for a period of 30 years.

The second ROD was issued to control the sources of contamination at the Site. The original second ROD required on-site incineration. However, the State did not concur with this proposal, and ARCO proposed a privately financed remedy for the Site. The ROD was modified to require that the sludges from the North and South Glen Wynn Lagoons (Figure 2) be excavated and thermally destructed; other sludges from the site be excavated, solidified, and placed in a hazardous waste cell constructed on site and meeting the requirements of Subtitle C of the Solid Waste Disposal Act; and that the Potentially Responsible Parties (PRPs) remain liable for the Site and all associated maintenance and monitoring. Included in this ROD were the development of an acceptable stabilization method, repair or restoration of the cell to prevent migration, and destruction or treatment of the cell's contents if monitoring showed that the solidification remedy had failed.

The EPA determined that these alternatives are protective of human health and the environment, attain Federal and State requirements that are applicable or relevant and appropriate, are cost effective compared to equally environmentally protective alternatives, and utilize permanent solutions and alternative treatment technologies to the maximum extent practicable.

In October 1990 the EPA, ODEQ, and ARCO entered into a consent decree to design and construct the source control remedy. The remedy chosen for the source control required that materials from the two impoundments (North and South Glen Wynn Lagoons) be excavated and sent off-site for incineration.

In 1991 ARCO conducted a chemical stabilization and solidification (CSS) field demonstration to determine the treatment effectiveness of several different CSS technologies. In November 1992, ARCO selected a quicklime-based CSS process to treat Site wastes. The EPA approved the use of the CSS process in February 1993, at which time ARCO commenced remedial design activities.

Remedial action activities began in late 1993 with the start of construction of an on-site Resource Conservation and Recovery Act (RCRA) type landfill. A transportable CSS treatment unit was moved to the Site in the spring of 1994, at which time the excavation, neutralization, and treatment of Site wastes started.

Remediation Activities

ARCO managed all the remediation activities. ARCO contracted with Morrison Knudsen Corporation to perform the design and provide quality assurance during the remedial action. The prime contractor for the remedial action was U.S. Pollution Control, Inc. with Sound/Epic providing the transportable treatment unit. The U.S. Army Corps of Engineers, Tulsa District, provided oversight for the EPA during the remedial investigation, remedial design, and remedial action and will continue to provide oversight during the operation and maintenance phase.

The remediation for the Source Control OU was completed in phases (see Figures 2 and 3).

Tank Bottom Pit

The Tank Bottom Pit (formerly called the Chemlink Waste Pits) remediation started on September 4, 1991. The operations conducted as part of the remediation were setting up the decontamination area, constructing the haul road, excavating the sludge and underlying one foot of material, sampling of remaining material, and backfilling and revegetating the area. Approximately 3,650 cubic yards of material were excavated and placed in the Small Acid Sludge Pit. These materials were later treated with other sludge pits as noted below.

Glen Wynn Area

Remedial activities for the Glen Wynn portion of the Site commenced in August 1992. The remediation included the following 6 subsites: North Lagoon, South Lagoon, Drum Area, T–5 Area, L-Shaped Area, and Pump House.

The Pump House contained barrels of soil and water and plastic bags of personal protective equipment from previous investigations at the Site. Soils in two of the barrels were determined to be Glen Wynn wastes and were incinerated with other Site wastes. All waste materials on the Glen Wynn subsite were tested for chlorine content. Those wastes that exceeded the chlorine

criteria were considered Glen Wynn wastes. All water was treated onsite at the temporary wastewater treatment plant. All plastic bags of personal protective equipment were transported to the Lone Mountain Hazardous Waste facility. The remaining barrels of soil were later deposited at the northeast end of the Large Acid Sludge Pit to be treated with main site wastes in mid-1994. The empty barrels were cleaned, crushed, and transported to an off-site disposal facility.

Remediation of the other subsites consisted of excavating contaminated material and transporting this material to off-site hazardous waste incinerators. After excavated areas tested clean, except for the contaminated lagoon soils at depths greater than indicated by the consent decree workplan, the excavations were backfilled and compacted with either stockpiled soil from the subsites (if cleanup criteria was met) or with clean fill from off-site sources. Contaminated debris, generated during the remediation, were transported to the Lone Mountain Hazardous Waste facility in northwest Oklahoma.

The remaining contaminated lagoon soils are at depths greater than indicated by the consent decree workplan. Borehole samples, down to groundwater level, showed that approximately 700 cubic yards of contaminated soil remained in the South Lagoon and its peripheral area, and 300 cubic yards remained in the North Lagoon. In accordance with the EPA's requirements, the area of the lagoons were regraded to prevent ponding, and groundwater is being monitored.

Final site grading and seeding occurred in December 1992.

Other Sludge Pits

Remedial activities for the other sludge pits were included in the Source Control OU cleanup. These include the wastes in the Large and Small Acid Sludge Pits, the River Acid Sludge Pit (Figure 2), the contaminated soils adjacent to these pits, the Surface Impoundment between the Large and Small Acid Pits, the Round River Pit, the Levee Pit, and the Con-Rad Sludge Area. The last three pits were discovered during the second phase investigation. The Spray Ponds (east and west) were also discovered at this time, but were not included in the consent decree workplan.

The operations conducted as part of the remediation were neutralizing the sludge and underlying one foot of material by mixing the material with a lime slurry, excavating the neutralized material, sampling of remaining material, neutralizing and removing additional material containing greater than 100 ppm benzo(a)pyrene, treating approximately 206,500 cubic yards of stabilized waste in the Thermal Treatment Unit (TTU) to achieve the physical and chemical properties required by the ROD, placing the treated material in the landfill and covering with a RCRA-type cap, and backfilling and revegetating the area (Figure 3).

Main Site OU

Remediation activities for the Main Site OU consisted of the placement of warning signs, access restriction, and placement of seven new monitoring wells. Two of the wells, placed on the dike south of the landfill, were installed prior to construction of the landfill, and the other five were installed after its completion in August 1995 (Figure 3). The wells have been sampled and analyzed for the constituents listed in the consent decree workplan for four quarterly sampling rounds, two semi-annual sampling rounds, and one annual sampling round. These analyses have not shown a degradation of the groundwater which would require a further response action.

A bibliography of reports relevant to the review of this Site is attached (Attachment 1). These documents along with others are available at the information repositories listed above.

The EPA, with the concurrence of the State of Oklahoma, has determined that all appropriate CERCLA response actions for the Site have been completed. Therefore, the EPA makes this proposal to delete the Site from the NPL.

Attachment 1: Sand Springs Petrochemical Complex Site Documents

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U.S. Army Corps of Engineers, Southwestern Division Laboratory, *Results of Chemical Analyses of Soil Samples Site Characterization ARCO Remedial Action*, SWDED–GL Report No. 14812,–1, January 1989, et seq.

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U.S. Environmental Protection Agency, *Close Out Procedures for National Priority List Sites—Interim Final*, (U. S. EPA Office of Solid Waste and Emergency Response Directive 9320.2–09), August 1995.

U.S. Environmental Protection Agency, *Structure and Components of Five-Year Reviews*, (U. S. EPA Office of Solid Waste and Emergency Response Directive 9355.7–02), May 1991

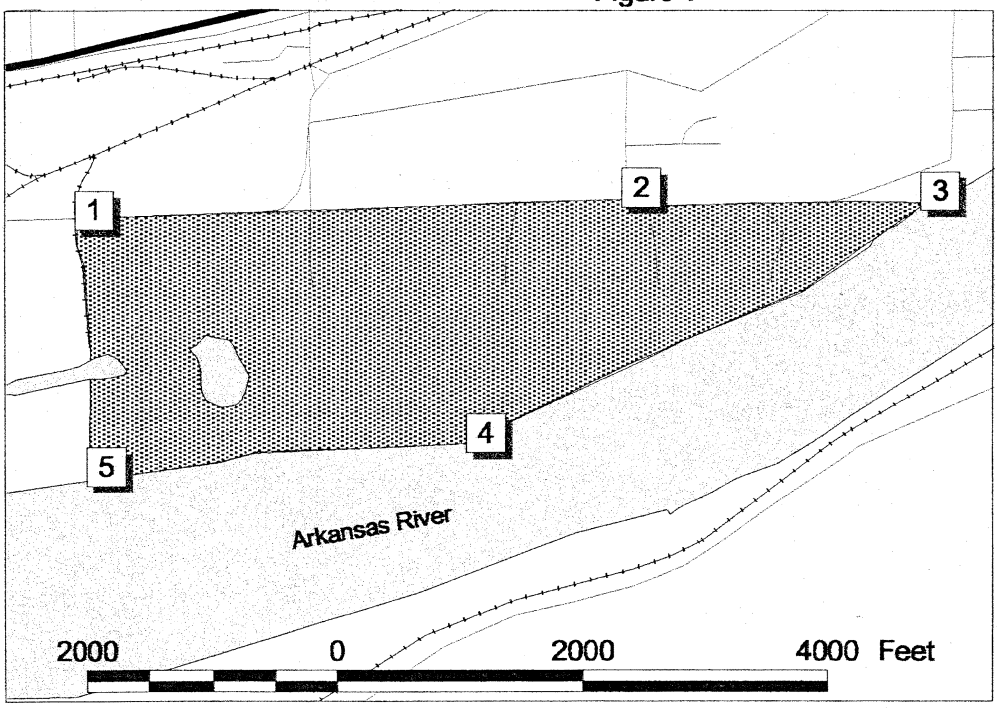
U.S. Environmental Protection Agency, *Closeout Report*, September 1997

BILLING CODE 6560–50–P

Sand Springs Petrochemical Complex

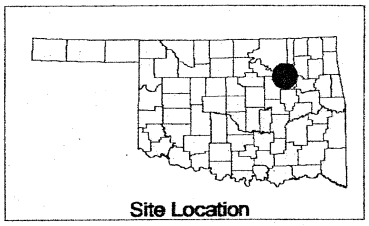
Sand Springs, Tulsa County, Oklahoma

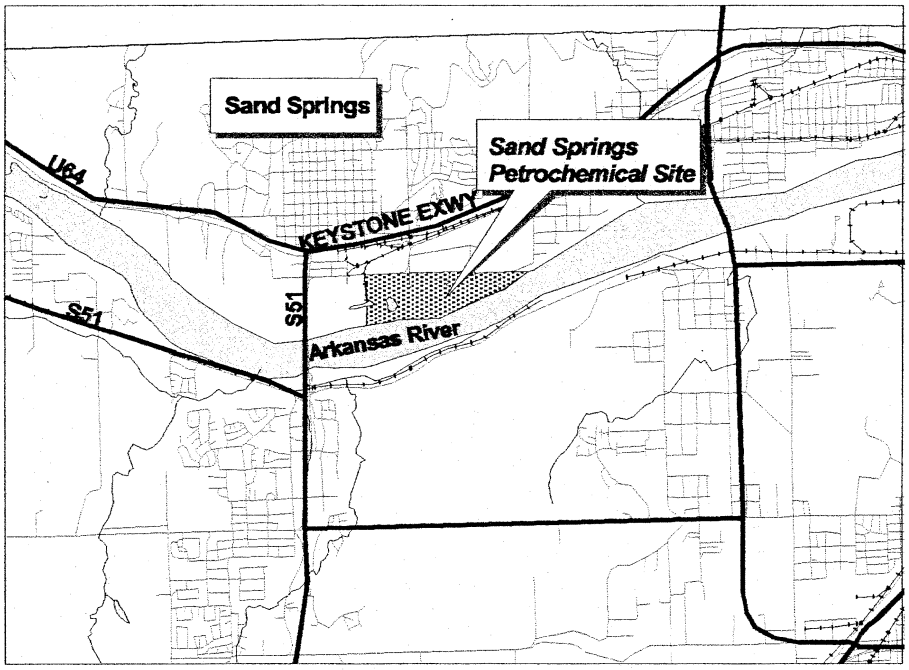
Figure 1



Site Coordinates:

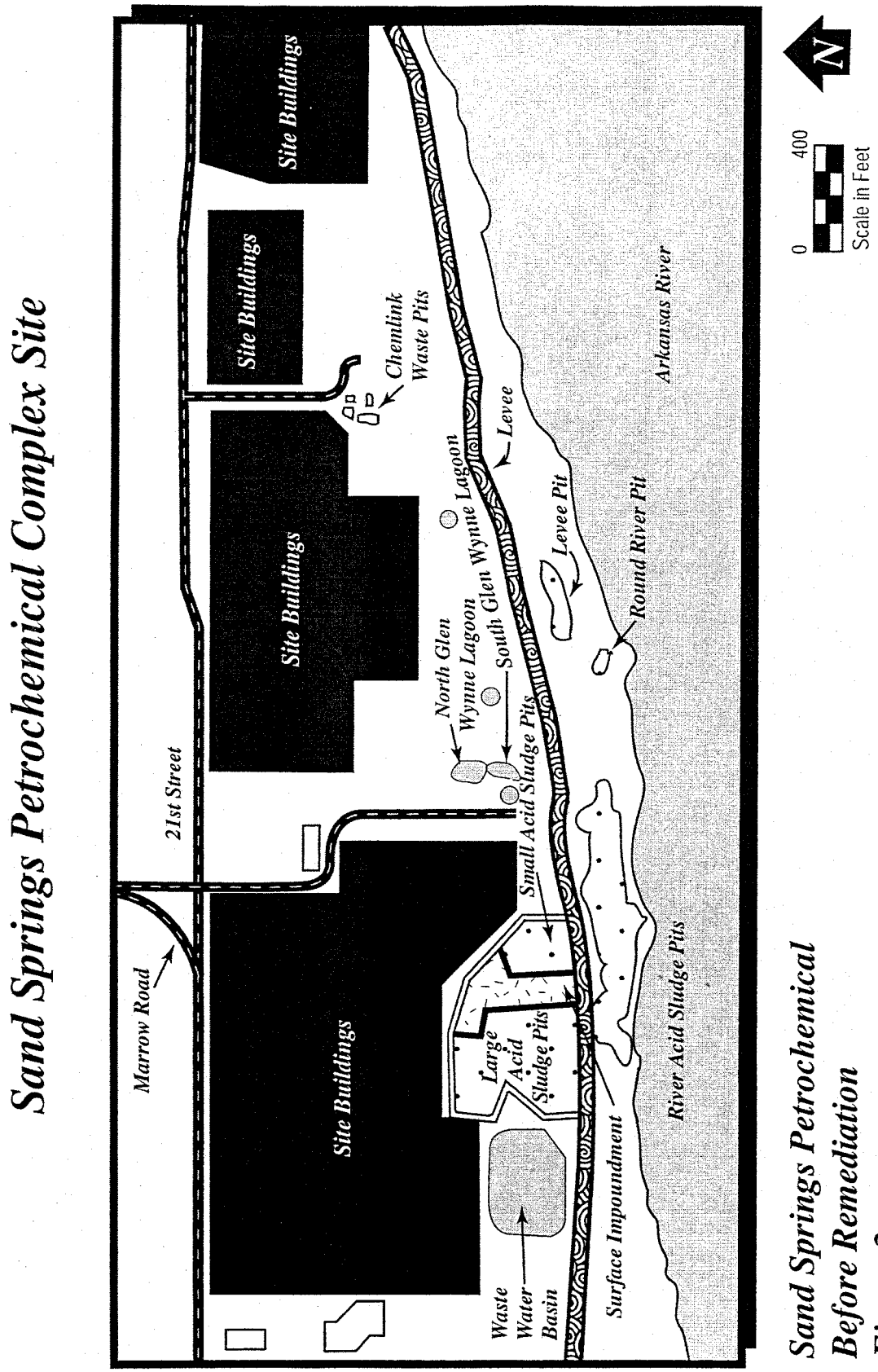
1. -96.1072, 36.1337
2. -96.0922, 36.1338
3. -96.0839, 36.1335
4. -96.0968, 36.1284
5. -96.1070, 36.1278



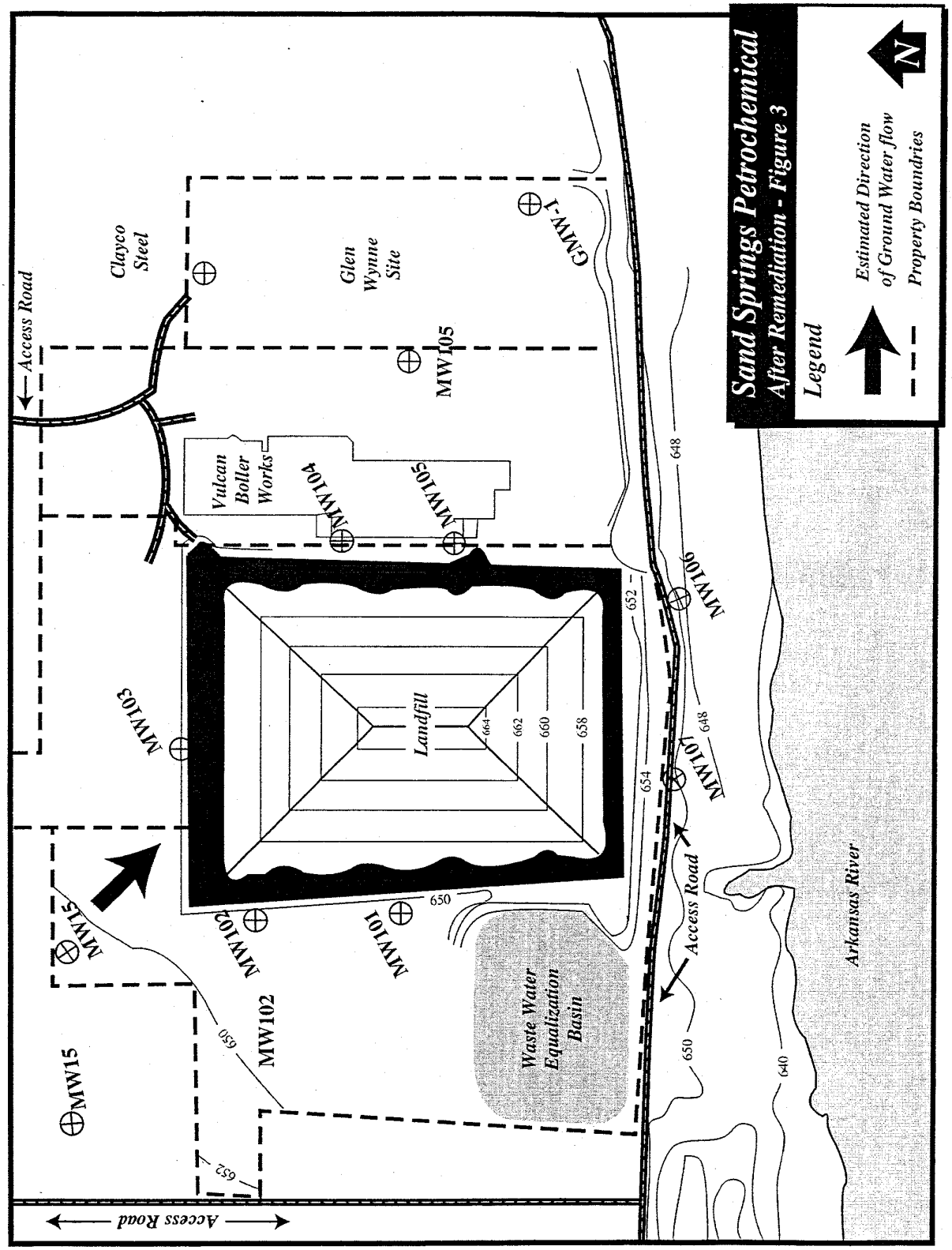


Legend

- Major Highways
- Roads / Highways
- Rail Roads
- Rivers / Streams
- Water Boundaries
- State Boundaries
- SAND SPRINGS PETROCHEMICAL



Sand Springs Petrochemical Before Remediation Figure 2



Dated: June 2, 1999.

Myron O. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 99–19587 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–C

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

41 CFR Parts 51–2 and 51–5

Miscellaneous Amendments to Committee Regulations

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed rule.

SUMMARY: The Committee is proposing to make changes to its pricing and shipping regulations to make them consistent with new Committee pricing policies reflecting a preference for negotiated rather than formula-based fair market prices.

DATES: Submit comments on or before October 1, 1999.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Crystal Gateway 3, Suite 310, 1215 Jefferson Davis Highway, Arlington, Virginia 22202–4302.

FOR FURTHER INFORMATION CONTACT: G. John Heyer (703) 603–0665. Copies of this notice will be made available on request in computer diskette format.

SUPPLEMENTARY INFORMATION: The Committee is proposing to revise 41 CFR 51–2.7, the Committee's general fair market pricing regulation, to reflect the preference for negotiated prices set forth in the Committee's recently-adopted pricing policies and the methods of price-setting established by those policies. Paragraph (a) of 41 CFR 51–5.5 is proposed to be revised to emphasize the statutory nature of the Committee's price-setting authority. This revision is intended to emphasize the exemption of the Committee's prices from a statutory requirement that cost or pricing data be submitted to contracting activities before a price can be negotiated and recommended to the Committee. Paragraph (d)(2) of 41 CFR 51–5.5 is proposed to be revised to change the minimum time for a contracting activity to submit required wage determination paperwork to the appropriate central nonprofit agency from 90 to 60 days before the beginning of a new service period, and to eliminate the requirement for submission of Standard Form 98, which is no longer needed to learn the applicable wage determination rate. Paragraph (e) of 41 CFR 51–5.5 is proposed to be revised to give more flexibility in pricing of special packaging and marking of products and to accommodate current contract documentation.

Prior to a November 16, 1994 change to the Committee's regulations (59 FR 59338), pricing and delivery terms for JWOD commodities, other than military resale commodities, were on an ''F.O.B. origin'' basis. The 1994 change permitted use of ''F.O.B. destination'' as an alternative. Since then, the Committee's commodity pricing policies have been revised to designate ''F.O.B. destination'' as the preferred pricing and delivery basis. ''F.O.B. origin'' pricing and delivery remain available as an alternative when the nonprofit agency and the Government contracting activity agree to use this basis. The proposed revision of the shipping regulation (41 CFR 51–5.6) reflects the change in Committee pricing policy by identifying ''F.O.B. destination'' as the preferred pricing and shipping basis for all JWOD commodities, with ''F.O.B. origin'' as a possible alternative basis.

Regulatory Flexibility Act

I certify that this proposed revision of the Committee regulations will not have a significant economic impact on a substantial number of small entities because the revision clarifies program policies and does not essentially change the impact of the regulations on small entities.

Paperwork Reduction Act

The Paperwork Reduction Act does not apply to this proposed rule because it contains no new information collection or recordkeeping requirements as defined in that Act and its regulations.

Executive Order No. 12866

The Committee has been exempted from the regulatory review requirements of the Executive Order by the Office of Information and Regulatory Affairs. Additionally, the proposed rule is not a significant regulatory action as defined in the Executive Order.

List of Subjects

41 CFR Part 51–2

Organization and functions (Government agencies).

41 CFR Part 51–5

Government procurement, Handicapped.

For the reasons set out in the preamble, Parts 51–2 and 51–5 of Title 41, Chapter 51 of the Code of Federal Regulations are proposed to be amended as follows:

1. The authority citation for Parts 51–2 and 51–5 continues to read as follows:

Authority: 41 U.S.C. 46–48c.

PART 51–2—COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

2. Section 51–2.7 is revised to read as follows:

§ 51–2.7 Fair market price.

(a) The Committee is responsible for determining fair market prices, and changes thereto, for commodities and services on the Procurement List. The Committee establishes an initial fair market price at the time a commodity or service is added to the Procurement List. This initial price is based on Committee procedures, which permit negotiations between the contracting activity and the nonprofit agency which will produce or provide the commodity or service to the Government, assisted by the appropriate central nonprofit agency. If agreed to by the negotiating parties, the initial price may be developed using other methodologies specified in Committee pricing procedures.

(b) Prices are revised in accordance with changing market conditions under Committee procedures, which include negotiations between contracting activities and producing nonprofit agencies, assisted by central nonprofit agencies, or the use of economic indices, changes in nonprofit agency costs, or other methodologies permitted under these procedures.

(c) Recommendations for initial fair market prices, or changes thereto, shall be submitted jointly by the contracting activities and nonprofit agencies concerned to the appropriate central nonprofit agency. After review and analysis, the central nonprofit agency shall submit the recommended prices and methods by which prices shall be changed to the Committee, along with the information required by Committee pricing procedures to support each recommendation. The Committee will review the recommendations, revise the recommended prices where appropriate, and establish a fair market price, or change thereto, for each commodity or service which is the subject of a recommendation.

PART 51–5—CONTRACTING REQUIREMENTS

3. Section 51–5.5 is amended by revising paragraphs (a), (d)(2), and (e), to read as follows:

§ 51–5.5 Prices.

(a) The prices for items on the Procurement List are fair market prices established by the Committee under authority of the Javits-Wagner-O'Day Act (41 U.S.C. 47(b)).

* * * * *

(d) * * *

(2) Provide a copy of the new wage determination rate or the Department of Labor document stating that the wage determination rate is unchanged to the central nonprofit agency at least 60 days before the beginning of the new service period.

* * * * *

(e) If a contracting activity desires packing, packaging, or marking of products other than the standard pack or as provided in the Procurement List, any difference in cost shall be negotiated with the nonprofit agency.

4. Section 51–5.6 is revised to read as follows:

§ 51–5.6 Shipping.

(a) Except as provided in paragraph (b) of this section, commodities are sold to the Government on an ''F.O.B. destination'' basis, with delivery being accomplished when the shipment reaches the facility designated by the contracting activity. Time of delivery is when the shipment is released by the carrier and accepted by the contracting activity or its agent. In this delivery method, the nonprofit agency will normally use commercial bills of lading and will be responsible for any loss or damage to the goods occurring before the commodities reach the designated delivery point. The nonprofit agency will prepare and distribute commercial bills of lading, furnish delivery schedules, designate the carriers, and pay all shipping charges to specified delivery points.

(b) The Committee may determine that certain commodities are to be sold to the Government on an ''F.O.B. origin'' basis, with delivery being accomplished when a shipment is placed aboard the vehicle of the initial carrier. Time of delivery is when the shipment is released to and accepted by the initial carrier. In this delivery method, the nonprofit agency will normally use Government bills of lading, and responsibility for loss or damage to the goods while in transit passes to the Government at the time the initial carrier accepts a shipment. If the contracting activity fails to furnish a Government bill of lading promptly, such failure shall be considered an excusable delay in delivery.

Dated: July 20, 1999.

Beverly L. Milkman,

Executive Director.

[FR Doc. 99–18864 Filed 7–30–99; 8:45 am]

BILLING CODE 6353–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Chapter 1

[WT Docket No. 99–217; FCC 99–141]

Promotion of Competitive Networks in Local Telecommunications Markets

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: In this *Notice of Inquiry,* the Commission initiates a proceeding intended to facilitate the development of competitive telecommunications networks that will provide consumers with alternatives to services provided by the incumbent wireline local exchange carriers (LECs). In particular, the Commission seeks comment on the following issues: reasonable and nondiscriminatory access to public rights-of-way and competitively neutral state and local taxation. A companion *Notice of Proposed Rulemaking* and a *Third Further Notice of Proposed Rulemaking* are summarized elsewhere in this issue of the **Federal Register**.

DATES: Comments are due August 13, 1999; Reply comments are due September 3, 1999.

ADDRESSES: Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, S.W.; TW–A325; Washington, D.C. 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. See **SUPPLEMENTARY INFORMATION** for additional information about paper and electronic filing.

FOR FURTHER INFORMATION CONTACT: Jeff Steinberg at (202) 418–0896 or Joel Taubenblatt at (202) 418–1513 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Inquiry in WT Docket No. 99–217* (the ''Notice''), FCC 99–141, adopted June 10, 1999 and released July 7, 1999. The complete text of the Notice is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 445 12th Street, S.W., CY–B400, Washington, D.C. 20554. The document is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html>.

Introduction

1. This Notice is part of a larger item that seeks comments and initiates an inquiry in order to further the Commission's ongoing efforts to promote facilities-based competition in the local telephone market. The larger item addresses several issues that are not squarely before the Commission in pending proceedings. In particular, this Notice initiates an inquiry regarding reasonable and nondiscriminatory access to public rights-of-way and competitively neutral State and local taxation.

Background

2. In the Telecommunications Act of 1996, *codified* at 47 U.S.C. 151 *et seq.,* Congress included provisions intended to facilitate competition with the incumbent LECs through three entry strategies: resale of the incumbent LEC's services, leasing of unbundled network elements, and use of a new entrant's own facilities. To date, the Commission's efforts to facilitate local competition pursuant to these provisions of the Act have generally encompassed all three of these means of entry. Carriers who provide service by any of the three means of competitive entry have the potential to bring many of the benefits of competition to local exchange markets, and the Commission recognizes it should continue to facilitate competitive entry by all means. However, in the long term, the most substantial benefits to consumers will be achieved through facilities-based competition. Only facilities-based competitors can break down the incumbent LECs' bottleneck control over local networks and provide services without having to rely on their rivals for critical components of their offerings. Moreover, only facilities-based competition can fully unleash competing providers' abilities and incentives to innovate, both technologically and in service development, packaging, and pricing.

Discussion

3. This Notice initiates an inquiry that will develop a record on the effect of state and local rights-of-way and tax policies on facilities-based competition. The Notice states that the Commission

intends to work with the State and Local Government Advisory Committees and with representatives of the industry to consider these issues.

Filing Procedures

4. Pursuant to 47 CFR 1.415, 1.419, 1.430, interested parties may file comments on or before August 13, 1999, and reply comments on or before September 3, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998).

5. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

6. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, S.W., TW–A325, Washington, D.C. 20554.

7. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, S.W., CY–B400, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. 20554.

8. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.49, and all other applicable sections of the Commission's rules. The Commission also directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

Federal Communications Commission.

William F. Caton,

Deputy, Secretary.

[FR Doc. 99–19633 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CC Docket No. 96–98; FCC 99–141]

Promotion of Competitive Networks in Local Telecommunications Markets

AGENCY: Federal Communications Commission.

ACTION: Third Further Notice of Proposed Rulemaking.

SUMMARY: In this *Third Further Notice of Proposed Rulemaking*, the Commission seeks comment on a proposed interpretation of Section 224 of the Communications Act in order to facilitate the development of competitive telecommunications networks that will provide consumers with alternatives to services provided by the incumbent wireline local exchange carriers (LECs). In particular, the Commission seeks comment on the provision of reasonable and nondiscriminatory access to rights-of-way and riser conduit on private premises that are under the ownership or control of LECs or other utilities. A companion *Notice of Proposed Rulemaking* and a *Notice of Inquiry* are summarized elsewhere in this issue of the **Federal Register**.

DATES: Comments are due August 13, 1999; Reply comments are due September 3, 1999.

ADDRESSES: Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW.; TW–A325; Washington, DC 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. See **SUPPLEMENTARY INFORMATION** for additional information about paper and electronic filing.

FOR FURTHER INFORMATION CONTACT: Jeff Steinberg at (202) 418–0896 or Joel Taubenblatt at (202) 418–1513 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the *Third Further Notice of Proposed Rulemaking in CC Docket No. 96–98* (the ''Notice''), FCC 99–141, adopted June 10, 1999 and released July 7, 1999. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 445 12th Street, SW., CY–B400, Washington, DC 20554. The document is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html>.

Introduction

1. This Notice is part of a larger item that seeks comments and initiates an inquiry in order to further the Commission's ongoing efforts to promote facilities-based competition in the local telephone market. The larger item addresses several issues that are not squarely before the Commission in pending proceedings. In particular, this Notice addresses access by telecommunications and cable service providers to rights-of-way and riser conduit on private premises that are owned or controlled by LECs or other utilities.

Background

2. In the Telecommunications Act of 1996, *codified at* 47 U.S.C. 151 *et seq.*, Congress included provisions intended to facilitate competition with the incumbent LECs through three entry strategies: resale of the incumbent LEC's services, leasing of unbundled network elements, and use of a new entrant's own facilities. To date, the Commission's efforts to facilitate local competition pursuant to these provisions of the Act have generally encompassed all three of these means of entry. Carriers who provide service by any of the three means of competitive entry have the potential to bring many of the benefits of competition to local exchange markets, and the Commission recognizes it should continue to facilitate competitive entry by all means. However, in the long term, the most substantial benefits to consumers will be achieved through facilities-based

competition. Only facilities-based competitors can break down the incumbent LECs' bottleneck control over local networks and provide services without having to rely on their rivals for critical components of their offerings. Moreover, only facilities-based competition can fully unleash competing providers' abilities and incentives to innovate, both technologically and in service development, packaging, and pricing.

Discussion

3. In particular, this Notice seeks comment and makes tentative conclusions regarding a Petition for Reconsideration filed by WinStar of the *Local Competition First Report and Order* concerning section 224 of the Communications Act. *See* 61 FR 45476 (August 29, 1996); 11 FCC Rcd 15499; 47 U.S.C. 224. The Notice tentatively concludes that section 224 encompasses access to locations on private property, including end user premises, where a utility has established ownership or control of a right-of-way. The Notice also tentatively concludes that section 224 includes locations on a utility's own property that are used by the utility in the manner of a right-of-way in connection with the utility's distribution network. In addition, the Notice tentatively concludes that a utility must afford access consistent with section 224 to riser conduit that it may own or control. At the same time, the Notice tentatively reaffirms the Commission's prior determination that section 224 does not require a utility to afford access to all of its real property, such as the roof of its corporate office, unless that property constitutes a pole, duct, conduit, or right-of-way. The Notice states the Commission's tentative conclusion that these interpretations of section 224 are consistent with the plain meaning of the statute. The Notice requests comment on these interpretations and on several issues related to the implementation of these interpretations, including what sets of facts would establish utility ownership or control.

Filing Procedures

4. Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments on or before August 13, 1999, and reply comments on or before September 3, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings*, 63 FR 24,121 (1998).

5. Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. If multiple docket or rulemaking numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

6. Parties who choose to file by paper must file an original and four copies of each filing. If more than one docket or rulemaking number appear in the caption of this proceeding, commenters must submit two additional copies for each additional docket or rulemaking number. All filings must be sent to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., TW–A325, Washington, DC 20554.

7. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, SW., CY–B400, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC 20554.

8. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.49, and all other applicable sections of the Commission's rules. The Commission also directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

Initial Regulatory Flexibility Analysis

9. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this Third Further Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of this Third Further Notice of Proposed Rulemaking, as set forth in the Filing Procedures section above, and they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Third Further Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFA.

I. Need for and Objectives of the Proposed Rules

10. We are issuing this Third Further Notice of Proposed Rulemaking to seek comment on proposals to facilitate competition with the incumbent local exchange carriers (LECs) by competitors who use their own end-to-end facilities. Extensive facilities-based competition will provide consumers with a choice of telecommunications providers that will compete to offer traditional, voice-grade telephone service, as well as high-speed data and other advanced services, at reasonable prices and with reasonable terms and conditions—a major goal of the Telecommunications Act of 1996. We particularly expect this proceeding to further the availability of competition to the many consumers and businesses that are located in multiple tenant environments, such as apartment and office buildings.

11. Specifically, this Third Further Notice of Proposed Rulemaking seeks comment on the following issue: the tentative conclusion that, to the extent that LECs or other utilities own or control rooftop and other rights-of-way or riser conduit in multiple tenant environments, 47 U.S.C. 224 requires that they permit competing providers access to such rights-of-way or conduit under just, reasonable and nondiscriminatory rates, terms, and conditions.

II. Legal Basis

12. The potential actions on which comment is sought in this Third Further Notice of Proposed Rulemaking would be authorized under sections 1, 2(a), 4(i), 4(j), 201(b), 224, 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 154(j), 201(b), 224, 303(r), and 332, and 47 CFR 1.411 and 1.412.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

13. The RFA requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). For many of the entities described below, the SBA has defined small business categories through Standard Industrial Classification (''SIC'') codes.

14. This Third Further Notice of Proposed Rulemaking could result in rule changes that, if adopted, would impose requirements on local exchange carriers and other utilities. To assist the Commission in analyzing the total number of potentially affected small entities, commenters are requested to provide estimates of the number of small entities that may be affected by any rule changes resulting from this Third Further Notice of Proposed Rulemaking.

a. Local Exchange Carriers

15. The proposal on which comment is sought in this Third Further Notice of Proposed Rulemaking, if adopted, would affect small LECs. Neither the Commission nor the SBA has developed a small business definition specifically for small LECs. The closest applicable definition under the SBA rules is for those telephone communications companies that are not radiotelephone (wireless) companies. The SBA has defined establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. According to November 1997 Telecommunications Industry Revenue data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the potential actions discussed in this Third Further Notice of Proposed Rulemaking, if adopted.

16. Above, we have included smaller incumbent LECs in our analysis. Although some incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

b. Other Utilities

17. The proposal in this Third Further Notice of Proposed Rulemaking with respect to 47 U.S.C. 224, if adopted, would affect utilities other than LECs. Section 224 defines a ''utility'' as ''any person who is a local exchange carrier or an electric, gas, water, steam, or other public utility, and who owns or controls poles, ducts, conduits, or rights-of-way used, in whole or in part, for any wire communications. Such term does not include any railroad, any person who is cooperatively organized, or any person owned by the Federal Government or any State.'' The Commission anticipates that, to the extent its section 224 proposal affects non-LEC utilities, the effect would be concentrated on electric utilities.

(1) Electric Utilities (SIC 4911, 4931 and 4939)

18. Electric Services (SIC 4911). The SBA has developed a definition for small electric utility firms. The Census Bureau reports that a total of 1,379 electric utilities were in operation for at least one year at the end of 1992. According to SBA, a small electric utility is an entity whose gross revenues do not exceed five million dollars. The Census Bureau reports that 447 of the 1,379 firms listed had total revenues below five million dollars in 1992.

19. Electric and Other Services Combined (SIC 4931). The SBA has classified this entity as a utility whose business is less than 95% electric in combination with some other type of service. The Census Bureau reports that a total of 135 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small electric and other services combined utility is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 45 of the 135 firms listed had total revenues below five million dollars in 1992.

20. Combination Utilities, Not Elsewhere Classified (SIC 4939). The SBA defines this type of utility as providing a combination of electric, gas, and other services which are not otherwise classified. The Census Bureau reports that a total of 79 such utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small combination utility is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 63 of the 79 firms listed had total revenues below five million dollars in 1992.

(2) Gas Production and Distribution (SIC 4922, 4923, 4924, 4925 and 4932)

21. Natural Gas Transmission (SIC 4922). The SBA's definition of a natural gas transmitter is an entity that is engaged in the transmission and storage of natural gas. The Census Bureau reports that a total of 144 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small natural gas transmitter is an entity whose gross revenues do not exceed five million dollars. The Census Bureau reported that 70 of the 144 firms listed had total revenues below five million dollars in 1992.

22. Natural Gas Transmission and Distribution (SIC 4923). The SBA has classified this type of entity as a utility that transmits and distributes natural gas for sale. The Census Bureau reports that a total of 126 such entities were in operation for at least one year at the end of 1992. The SBA's definition of a small natural gas transmitter and distributor is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 43 of the 126 firms listed had total revenues below five million dollars in 1992.

23. Natural Gas Distribution (SIC 4924). The SBA defines a natural gas distributor as an entity that distributes natural gas for sale. The Census Bureau

reports that a total of 478 such firms were in operation for at least one year at the end of 1992. According to the SBA, a small natural gas distributor is an entity whose gross revenues do not exceed five million dollars. The Census Bureau reported that 267 of the 478 firms listed had total revenues below five million dollars in 1992.

24. Mixed, Manufactured, or Liquefied Petroleum Gas Production and/or Distribution (SIC 4925). The SBA has classified this type of entity as a utility that engages in the manufacturing and/or distribution of the sale of gas. These mixtures may include natural gas. The Census Bureau reports that a total of 43 such firms were in operation for at least one year at the end of 1992. The SBA's definition of a small mixed, manufactured or liquefied petroleum gas producer or distributor is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 31 of the 43 firms listed had total revenues below five million dollars in 1992.

25. Gas and Other Services Combined (SIC 4932). The SBA has classified this entity as a gas company whose business is less than 95% gas, in combination with other services. The Census Bureau reports that a total of 43 such firms were in operation for at least one year at the end of 1992. According to the SBA, a small gas and other services combined utility is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 24 of the 43 firms listed had total revenues below five million dollars in 1992.

(3) Water Supply (SIC 4941)

26. The SBA defines a water utility as a firm who distributes and sells water for domestic, commercial and industrial use. The Census Bureau reports that a total of 3,169 water utilities were in operation for at least one year at the end of 1992. According to SBA's definition, a small water utility is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 3,065 of the 3,169 firms listed had total revenues below five million dollars in 1992.

(4) Sanitary Systems (SIC 4952, 4953 and 4959)

27. Sewerage Systems (SIC 4952). The SBA defines a sewage firm as a utility whose business is the collection and disposal of waste using sewage systems. The Census Bureau reports that a total of 410 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small sewerage system is a firm whose gross revenues did not exceed five million dollars. The Census Bureau reported that 369 of the 410 firms listed had total revenues below five million dollars in 1992.

28. Refuse Systems (SIC 4953). The SBA defines a firm in the business of refuse as an establishment whose business is the collection and disposal of refuse ''by processing or destruction or in the operation of incinerators, waste treatment plants, landfills, or other sites for disposal of such materials.'' The Census Bureau reports that a total of 2,287 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small refuse system is a firm whose gross revenues do not exceed six million dollars. The Census Bureau reported that 1,908 of the 2,287 firms listed had total revenues below six million dollars in 1992.

29. Sanitary Services, Not Elsewhere Classified (SIC 4959). The SBA defines these firms as engaged in sanitary services. The Census Bureau reports that a total of 1,214 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small sanitary service firm's gross revenues do not exceed five million dollars. The Census Bureau reported that 1,173 of the 1,214 firms listed had total revenues below five million dollars in 1992.

(5) Steam and Air Conditioning Supply (SIC 4961)

30. The SBA defines a steam and air-conditioning supply utility as a firm who produces and/or sells steam and heated or cooled air. The Census Bureau reports that a total of 55 such firms were in operation for at least one year at the end of 1992. According to SBA's definition, a steam and air conditioning supply utility is a firm whose gross revenues do not exceed nine million dollars. The Census Bureau reported that 30 of the 55 firms listed had total revenues below nine million dollars in 1992.

(6) Irrigation Systems (SIC 4971)

31. The SBA defines irrigation systems as firms who operate water supply systems for the purpose of irrigation. The Census Bureau reports that a total of 297 firms were in operation for at least one year at the end of 1992. According to SBA's definition, a small irrigation service is a firm whose gross revenues do not exceed five million dollars. The Census Bureau reported that 286 of the 297 firms listed had total revenues below five million dollars in 1992.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

32. This Third Further Notice of Proposed Rulemaking proposes no additional reporting, recordkeeping or other compliance measures.

V. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

33. This Third Further Notice of Proposed Rulemaking seeks comment on how the proposals set forth could impact regulated entities, including small entities. For example, we seek comment on whether an overly broad construction of utility ownership or control would impose unreasonable burdens on building owners, including small building owners, or compromise their ability to ensure the safe use of rights-of-way or conduit, or engender other practical difficulties. Commenters are invited to address the economic impact of all of our proposals on small entities and offer any alternatives.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

34. None.

List of Subjects in 47 CFR Part 1

Communications common carriers, Telecommunications.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–19634 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 51, 68, 76

[WT Docket No. 99–217; FCC 99–141]

Promotion of Competitive Networks in Local Telecommunications Markets

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In this *Notice of Proposed Rulemaking,* the Commission initiates a proceeding intended to facilitate the development of competitive telecommunications networks that will provide consumers with alternatives to services provided by the incumbent wireline local exchange carriers (LECs). In particular, the Commission seeks comment on the following issues: the provision of reasonable and nondiscriminatory access to rights-of-

way and riser conduit on private premises that are under the ownership or control of LECs or other utilities and competitively neutral state and local taxation. A companion *Notice of Inquiry* and a *Third Further Notice of Proposed Rulemaking* are summarized elsewhere in this issue of the **Federal Register**.

DATES: Comments are due August 13, 1999; Reply comments are due September 3, 1999.

ADDRESSES: Parties who choose to file comments by paper should send comments to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 Twelfth Street, SW; TW-A325; Washington, D.C. 20554. Comments filed through the Commission's Electronic Comment Filing System (ECFS) can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html≤. See

SUPPLEMENTARY INFORMATION: For additional information about paper and electronic filing.

FOR FURTHER INFORMATION CONTACT: Jeff Steinberg at (202) 418–0896 or Joel Taubenblatt at (202) 418–1513 (Wireless Telecommunications Bureau).

SUPPLEMENTARY INFORMATION: This is a summary of the *Notice of Proposed Rulemaking in WT Docket No. 99–217* (the ''Notice''), FCC 99–141, adopted June 10, 1999 and released July 7, 1999. The complete text of the document is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services, (202) 857–3800, 445 12th Street, S.W., CY-B400, Washington, D.C. 20554. The document is also available via the Internet at <http://www.fcc.gov/Bureaus/Wireless/Orders/1999/index.html>.

Introduction

1. This Notice is part of a larger item that seeks comment in order to further the Commission's ongoing efforts to promote facilities-based competition in the local telephone market. The larger item addresses issues that are not squarely before the Commission in pending proceedings. In particular, this Notice seeks comment on several potential modifications of the Commission's Rules in order to facilitate competitive providers' access to multiple tenant environments and facilities.

Background

2. In the Telecommunications Act of 1996, *codified at* 47 U.S.C. 151 *et seq.*, Congress included provisions intended to facilitate competition with the incumbent LECs through three entry strategies: resale of the incumbent LEC's services, leasing of unbundled network elements, and use of a new entrant's own facilities. To date, the Commission's efforts to facilitate local competition pursuant to these provisions of the Act have generally encompassed all three of these means of entry. Carriers who provide service by any of the three means of competitive entry have the potential to bring many of the benefits of competition to local exchange markets, and the Commission recognizes it should continue to facilitate competitive entry by all means. However, in the long term, the most substantial benefits to consumers will be achieved through facilities-based competition. Only facilities-based competitors can break down the incumbent LECs' bottleneck control over local networks and provide services without having to rely on their rivals for critical components of their offerings. Moreover, only facilities-based competition can fully unleash competing providers' abilities and incentives to innovate, both technologically and in service development, packaging, and pricing.

Discussion

3. Accordingly, this Notice seeks comment on several potential modifications of the Commission's Rules in order to facilitate access by competing facilities-based providers of telecommunications service to multiple tenant enviornments. Specifically, the Notice also seeks comment, subject to the Commission's future interpretation of the ''necessary'' and ''impair'' standards of section 251 of the Communications Act, 47 U.S.C. 251, on whether the Commission should require incumbent LECs to make available to any requesting telecommunications carrier unbundled access to riser cable and wiring that they control within multiple tenant environments.

4. The Notice also seeks comment on whether the Commission should require building owners who allow access to their premises to any telecommunications provider to make comparable access available to all such providers on a nondiscriminatory basis, and on the extent of the Commission's legal authority to adopt such a requirement. The Notice asks questions regarding how any such obligation should be implemented.

5. In addition, the Notice seeks comment on several other proposed Commission actions potentially ensuring that customers located in multiple tenant environments have access to their choice of telecommunications service providers. Specifically, the Notice requests comment on whether the Commission should forbid telecommunications service providers, under some or all circumstances, from entering into exclusive contracts with building owners, and abrogate any existing exclusive contracts between these parties. The Notice also requests comment on whether the Commission should modify its rules governing determination of the demarcation point between facilities controlled by the telephone company and by the landowner on multiple unit premises. In addition, the Notice seeks comment on whether the current rules governing access to cable home wiring for multichannel video programming distributors should be extended to include providers of telecommunications services. Furthermore, the Notice requests comment on whether the Commission should extend rules similar to those adopted under section 207 of the 1996 Act to providers of telecommunications and other fixed wireless services. The Notice recognizes that section 207 by its terms applies only to certain video programming services, but states that the Commission may have authority to adopt similar rules prohibiting restrictions on the placement of antennas used for over-the-air telecommunications and other fixed wireless services pursuant to section 4(i) and other provisions of the Communications Act, including sections 201(b) and 303(r), granting the Commission general authority to effectuate the provisions and purposes of the Communications Act. *See* 47 U.S.C. 4(i), 201(b), and 303(r).

Filing Procedures

6. Pursuant to 47 CFR 1.415, 1.419, interested parties may file comments on or before August 13, 1999, and reply comments on or before September 3, 1999. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 Fed. Reg. 24,121 (1998).

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numbers appear in the caption of this proceeding, however, commenters must transmit one electronic copy of the comments to each docket or rulemaking number referenced in the caption. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit electronic comments by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

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9. Regardless of whether parties choose to file electronically or by paper, parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Inc., 445 12th Street, S.W., CY-B400, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center, 445 12th Street, S.W., Washington, D.C. 20554.

10. Comments and reply comments must include a short and concise summary of the substantive arguments raised in the pleading. Comments and reply comments must also comply with 47 CFR 1.49, and all other applicable sections of the Commission's rules. The Commission also directs all interested parties to include the name of the filing party and the date of the filing on each page of their comments and reply comments. All parties are encouraged to utilize a table of contents, regardless of the length of their submission.

Initial Regulatory Flexibility Analysis

11. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities of the policies and rules proposed in this Notice of Proposed Rulemaking. Written public comments are requested on this IRFA. These comments must be filed in accordance with the same filing deadlines for comments on the rest of this Notice of Proposed Rulemaking, as set forth in the Filing Procedures section above, and they must have a separate and distinct heading designating them as responses to the IRFA. The Commission's Office of Public Affairs, Reference Operations Division, will send a copy of this Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with the RFA.

I. Need for and Objectives of the Proposed Rules

12. We are issuing this Notice of Proposed Rulemaking to seek comment on proposals to facilitate competition with the incumbent local exchange carriers (LECs) by competitors who use their own end-to-end facilities. Extensive facilities-based competition will provide consumers with a choice of telecommunications providers that will compete to offer traditional, voice-grade telephone service, as well as high-speed data and other advanced services, at reasonable prices and with reasonable terms and conditions—a major goal of the Telecommunications Act of 1996. We particularly expect this proceeding to further the availability of competition to the many consumers and businesses that are located in multiple tenant environments, such as apartment and office buildings.

13. Specifically, this Notice of Proposed Rulemaking seeks comment on the following issues: (1) Whether we should require incumbent LECs to make available to any requesting telecommunications carrier unbundled access to riser cable and wiring that they control within multiple tenant environments, subject to the Commission's future interpretation of the ''necessary'' and ''impair'' standards of 47 U.S.C. 251; (2) whether we should require building owners who allow access to their premises to any telecommunications provider to make comparable access available to all such providers on a nondiscriminatory basis; (3) whether we should forbid telecommunications service providers, under some or all circumstances, from entering into exclusive contracts with building owners, and abrogate any existing exclusive contracts between these parties; (4) whether we should modify our rules governing determination of the demarcation point between facilities controlled by the telephone company and by the landowner on multiple unit premises; (5) whether the rules governing access to cable home wiring for multichannel video program distribution should be extended to benefit providers of telecommunications services; and (6) whether we should adopt rules similar to those adopted in the video context under section 207 of the 1996 Act protecting the ability to place antennas to transmit and receive telecommunications signals and other signals that are not covered under section 207.

II. Legal Basis

14. The potential actions on which comment is sought in this Notice of Proposed Rulemaking would be authorized under sections 1, 2(a), 4(i), 4(j), 201(b), 251(c)(3), 251(d), 303(r), and 332 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152(a), 154(i), 154(j), 201(b), 251(c)(3), 251(d), 303(r), and 332, and 47 CFR 1.411 and 1.412.

III. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

15. The RFA requires that an initial regulatory flexibility analysis be prepared for notice-and-comment rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). For many of the entities described below, the SBA has defined small business categories through Standard Industrial Classification (''SIC'') codes.

16. This Notice of Proposed Rulemaking could result in rule changes that, if adopted, would impose requirements on local exchange carriers, building owners and managers, multichannel video program distributors, neighborhood associations, and small governmental jurisdictions. To assist the Commission in analyzing the total number of potentially affected small entities, commenters are requested to provide estimates of the number of small entities that may be affected by any rule changes resulting from this Notice of Proposed Rulemaking.

a. Local Exchange Carriers

17. Many of the potential rules on which comment is sought in this Notice of Proposed Rulemaking, if adopted, would affect small LECs. Neither the Commission nor the SBA has developed a small business definition specifically for small LECs. The closest applicable definition under the SBA rules is for those telephone communications companies that are not radiotelephone (wireless) companies. The SBA has defined establishments engaged in providing ''Telephone Communications, Except Radiotelephone'' to be small businesses when they have no more than 1,500 employees. According to November 1997 Telecommunications Industry Revenue data, 1,371 carriers reported that they were engaged in the provision of local exchange services. We do not have data specifying the number of these carriers that are either dominant in their field of operations, are not independently owned and operated, or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under the SBA's definition. Consequently, we estimate that fewer than 1,371 providers of local exchange service are small entities or small incumbent LECs that may be affected by the potential actions discussed in this Notice of Proposed Rulemaking, if adopted.

18. Above, we have included smaller incumbent LECs in our analysis. Although some incumbent LECs may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small incumbent LECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small incumbent LECs within this analysis and use the term ''small incumbent LECs'' to refer to any incumbent LECs that arguably might be defined by the SBA as ''small business concerns.''

b. Building Owners and Managers

19. Several of our inquiries in this Notice of Proposed Rulemaking would affect multiple dwelling unit operators and real estate agents and managers, if such inquiries lead to adopted rules. Such inquiries include the following issues: whether we should require building owners who allow access to their premises to any telecommunications provider to make comparable access available to all such providers on a nondiscriminatory basis; whether we should forbid telecommunications service providers, under some or all circumstances, from entering into exclusive contracts with building owners, and abrogate any existing exclusive contracts between these parties; and whether we should adopt rules similar to those adopted in the video context under section 207 of the 1996 Act protecting the ability to place antennas to transmit and receive telecommunications signals and other signals that were not covered under section 207.

(1) Multiple Dwelling Unit Operators (SIC 6512, SIC 6513, SIC 6514)

20. The SBA has developed definitions of small entities for operators of nonresidential buildings, apartment buildings, and dwellings other than apartment buildings, which include all such companies generating $5 million or less in revenue annually. According to the Census Bureau, there were 26,960 operators of nonresidential buildings generating less than $5 million in revenue that were in operation for at least one year at the end of 1992. Also according to the Census Bureau, there were 39,903 operators of apartment dwellings generating less than $5 million in revenue that were in operation for at least one year at the end of 1992. The Census Bureau provides no separate data regarding operators of dwellings other than apartment buildings, and we are unable at this time to estimate the number of such operators that would qualify as small entities.

(2) Real Estate Agents and Managers (SIC 6531)

21. The SBA defines real estate agents and managers as establishments primarily engaged in renting, buying, selling, managing, and appraising real estate for others. According to SBA's definition, a small real estate agent or manager is a firm whose revenues do not exceed 1.5 million dollars.

c. Multichannel Video Program Distributors (SIC 4841)

22. Our inquiry in this Notice of Proposed Rulemaking regarding whether the rules governing access to cable home wiring for multichannel video program distribution should be extended to benefit providers of telecommunications services would affect operators of cable and other pay television services, if such inquiry leads to the adoption of rules. The SBA has developed a definition of a small entity for cable and other pay television services, which includes all such companies generating $11 million or less in annual receipts. This definition includes cable system operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems and subscription television services. According to the Bureau of the Census, there were 1423 such cable and other pay television services generating less than $11 million in revenue that were in operation for at least one year at the end of 1992.

d. Neighborhood Associations

23. Our inquiry in this Notice of Proposed Rulemaking regarding whether we should adopt rules similar to those adopted in the video context under section 207 of the 1996 Act protecting the ability to place antennas to transmit and receive telecommunications signals and other signals that are not covered under section 207 would affect neighborhood associations, if such inquiry leads to the adoption of rules. Section 601(4) of the Regulatory Flexibility Act, 5 U.S.C. 601(4), defines ''small organization'' as ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' This definition includes homeowner and condominium associations that operate as not-for-profit organizations. The Community Associations Institute estimates that there were 150,000 such associations in 1993.

e. Municipalities

24. Our inquiry in this Notice of Proposed Rulemaking regarding whether we should adopt rules similar to those adopted in the video context under section 207 of the 1996 Act protecting the ability to place antennas to transmit and receive telecommunications signals and other signals that are not covered under section 207 may affect municipalities, if such inquiry leads to the adoption of rules. The term ''small governmental jurisdiction'' is defined as ''governments of * * * districts, with a population of less than 50,000.'' As of 1992, there were approximately 85,006 governmental entities in the United States. This number includes such entities as states, counties, cities, utility districts and school districts. Of the 85,006 governmental entities, 38,978 are counties, cities and towns. The remainder is composed primarily of

utility districts, school districts, and states. Of the 38,978 counties, cities and towns, 37,566, or 96%, have populations of fewer than 50,000. The Census Bureau estimates that this ratio is approximately accurate for all governmental entities. Thus, of the 85,006 governmental entities, we estimate that 81,606 (96%) are small entities.

IV. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

25. This Notice of Proposed Rulemaking proposes no additional reporting, recordkeeping or other compliance measures.

V. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

26. This Notice of Proposed Rulemaking seeks comment on how the inquiries set forth could impact regulated entities, including small entities. For example, with respect to our inquiry into building owner obligations, we seek comment on whether we should limit the scope of any building owner obligation in order to avoid imposing unreasonable regulatory burdens on building owners, and we suggest that a potential rule could exempt buildings that house fewer than a certain number of tenants or are under a certain size. Commenters are invited to address the economic impact of all of our proposals on small entities and offer any alternatives.

VI. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

27. None.

List of Subjects

47 CFR Parts 1 and 51

Communications common carriers, Telecommunications.

47 CFR Part 68

Communications common carriers, Communications equipment.

47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Deputy, Secretary.

[FR Doc. 99–19635 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 95

[ET Docket 99–255; FCC 99–182]

Wireless Medical Telemetry Service

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to allocate spectrum and to establish rules for a Wireless Medical Telemetry Service. This action is intended to allow potentially life-critical medical telemetry equipment, which currently operates on a secondary basis, unprotected from interference, to operate on a blanket licensed, interference protected basis. We believe our action will improve the reliability of this critical service.

DATES: Comments must be filed on or before September 16, 1999, and reply comments must be filed on or before October 18, 1999.

ADDRESSES: Address all comments concerning this proposed rule to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, FCC, 445 12th Street SW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hugh L. Van Tuyl, Office of Engineering and Technology, (202) 418–7506, TTY (202) 418–2989, e-mail: hvantuyl@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 99–255, FCC 99–182, adopted July 14, 1999 and released July 16, 1999. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Information Center, Room CY–A257, 445 12th Street, SW, Washington, DC, and is available on the FCC's Internet site at http://www.fcc.gov/oet/dockets/et99–255/. The complete text of this document may also be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Notice of Proposed Rule Making

1. The Commission proposes to amend parts 2 and 95 of the rules to allocate spectrum and to establish service rules for a Wireless Medical Telemetry Service. It proposes to allocate frequencies for medical telemetry equipment to operate on a primary basis. Two possible options for frequencies are proposed; (1) 608–614 MHz, 1395–1400 MHz and 1429–1432 MHz, or (2) 608–614 MHz and 1391–1400 MHz. This action is intended to allow potentially life-critical medical telemetry equipment, which currently operates on a secondary basis, unprotected from interference, to operate on a blanket licensed, interference protected basis. We believe our action will improve the reliability of this critical service.

2. Medical telemetry equipment is used in hospitals and health care facilities to transmit patient measurement data to a nearby receiver, permitting greater patient mobility and increased comfort. Examples of medical telemetry equipment include heart, blood pressure and respiration monitors. The use of these devices allows patients to move around early in their recovery while still being monitored for adverse symptoms. With such devices, one health care worker can monitor several patients remotely, thus decreasing health care costs.

3. Currently, medical telemetry devices are allowed to operate under either part 15 or part 90 of the Commission's rules. Part 15 of the rules permits medical telemetry equipment to operate on an unlicensed basis on TV channels 7–13 and 14–46 (174–216 MHz and 470–668 MHz). Part 90 of the rules permits medical telemetry equipment to operate on a secondary basis to land mobile users in the 450–470 MHz band.

4. There have been recent changes to the Commission's rules that could result in harmful interference to medical telemetry equipment operating under part 15. At the direction of Congress, the Commission has provided for the introduction of digital television (DTV) stations in the TV broadcast bands. In order to accomplish this, the Commission has provided each local TV station with an additional channel that will be used to broadcast DTV during the transition. This means that there will be fewer vacant channels in every market, and that in some areas, channels that were once unused for TV broadcasting may now be used for DTV.

5. To reduce the possibility of DTV causing interference to medical telemetry equipment, the Commission adopted changes to part 15 of the rules in 1997 to increase the number of TV frequencies where medical telemetry devices could operate on an unlicensed basis. These changes allow operation on TV channels 14–46 in addition to channels 7–13, which were the only channels where medical telemetry equipment was previously allowed to operate. The Commission also increased the maximum allowable operating

power for these devices to improve reliability.

6. The transition from analog to digital television is currently under way, with the first stations commencing regular DTV broadcasting in November 1998. The Commission has created over 1600 allotments for DTV stations, a large percentage of which are on TV channels 7–46, which are also used for medical telemetry equipment operating under part 15 of the rules. All television stations are required to commence DTV broadcasting no later than May 1, 2003. As existing stations begin DTV operation on their new channels, some low-power television stations currently operating on or adjacent to those channels may be forced to switch frequency to avoid causing harmful interference to DTV, thereby further crowding the spectrum used by medical telemetry equipment.

7. Concerns about possible interference to medical telemetry equipment by DTV operations were recently heightened. In March 1998, a TV station in Texas began test transmissions on a previously unused channel that had been assigned to it for DTV operation. The transmissions caused severe interference to the operation of medical telemetry equipment at a nearby hospital, rendering the equipment temporarily unusable. The station immediately ceased operation upon learning of the interference, and the medical telemetry equipment was changed to operate on another frequency. The Commission and the Food and Drug Administration have since taken steps to help ensure that hospitals are notified before new DTV stations come on the air to provide them with time to modify any medical telemetry equipment that operates on the same frequency.

8. The American Hospital Association's (AHA) Medical Telemetry Task Force recently submitted recommendations to the Commission for addressing the potential critical safety risks to patients from harmful interference caused to wireless medical telemetry equipment. The task force was established in response to the incidence of interference to medical telemetry equipment from a DTV station. Among the AHA recommendations are that specific frequencies be allocated for a medical telemetry service, and that the service be given primary status on those frequencies.

9. Medical telemetry equipment is increasingly relied upon in hospitals to improve health care and reduce costs. Patients that require the monitoring and treatment capabilities that were formerly available only in intensive care units can be moved to general nursing units. Patient recovery is also improved because the general nursing unit offers a less stressful environment. The number of patients with chronic medical conditions is rising due to the growth in the elderly population. For these reasons, the need for monitoring patients outside of intensive care is rapidly increasing, and this need can be fulfilled with medical telemetry equipment. As we noted, it may be difficult for this equipment to continue to operate in the bands used for DTV and the PLMR services without receiving interference. Given the importance of this equipment, we tentatively conclude that it is necessary to find additional spectrum for medical telemetry equipment. We further tentatively conclude that the spectrum should be allocated on a primary basis to ensure that medical telemetry equipment is able to function without interference from other sources. We seek comment on these tentative conclusions.

10. The AHA performed a survey of 14 hospitals of various sizes in both metropolitan and suburban/rural areas to determine the amount of spectrum needed for medical telemetry equipment. The survey results identify six categories of patient medical parameters that may be measured, and indicate that up to 600 patients may need to be monitored concurrently at a single facility. In order to calculate the required spectrum, AHA assumed the transmitters would operate with a spectral efficiency of 0.8 bits per second per Hertz, which is approximately the same spectral efficiency the Commission requires in part 90 of the rules. AHA then calculated the required spectrum for each of the six categories of parameters and determined that a total of 6.125 MHz is required to meet current patient needs. The AHA survey also indicated that the spectrum requirements for medical telemetry equipment would likely double within ten years. Therefore, AHA believes that in the long term, at least 12 MHz of spectrum is needed for medical telemetry equipment. We invite comment on this analysis, including whether the assumed spectral efficiency is reasonable, and whether more spectrally efficient technologies could be employed to reduce the amount of spectrum required.

11. The AHA performed an analysis of the suitability of various frequency bands, based on such factors as equipment costs, data reliability, amount of spectrum in each band and equipment power consumption. Based on its study, the AHA recommends that the following frequency bands be used for the medical telemetry service: 608–614 MHz, 1385–1390 MHz and 1432–1435 MHz.

12. We note that other parties have expressed an interest in operating in portions of the 1300 MHz and 1400 MHz bands adjacent to the frequencies recommended by AHA. For example the Land Mobile Communications Council (LMCC) has filed a petition for rule making to allocate the 1390–1400 MHz and 1427–1432 MHz bands for private land mobile services under part 90 of the rules. In addition, several licensees of low earth orbit (''Little Leo'') satellite systems have been performing studies on the feasibility of operating satellite feeder uplinks in the 1390–1393 MHz band and downlinks in the 1429–1432 MHz band in an effort to obtain an international frequency allocation for this purpose. A discussion of the frequency bands recommended by AHA and the adjacent bands noted above follows. We request comment on the impact that a frequency allocation for medical telemetry would have on other prospective users of these bands.

13. We tentatively conclude that it is necessary to allocate spectrum where medical telemetry equipment can operate on a primary basis. The 608–614 MHz band appears to be suitable, because, other than radio astronomy, it is only used for medical telemetry under part 15 of the rules. Accordingly, we propose to allocate this band to medical telemetry equipment on a co-primary basis with radio astronomy. Under this proposal, operation in this band must not cause interference to radio astronomy operations, and users will be required to coordinate their operation with radio astronomy facilities.

14. While we make no finding regarding NTIA's assertion that the 1385–1390 and 1432–1435 MHz bands must be made available through auction, in order to expedite this proceeding we propose to identify spectrum in the 1390–1400 MHz and 1427–1432 MHz bands for medical telemetry equipment. The medical telemetry allocation would be primary to provide protection from interference, but would be non-exclusive. If an international allocation for Little Leo feeder links were made in the future, we could initiate a proceeding to domestically allocate medical telemetry on a co-primary basis with Little Leo feeder links, although medical telemetry equipment would continue to receive protection from interference. We have devised two possible options for a medical telemetry frequency allocation, which are discussed below. We seek comment on which option is more suitable, or

whether any other alternative frequencies would be more suitable.

15 *Option 1: 608–614 MHz/1395–1400 MHz/1429–1432 MHz.* The 1395–1400 MHz band could be allocated for medical telemetry equipment as an alternative to the 1385–1390 band recommended by AHA. Allocating this band would provide the same amount of spectrum AHA requested in the adjacent band, and would increase the frequency separation from government radars operating below 1385 MHz, thereby reducing the risk of interference to medical telemetry equipment. Also, the 1429–1432 MHz band could be allocated as an alternative to the 1432–1435 MHz band recommended by AHA. This would provide the same amount of spectrum as requested by AHA in the adjacent band, and the frequency separation between it and the 1395–1400 MHz band could make them more useful for two-way communications. However, this option would use the 1429–1432 MHz band that the Little Leo satellite operators are investigating for satellite feeder downlinks, as well as parts of the frequency bands requested by LMCC in their petition. Commenters should address the sharing possibilities and criteria for sharing between Little LEOs and medical telemetry under this option.

16. *Option 2: 608–614 MHz/1391–1400 MHz.* A single band at 1391–1400 MHz could be allocated to medical telemetry equipment as an alternative to the upper two bands recommended by AHA. This would provide an additional 1 MHz of spectrum for medical telemetry. The larger contiguous band could provide a greater opportunity for broadband transmissions, although it may be less useful for two-way communications than two separate bands. This option would resolve the potential conflict with satellite downlinks in the 1429–1432 MHz band, but would result in 2 MHz of overlap between the proposed medical telemetry band and a possible 1390–1393 MHz satellite feeder uplink band. This option would also use parts of the frequency bands requested by LMCC in their petition. Commenters should address the sharing possibilities and criteria for sharing between Little LEOs and medical telemetry under this option.

17. We propose service rules for the new Wireless Medical Telemetry Service (WMTS). These proposed service rules only apply to the WMTS and not to the current medical telemetry operations under parts 15 and 90. The proposed rules include licensing requirements and technical standards for the equipment, as well as a frequency coordination procedure. Our proposals are based primarily upon recommendations in the AHA report submitted to the Commission. We request comment on all aspects of these proposed rules.

18. AHA proposes the following definition for medical telemetry: Wireless medical telemetry is defined as the measurement and recording of physiological parameters and other patient-related information via radiated bi-or unidirectional electromagnetic signals.

19. Our intention is to create a Wireless Medical Telemetry Service (WMTS) that will allow medical telemetry equipment to operate in hospitals and medical facilities in much the same manner as the part 15 and part 90 rules allow, but without the potential for interference. Because the definition proposed by AHA appears to encompass our intention in creating this service, we propose it as the definition of the medical telemetry, and request comment.

20. *Licensing.* Medical telemetry equipment operating under part 15 of the rules does not require an individual operator's license. Similarly, medical telemetry equipment operating pursuant to part 90 does not require an individual operator's license. AHA states that, given the number and nature of devices that could be operated in a new medical telemetry service and the number of separate licenses that could co-exist in a given area, there is no basis for the administrative burden of individual licenses. AHA suggests that equipment in the WMTS could be ''licensed by rule'', such as is done in the Family Radio Service. We tentatively concur in AHA's assessment that there is no need to require individual operators licenses in the new WMTS. Individual licensing is generally designed to give a licensee a protected service area, and thus establishes rights among competing entities in the same service. We do not envision that operators in the WMTS will be in competition with each other as are parties in other radio services. Under our proposal, the WMTS spectrum would be shared, and there would be no mutual exclusivity between users. We therefore propose that the WMTS exist as one of the Citizen's Band services contained in part 95 of the rules. The Commission has authority under Section 307(e) of the Communications Act to license the Citizen's Band services by rule and to define ''citizen's band radio service'' by rule. We seek comment on our tentative conclusion.

Eligibility. AHA proposes that only authorized health care professionals be eligible to operate transmitters in the WMTS. For the purpose of this service, an ''authorized health care professional'' would be defined as (1) a physician or other individual authorized under state or federal law to provide health care services; (2) a health care facility operated by or employing individuals authorized under state or federal law to provide health care services; or (3) any trained technician under the supervision and control of an individual or health care facility authorized under state or federal law to provide health care services. AHA suggests that we define a ''health care facility'' as a hospital or other establishment that offers services, facilities and beds for use beyond 24 hours in rendering medical treatment, and organizations regularly engaged in providing medical services through clinics, public health facilities and similar establishments, including government entities and agencies for their own medical activities. A health care facility would not include an ambulance or other moving vehicle. We propose the eligibility restrictions recommended by AHA to ensure that use of the allocated spectrum is limited to medical telemetry equipment. However, for the sake of clarity, we will change the term ''authorized health care professional'' to ''authorized health care *provider*'', and change ''beyond 24 hours'' to ''beyond a 24 hour period''. We seek comment on this proposed eligibility requirement, including whether it should be expanded to cover in-home medical uses and how it can be enforced without individual licensing.

22. *Frequency Coordination.* AHA notes that if the WMTS were ''licensed-by-rule'', there would be no record of which frequencies are used by each facility or device. This could result in interference if multiple parties located close together attempt to use the same frequencies. Accordingly, AHA recommends the appointment of a frequency coordinator, who will maintain a database of all WMTS equipment in operation. The database would be used by eligible users and manufacturers to plan for specific frequency use within a geographic area, especially where numerous WMTS operations may occur. Equipment registered first in a geographic area would be entitled to protection over later-registered equipment. We preliminarily agree that AHA's proposal would assist WMTS users in avoiding interference. Accordingly, we propose that all parties using equipment in the WMTS be required to coordinate their operating frequency and other relevant technical operating parameters with a

coordinator designated by the Commission. We seek comment on this proposal.

23. Specifically, we propose that the designated frequency coordinator would have responsibility to maintain an accurate engineering database of all WMTS transmitters, identified by location, operating frequency, emission type and output power. The frequency coordinator, though, would not be a decision maker as to which frequency should be used. The coordinator would notify users of potential frequency conflicts. We expect that there will be few conflicts between users of WMTS equipment due to its low operating power, and that users will be able to resolve any conflicts among themselves. The Commission would make the final decision, as necessary, in disputes between users. We propose that a single frequency coordinator be designated to handle all requests nationwide. The coordinator must be familiar with the medical telemetry user community, and must make its services available to all parties on a first-come, first-served and non-discriminatory basis. The frequency coordinator must be willing to serve a five year term, which could be renewed by the Commission. In the event that a frequency coordinator did not wish to continue at the end of its term, it would have to transfer its database to another designated entity. The Wireless Telecommunications Bureau would have delegated authority to select the coordinator, and would announce this selection by public notice. We seek comments on this proposal, including: (1) Any other qualifications that a frequency coordinator must have, (2) whether a single entity or multiple entities should be designated as frequency coordinator(s), (3) how the frequency records could be maintained with multiple coordinators, and, (4) whether we should limit the fees the frequency coordinator(s) can charge. We also invite parties interested in becoming a frequency coordinator for the WMTS to file a written statement describing their qualifications.

24. The frequency coordinator would be required to maintain a database of the operating parameters submitted to it by users of the WMTS. We propose to require that the frequency coordinator make the database available to WMTS users, equipment manufacturers and the public. AHA recommends that the information submitted to the coordinator include:

(1) Frequency range(s) used
(2) Modulation scheme used
(3) Effective radiated power
(4) Number of transmitters in use at the health care facility at the time of registration
(5) Legal name of the authorized health care provider
(6) Location of transmitter (coordinates, street address, building)
(7) Point of contact for the authorized health care provider.

We seek comment on these and any other possible information requirements.

25. AHA recommends that equipment registrations be effective for a term of five years, and may be renewed for additional five year terms. Health care providers would have to notify the frequency coordinator when a device is permanently taken out of service, unless it is replaced with one with the same technical characteristics. Health care providers would also be expected to notify the frequency coordinator of any change in location or other operating parameters. We propose to adopt these requirements, except for the more burdensome requirement that equipment registrations be renewed every five years. We seek comment on these proposals, in particular, whether an expiration date for equipment registration is necessary to ensure the database does not become ''cluttered'' with entries for equipment that is no longer in service if users fail to notify the coordinator of the cessation of operation. We also seek comment on who should have access to the database.

26. *Permissible communications.* AHA recommends that all types of information flows should be permissible in the service, including voice, data, video and telecommand, on both a unidirectional and bidirectional basis. We are concerned, however, about AHA's recommendation to allow voice and video transmissions in the WMTS. Allowing voice transmissions could encourage equipment in this service to be used as a form of wireless intercom, rather than for its intended purpose of transmitting vital patient data. Further, video transmissions could occupy a significant portion of the available spectrum for this service. Accordingly, we propose that the WMTS be used for all types of communication, except voice or video transmissions, on either a uni-or bi-directional basis. We seek comments on these proposals.

27. *Technical Standards.* AHA recommends that the Commission adopt only minimal technical standards for WMTS equipment. AHA states that this flexibility will encourage manufacturers to develop different applications for medical telemetry. AHA does not believe that the lack of standards will lead to inefficient uses of the band. On the contrary, it believes that allowing the industry to move forward without government standards will result in a high degree of innovation. We seek comment on this general approach, and whether the Commission should adopt more specific requirements for certain parameters (e.g.—spectral efficiency.)

28. AHA generally does not recommend a specific channelization scheme for these bands. However, it is concerned that the use of broadband technologies, such as spread spectrum, could allow a single user to monopolize a band, which could inhibit the ability of other health care facilities within an area to utilize narrowband technologies. To facilitate sharing of the spectrum, it recommends that broadband equipment operating in the 608–614 MHz band be capable of operating within one or more channels of 1.5 MHz each, up to a maximum of 6 MHz. Such equipment would operate on the minimum number of channels necessary, and must have the capability of being ''throttled back'' so it will occupy as little as one 1.5 MHz channel, if necessary, to allow multiple users to share that band. We are proposing these requirements, which we believe will allow the WMTS spectrum to be used efficiently. We seek comment on these proposals.

29. AHA recommends the following field strength limits for WMTS transmitters.

Frequency band	Maximum field strength	Measurement distance	Measurement bandwidth	Detector function
608–614 MHz	370 mV/m	3 meters	120±20 kHz	CISPR QP.
1385–1390 MHz	740 mV/m	3 meters	1 MHz	Average.
1432–1435 MHz	740 mV/m	3 meters	1 MHz	Average.

We note that the proposed limit in the 608–614 MHz band is approximately 5 dB higher than the current part 15 limit for equipment operating in this band. AHA does not provide a justification as to why the limit should be increased, and we are concerned that a higher limit could result in interference to radio astronomy. Accordingly, we propose to maintain the current part 15 limit in the 608–614 MHz band. We propose the higher limits recommended by AHA in the 1395–1400 MHz and 1429–1432 MHz bands (or in the alternatively proposed 1391–1400 MHz band) to offset the increased propagation losses at those frequencies. We request comment on the appropriateness of these proposed limits. Commenters who suggest alternatives to the frequency bands proposed in this Notice should address the issue of appropriate limits in those alternative bands.

30. AHA recommends the following out-of-band emission limits for transmitters in the WMTS.

Frequency band	Maximum field strength	Measurement distance	Measurement bandwidth	Detector function
608–614 MHz	200 μV/m	3 meters	120± 20 kHz	CISPR QP.
1385–1390 MHz	500 μV/m	3 meters	1 MHz	Average.
1432–1435 MHz	500 μV/m	3 meters	1 MHz	Average.

These are the same as the current part 15 limits for out-of-band emissions from most intentional radiators, which we believe to be effective at controlling interference. Accordingly, we are proposing AHA's recommended limits for the 608–614 MHz band, and for the 1395–1400 MHz and 1429–1432 MHz bands (or the alternatively proposed 1391–1400 MHz band). We request comment on the appropriateness of these limits. Commenters who suggest alternatives to the frequency bands proposed in this Notice should address the issue of appropriate limits in those alternative bands.

31. *Protection of other existing services.* The WMTS must not cause interference to radio astronomy operations, and to certain ''grandfathered'' government operations. We therefore propose rules requiring the coordination of WMTS operations in the 608–614 MHz band with radio astronomy operations, similar to the requirements in part 15. The proposed rules would also require that operation in the 1395–1400 MHz and 1429–1432 MHz bands (or the alternatively proposed 1391–1400 MHz band) must protect certain government operations. Finally, parties using WMTS equipment would need to be aware that the operation of transmitters in close proximity to medical equipment could cause interference to the operation of the medical equipment. The proposed rules would provide a warning to this effect, similar to the warning found in the part 15 rules for medical telemetry equipment. Commenters who suggest alternatives to the frequency bands proposed in this Notice should address the need to protect other existing services.

32. *Equipment authorization requirement.* AHA recommends that WMTS transmitters be authorized through the Declaration of Conformity (DoC) procedure in part 2 of the rules. AHA also recommends that the manufacturer be required to provide certain technical information to the user in addition to the other information required as part of the DoC process. DoC is a manufacturer's self-approval procedure where the equipment is tested to ensure it complies with the Commission's specified technical standards, and may then be marketed without an approval by the Commission. We believe that DoC is an appropriate authorization for WMTS equipment. The equipment is relatively low powered, and will operate in a band reserved exclusively for medical telemetry equipment, with the exception of a limited number of fixed government operations. There is therefore less concern about the equipment causing interference than would be the case if the band were shared with other services. Accordingly, we propose that medical telemetry equipment operating under the new WMTS be authorized through the DoC procedure. We also propose that laboratories accredited to perform DoC testing under part 15 of the rules be permitted to perform DoC testing for equipment in the new WMTS, since the measurement procedures are essentially the same for both types of equipment. However, we would decline to require manufacturers to provide users certain technical information AHA recommends as part of the DoC process. We believe manufacturers would already provide this information as a routine matter, so a requirement on our part is unnecessary. We seek comments on these proposals, and whether certification would be appropriate due to the fact that new types of equipment may be developed for this service.

33. *Transition Provisions.* AHA believes that eventually all medical telemetry equipment should be designed to operate in the new frequency bands. AHA estimates it will take manufacturers approximately three to four years to develop and market devices for these bands. Therefore, they recommend that all equipment approved, beginning four years after adoption of final rules, should be designed to operate in the new frequency bands. AHA further recommends that equipment approved prior to that date can continue to be manufactured, marketed and operated indefinitely so that health care facilities are not forced to replace devices that are still useful.

34. While our primary goal in this proceeding is to protect the operation of medical telemetry equipment from harmful interference, we need to balance that with the goal of allowing DTV and PLMR to grow and develop without unnecessary delays. In that regard, we believe that four years is a longer transition period than necessary for requiring new equipment to operate in the new frequency bands. Equipment operating in the 608–614 MHz band is already available under the provisions of part 15, and AHA has indicated that equipment can be rapidly developed for the other proposed bands. In order to encourage users to migrate out of the DTV and PLMR bands as quickly as possible, we propose that, beginning two years from the effective date of final rules in this proceeding, all medical telemetry equipment authorized must operate in the new frequency bands. Equipment that is already in operation in the DTV and PLMR bands as of that date may continue to be operated, but at the users' own risk. We seek comment on these proposals, including whether we should place a cutoff date on the manufacturing and importation of equipment authorized under parts 15 and 90.

35. AHA also is concerned that the Commission may lift the freeze on high-power operation on the 12.5 kHz offset channels in the 450–470 MHz band. It

states that a five-year transition period starting from the adoption of rules allocating spectrum for medical telemetry equipment is necessary to avoid disastrous consequences to existing users. AHA states that a shorter transition time may be possible in parts of the band, either by relocating existing users or identifying channels which are not used by medical telemetry devices. We seek comment on AHA's 5-year proposal, and on what steps may be taken to allow an earlier lifting of the freeze in the 450–470 MHz band without causing interference to medical telemetry equipment.

Initial Regulatory Flexibility Analysis

36. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* (''NPRM''). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above. The Commission will send a copy of this NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

A. Need for, and Objectives of, the Proposed Rules

37. Medical telemetry equipment currently operates on an unlicensed basis on certain unused TV channels under part 15 of the rules, and on a secondary basis to private land mobile services in the 450–470 MHz band under part 90 of the rules. With the transition to digital TV service, both full-power and low-power TV stations may begin operating on some of the vacant channels used by medical telemetry equipment. In addition, the new channelization scheme being implemented in the 450–470 MHz band will allow high-power operation on the channels currently reserved for low-power use where medical telemetry equipment operates. Both of these changes could result in severe interference with medical telemetry equipment. The proposed rules are intended to allocate new frequency bands where medical telemetry equipment can operate on a primary basis without receiving interference.

B. Legal Basis

38. The proposed action is authorized under Sections 4(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 154(i), 301, 302, 303(e), 303(f), 303(r), 304 and 307.

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

39. Under the RFA, small entities may include small organizations, small businesses, and small governmental jurisdictions. 5 U.S.C. 601(6). The RFA, 5 U.S.C. 601(3), generally defines the term ''small business'' as having the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (''SBA''). This standard also applies in determining whether an entity is a small business for purposes of the RFA.

40. The Commission has not developed a definition of small entities applicable to RF Equipment Manufacturers. Therefore, the applicable definition of small entity is the definition under the SBA rules applicable to manufacturers of ''Radio and Television Broadcasting and Communications Equipment.'' According to the SBA's regulation, an RF manufacturer must have 750 or fewer employees in order to qualify as a small business.[1] Census Bureau data indicates that there are 858 companies in the United States that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[2] We believe that many of the companies that manufacture RF equipment may qualify as small entities.

41. According to the SBA's regulations, nursing homes and hospitals must have annual gross receipts of $5 million or less in order to qualify as a small business concern. 13 CFR 121.201. There are approximately 11,471 nursing care firms in the nation, of which 7,953 have annual gross receipts of $5 million or less.[3] There are approximately 3,856 hospital firms in the nation, of which 294 have gross receipts of $5 million or less. Thus, the approximate number of small confined setting entities to which the Commission's new rules will apply is 8,247.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

42. We are proposing that equipment operating in the new frequency bands be authorized through the Declaration of Conformity (DoC) procedure. DoC is a manufacturer's self-approval procedure, in which the manufacturer has the equipment tested at an accredited laboratory, and is then permitted to market the equipment without a Commission approval provided the equipment complies with the applicable technical requirements. The DoC procedure requires the manufacturer to supply a compliance statement with each product, and to retain test records.

43. Parties operating the equipment will not be required to obtain an individual operator's license from the Commission, but they will have to register with a frequency coordinator designated by the Commission. The information submitted to the frequency coordinator will be:

(1) Frequency range(s) used;

(2) Modulation scheme used;

(3) Effective radiated power;

(4) Number of transmitters in use at the health care facility as of the date of coordination;

(5) Legal name of the authorized health care provider;

(6) Location of transmitter (coordinates, street address, building);

(7) Point of contact for the authorized health care provider (name, title, office).

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

44. We are proposing to allow equipment in this service to be ''licensed by rule''. This will eliminate the expense and delays that would result if parties were required to obtain individual operators' licenses. We are also proposing that equipment in this service be authorized through the Declaration of Conformity procedure. This will eliminate the delays in getting equipment to market that would result if manufacturers were required to obtain certification through the Commission or a designated Telecommunication Certification Body.

[1] *See* 13 CFR 121.201, Standard Industrial Classification (SIC) Code 3663.

[2] *See* U.S. Department of Commerce, 1992 Census of Transportation, Communications and Utilities (issued May 1995), SIC category 3663.

[3] *See* Small Business Administration Tabulation File, SBA Size Standards Table 2C, January 23, 1996, SBA, Standard Industrial Code (SIC) categories 8050 (Nursing and Personal Care Facilities) and 8060 (Hospitals). (SBA Tabulation File)

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

45. None.

List of Subjects in 47 CFR Parts 2 and 95

Communications equipment.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–19707 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 15

[ET Docket 99–254; FCC 99–180]

Closed Captioning Requirements for Digital Television Receivers

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Commission's rules to adopt technical standards for the display of closed captions on digital television (DTV) receivers. The Commission also proposes to require the inclusion of closed captioning decoder circuitry in DTV receivers. The proposals contained herein will help ensure access to digital programming for people with disabilities. This action is taken to fulfill the Commission's obligations contained in the Television Decoder Circuitry Act of 1990.

DATES: Comments must be filed on or before October 18, 1999, and reply comments must be filed on or before November 15, 1999.

ADDRESSES: Address all comments concerning this proposed rule to the Commission's Secretary, Magalie Roman Salas, Office of the Secretary, Federal Communications Commission, 445 12th Street S.W., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418–2408, TTY (202) 418–2989, e-mail: nmcneil@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rule Making*, ET Docket 99–254, FCC 99–180, adopted July 14, 1999, and released July 15, 1999. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center, (Room TW–A306) 445 12th Street S.W., Washington, DC. The complete text of this document also may be purchased from the Commission's duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Electronic Access and Filing Addresses

Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) via the Internet at <http://www.fcc.gov/e-file/ecfs.html>. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

Summary of Notice of Proposed Rulemaking

1. Closed captioning is an assistive technology that allows persons with hearing disabilities to enjoy television programming. Through captioning, the audio portion of programming is displayed as text superimposed over the video. Closed captioning information is encoded and transmitted along with the video signal of television broadcasts. The text is not ordinarily visible. In order to display closed captioning, viewers must use either a set-top decoder or a television receiver with integrated decoder circuitry.

2. In 1990, Congress passed the Television Decoder Circuitry Act. The Act was intended to reduce the cost to consumers of receiving closed captioning, to make closed captioning more widely available, and to create market incentives for broadcasters to invest in and provide more captioned programming. The Act requires that television receivers with picture screens 33 cm (13 inches) or larger contain built-in decoder circuitry designed to display closed captioned television transmissions. The Act also requires that the Commission take appropriate action to ensure that closed captioning services continue to be available to consumers as new video technology is developed. The introduction of digital broadcasting now requires the Commission to update its rules to fulfill its continuing obligations under the Act.

3. The Electronics Industries Alliance (EIA) has adopted EIA–708–A, a standard which provides instructions for the encoding, delivery, and display of closed caption information for digital television systems. The standard provides for a larger set of captioning characters than the existing caption standard. It also supports user options which enable caption display to be customized for a particular viewer. For example, closed caption decoders functioning pursuant to EIA–708–A may permit viewers to change various attributes of caption text such as its font, spacing, color, or screen position. This will allow viewers to change the size and appearance of captions to suit their needs. Also, using EIA–708–A, caption providers may distribute the caption text for a particular program at different reading levels. Viewers would then have the option of displaying the standard near-verbatim captions or alternate ''easy-reader'' captions written for younger viewers or beginner readers. Captions for that same program may also be distributed in alternate languages, simultaneously. We believe that, because of these attributes, EIA–708–A provides substantial benefits for consumers, and substantial improvements over current captioning standards.

4. The Commission proposes to incorporate Section 9 of EIA–708–A into the Commission's rules. That section contains recommendations for the operation of DTV closed captioning decoders. The recommendations are intended to provide minimum performance standards for DTV caption decoders. Because Section 9 supplies manufacturers with a set of common basic functions for DTV caption decoders, we believe that it provides sufficient guidance for the successful implementation of closed caption services with digital television receivers. We propose to transcribe the recommendations contained in Section 9 into requirements that will be contained in part 15 of the Commission's rules. DTV receivers will be required to function pursuant to the recommendations contained therein.

5. During the transition period from analog to digital broadcasting, programming will be transmitted in both analog and digital formats. Accordingly, the first few generations of DTV receivers are expected to be designed to operate in a dual mode. Dual mode receivers will allow consumers to enjoy the enhanced quality of digital broadcast stations while retaining the ability to watch programming on existing analog stations, all with the same receiver. For this type of receiver we believe that it is important to ensure that closed captioning display capability is available in both modes of operation. Accordingly, we propose to require that dual mode receivers operating in the analog mode provide closed captioning functionality pursuant to the Commission's existing rules for analog television receivers. In the digital mode,

such receivers will be required to function in accordance with EIA–708–A.

6. We note that EIA–708–A supports transport of standard analog captioning information. However, we propose to require that the decoder circuitry in digital tuners respond primarily to any digitally formatted caption information. In that way we can ensure that consumers who purchase DTV receivers will be able to take advantage of the new capabilities of captioning in the digital environment. We seek comment on this proposal.

7. We are aware that DTV reception capability will be marketed in a number of ways. During the transition period we expect that many consumers will purchase set-top DTV converter boxes that allow digitally transmitted television signals to be displayed on analog receivers. We also are aware that some manufacturers may choose to sell DTV tuners and display units separately. Consumers will have the option of customizing their DTV system in much the same way that is now done for computer systems. We believe that most set-top converters and all separately sold DTV tuners will be used with picture screens that are 13 inches or larger. Therefore, we propose to require that all such devices be subject to the provisions of the 1990 Act and provide for the display of closed captioning. Specifically, we propose to require that DTV converter boxes used with analog receivers either decode any analog caption information that is transmitted with the DTV signal or pass this information directly to the receiver in a form recognizable by the receiver's built-in caption decoder. Separately sold DTV tuners will be required to have the capability to respond to digitally encoded caption information. Although these converter boxes and tuners may be marketed without display screens, we tentatively conclude that 47 U.S.C. 330(b) provides the Commission with authority to require closed captioning capability in the devices. We seek comment.

Initial Regulatory Flexibility Analysis

8. As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making* (''NPRM''). Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the NPRM provided above. The Commission shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

A. Need for and Objectives of the Proposed Rule

9. In 1990, Congress passed the Television Decoder Circuitry Act (''TDCA''). The TDCA requires that any apparatus designed to receive television broadcast signals, manufactured or imported for use in the United States, must have the capability of displaying closed captioned information if its television screen is 33 centimeters (13 inches) or larger. In 1991, the FCC incorporated the TDCA into its rules by requiring that each broadcast receiver shipped in interstate commerce, manufactured, assembled, or imported after July 1, 1993 be capable of displaying closed captioned information if its television screen is 33 centimeters or larger. *See* 47 CFR 15.119, *Report and Order* in General Docket 91–1, 6 FCC Rcd 2419 (1991), 56 FR 27200, June 13, 1991.

10. The NPRM proposes to amend part 15 of our Rules to require that digital television receivers be capable of displaying closed captioning transmitted with television signals.

B. Legal Basis

11. The proposed action is taken pursuant to Sections 303(u) and 330(b) of the Communications Act of 1934, as amended, 47 U.S.C. Sections 303(u) and 330(b).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

12. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business'' ''small organization,'' and ''small governmental jurisdictions.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities. *See* 5 U.S.C. 601(3). Under the Small Business Act, a ''small business concern'' is one that: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). *See* 15 U.S.C. 632.

13. According to the SBA's regulations, television equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern. *See* 13 CFR 121.201, (SIC) Code 3663. Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities. *See* U.S. Department of Commerce, *1992 Census of Transportation, Communications, and Utilities,* SIC Code 3663 (issued May 1995). The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of television equipment. However, we believe that many of the companies that manufacture television equipment may qualify as small entities.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

14. The Commission's rules require television receivers to be verified for compliance with applicable FCC technical requirements. *See* 47 CFR 15.101, 15.117, and 2.951, *et seq.* Documentation concerning the verification must be kept by the manufacturer or importer. The rules adopted in this proceeding require that digital television receivers comply with industry-developed standards for closed captioning display. However, testing regarding closed captioning display is not necessary because compliance with the industry-developed standards, and the associated Commission rules, can be determined easily during the equipment design process. The Commission may, of course, ask manufacturers and importers to document upon occasion how a particular television receiver or computer system complies with the closed captioning display requirements.

E. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

15. None.

F. Federal Rules that May Duplicate, Overlap, or Conflict With the Proposed Rule

16. None.

List of Subjects in 47 CFR Part 15

Communications equipment.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–19708 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1429; MM Docket No. 99–44, RM–9469]

Radio Broadcasting Services; Stanfield, OR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission dismisses the request of Luella Hoskins seeking the allotment of Channel 241C3 to Stanfield, OR, since neither the petitioner nor any other party expressed an intent to apply for the channel, if allotted. *See* 64 FR 7842, February 17, 1999.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 99–44, adopted July 14, 1999, and released July 23, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–19685 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 78

[CS Docket No. 99–250; FCC 99–166]

Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document requests comment on amending the Commission's rules to allow private cable operators (''PCOs'') and other multichannel video programming distributors (''MVPDs'') to use the frequencies in the 12 GHz band for the delivery of video programming. This document is in response to a petition for rulemaking filed with the Commission by Optel, Inc., a PCO that provides video programming and other services to residential subscribers, requesting eligibility to use the 12 GHz Cable Television Relay Service (''CARS'') band for video programming. The Notice invites comments which will help the Commission determine the competitive impact on franchised cable resulting from the proposed expansion of eligibility for CARS licenses to PCOs and other MVPDs. The Notice also invites comments on technical and spectrum management issues relevant to expansion of CARS eligibility.

DATES: Comments are due on or before August 16, 1999 and reply comments are due on or before September 20, 1999.

ADDRESSES: Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Room TW–A325, Washington, D.C. 20554. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS) or by filing paper copies. *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (January 2, 1998). Comments filed through the ECFS can be sent as an electronic file via the Internet to <http://www.fcc.gov/e-file/ecfs.html>. Generally, only one copy of an electronic submission must be filed. In completing the transmittal screen, commenters should include their full name, Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions for e-mail comments, commenters should send an e-mail to ecfs@fcc.gov, and should include the following words in the body of the message, ''get form <your e-mail address>.'' A sample form and directions will be sent in reply.

FOR FURTHER INFORMATION CONTACT: Eloise Gore or Carolyn Fleming at (202) 418–7200 or via internet at egore@fcc.gov or cfleming@fcc.gov.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rulemaking, FCC 99–166, CS Docket No. 99–250, adopted July 9, 1999 and released July 14, 1999 (''Notice''). The full text of this Notice is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street, S.W., Washington, D.C. 20554, or may be purchased from the Commission's copy contractor, International Transcription Service (''ITS''), (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036, or may be reviewed via internet at <http://www.fcc.gov/Bureaus/Cable/News_Releases/1998/nrcb8022.html>. For copies in alternative formats, such as braille, audio cassette or large print, please contact Sheila Ray at ITS.

Ex Parte Rules

This proceeding will be treated as a ''permit-but-disclose'' proceeding subject to the ''permit-but-disclose'' requirements under Section 1.1206(b) of the rules. (47 CFR 1.1206(b), as revised). Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making oral ex parte presentations are reminded that a memorandum summarizing a presentation must contain a summary of the substance of the presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. (See 47 CFR 1.1206(b)(2), as revised.) Additional rules pertaining to oral and written presentations are set forth in 47 CFR 1.1206(b).

Synopsis of Notice of Proposed Rulemaking

Introductory Background

1. In this proceeding, we respond to a petition for rulemaking filed by Optel, Inc. (''Optel''), a PCO that provides video and other services to residential users primarily located in multiple dwelling units (''MDUs'') on a shared tenant basis. In its petition, Optel proposes to expand eligibility for the 12 GHz CARS band to include PCOs. On its own motion, the Commission seeks comment on expanding eligibility to other MVPDs. The Optel petition was filed on April 1, 1998. The Commission received comments all of which were in support of Optel's petition.

2. For purposes of the Notice, the 12 GHz frequency band is defined as the band segment 12.70—13.20 GHz shared by CARS and other services. Currently, that segment of the 12 GHz bandwidth is used by, among others, CARS licensees which provide point-to-point, *e.g.*, from one side of a river or mountain to the other side of the river or mountain, and point-to-multipoint transmissions, *e.g.*, from one side of a river or mountain to many points, video and related audio signals. Part 78 of the Commission's rules governs the

licensing and operations of fixed or mobile CARS stations; thus, if Optel's petition is granted Sections 78.11 and 78.13 which govern both the eligibility criteria and the permissible services for CARS licensees would need to be amended. Optel has also requested use of the frequency band segment from 13.20 to 13.25 GHz for delivery of video programming. However, that segment is not designated for CARS use but rather for broadcast auxiliary service (''BAS''), including on-site mobile transmissions for electronic newsgathering. The Notice seeks comment on spectrum sharing issues raised by Optel's petition as it relates to incumbent cable operators in the 12 GHz CARS band and to the compatibility between fixed PCOs and mobile BAS in the 13.20 to 13.25 band segment.

3. In its petition, Optel contends that PCOs need access to the 12 GHz CARS band because: (1) Opening the 12 GHz CARS band to PCO licensees would enhance competition with the franchised cable industry; (2) the Commission has established precedent for extending CARS eligibility to other similar users such as multipoint distribution service (''MDS'') and multichannel, multipoint distribution service (''MMDS'') operators; and (3) the 18 GHz frequency band, because of technical difficulties and recent and pending Commission rulemakings, can no longer support the services provided by the PCO industry. Optel also argues that, in the 12 GHz CARS band, it can provide more channels (up to 82 channels if the CARS band includes 13.20 GHz–13.25 GHz) and, therefore, can be more competitive with franchised cable systems.

4. The Commission's rules define a CARS station as a fixed or mobile station used for the transmission of television and related audio signals, signals of standard and FM broadcast stations, signals of instructional television fixed stations, and cable casting from the point of reception to a terminal point from which the signals are distributed to the public. (47 CFR 78.5(a)). CARS licensees are authorized to use CARS stations to relay signals for and to supply program material to cable television systems and other eligible entities using point-to-point and point-to-multipoint transmissions. (47 CFR 78.11(a), (c), (d)).

5. Optel's petition also requests amendment of Section 101.603(a)(2) to add the 12 GHz band to those frequency bands on which PCO licensees may deliver video programming and Section 101.603(b)(3) to include the 12 GHz band among those frequency bands that may be used to provide the final Radio Frequency (''RF'') link in the chain of transmission of program material to cable television systems, MDS, or Master Antenna Television Systems (''MATVs''). Part 101 of the Commission's rules governs the manner in which portions of the radio spectrum may be made available for use by private operational, common carrier, Local Multipoint Distribution Service (''LMDS''), and certain fixed microwave operations. PCOs currently obtain licenses under Part 101 for certain frequencies when their operations use microwave distribution. PCOs are permitted by Part 101 to use the 18 GHz (18.142 GHz–18.580 GHz) and 23 GHz (21.20 GHz–23.60 GHz) frequency bands to distribute video programming. Sections 78.11 and 78.13 govern both the eligibility criteria and the permissible services for CARS licensees. If at the conclusion of this rulemaking the Commission determines to extend the use of the 12 GHz CARS band to PCOs and other MVPDs, procedurally it will be sufficient to amend Section 78.13 of the Commission's rules, which would be consistent with the Commission's previous amendments to Section 78 of its rules to extend CARS eligibility to other service providers and would ensure that all users of this band for video distribution purposes are governed by the same rules and licensing criteria. No amendment to Part 101 is necessary. The Notice states that amending Part 78 to make PCOs and other MVPDs eligible for 12 GHz CARS licenses would also make them eligible for CARS licenses in the 18 GHz band, as are other current CARS licensees.

Competition in the Video Programming Distribution Industry

6. Optel maintains that it competes directly with incumbent franchised cable operators. Commenters agree with Optel's contentions with regard to the alleged competitive benefits of extending CARS eligibility to PCO licensees. RCN Telecom Services, Inc. (''RCN''), an operator of open video systems (''OVS''), argues that extending CARS eligibility to PCO licensees would establish parity between franchised cable operators who use the CARS band to relay programming material and PCO licensees who would use the 12 GHz CARS band for similar purposes. RCN believes that granting Optel's petition would result in increased competition for two reasons. First, RCN states that extending CARS eligibility to PCOs would satisfy the underlying goals of the 1996 Act by removing competitive obstacles and fostering competition. Second, RCN states that Optel correctly compares the status of PCO licensees with that of MDS licensees who were found to be competitors of franchised cable operators and eligible for CARS licenses. The Notice seeks comment on the effect on incumbent CARS licensees of permitting PCO licensees to use the 12 GHz CARS band. The Notice seeks comment as to whether the proposed use of the 12 GHz CARS band by Optel is consistent with the current channelization scheme for 12 GHz CARS licensees. The channelization scheme sets the upper and lower frequency boundaries for each assigned channel used in the CARS band. The Notice further inquires as to whether there are other technical considerations or issues of spectrum congestion or coordination among licensees which should be considered.

7. The Notice notes that PCOs currently are permitted to use 18 GHz and 23 GHz for video, as well as for data and voice. The Notice seeks comment on the costs for PCOs associated with the use of multiple frequency bands that they could use under the existing rules. Specifically, we request a detailed cost analysis and comparison, including equipment costs, comparing use of 18 GHz or 23 GHz versus use of the 12 GHz CARS band.

8. In the Notice, the Commission states its belief that Optel's petition presents an opportunity to consider expanding eligibility for the CARS band to MVPDs other than PCOs. Thus, on the Commission's own motion, the Notice seeks comment on expanding eligibility for the CARS band to entities such as OVS operators and others who provide video programming as their dominant service. An example of an MVPD which provides video programming as its dominant service is an MVPD that offers 60 channels of video programming and 2 channels of ancillary services. The Commission has stated that use of the microwave radio spectrum should be governed by type of use rather than type of licensee is applicable here. *See Amendment of Parts 21, 43, 74, 78, and 94 of the Commission's Rules Governing Use of the Frequencies in the 2.1 and 2.5 GHz Bands Affecting: Private Operational-Fixed, Microwave Service, Multipoint Distribution Service, Multichannel Multipoint Distribution Service, Instructional Television Fixed Service, and Cable Television Relay Service,* 5 FCC Rcd 6410, 6423 (1990), 55 FR 46006 (Oct. 31, 1990) (''*CARS Order*''). Based on that principle, the Commission expanded eligibility for the CARS band to MDS licensees and further stated that similarly-situated entities should have parity of access to the spectrum. In the *CARS Order*, the

Commission stated that cable and wireless cable, respectively, have similar needs for CARS frequencies and there was no evidence to justify disparate treatment with regard to use of the CARS band.

9. The Commission notes that franchised cable systems that are currently eligible for CARS licenses generally are required to provide service to an entire community. In contrast, PCOs can select those areas and buildings where they wish to provide service and ignore less desirable areas or buildings. The Notice seeks comment on whether PCOs should have the same access to CARS stations without being required to provide the same level of service. In addition, we seek comment on the conflict that could arise where a franchised cable system may be unable to serve a part of a community which it is required to serve because a PCO already has the CARS license for those frequencies. The Notice seeks comment on whether PCOs and other MVPDs would first have to exhaust their spectrum usage in the 18 GHz and 23 GHz frequency bands, as provided by Part 101 of the Commission's rules, before being eligible to use the 12 GHz CARS band. The Notice further seeks comment on whether PCO use of the 12 GHz band for CARS should be limited to secondary use where it will not interfere with cable systems or MMDS licensees that have actual plans to use a CARS station. The Notice inquires further as to whether there are other conditions or restrictions which should be imposed. For example, should the Commission limit CARS eligibility to only those PCOs with a certain minimum number of subscribers?

Technical Limitations in the 18 GHz Band

10. Optel currently uses microwave distribution centers in the 18 GHz frequency band to interconnect private cable systems to a central headend facility. Optel maintains, however, that the 18 GHz band can no longer support the range of services offered by itself and other PCOs because the propagation limitations of the 18 GHz band significantly restrict PCOs' ability to expand due to greater operating costs. Optel maintains that the signal propagation characteristics (*e.g.*, distance over which the signal remains strong) of the 18 GHz band make it unsuitable for widely distributed systems and limits growth within the PCO industry. Optel states that transmissions in the 18 GHz band have an effective range up to 8 miles and that PCOs who wish to provide service outside of the 8 mile area would be forced to build a new headend closer to the outlying systems, add microwave relay stations, or abandon expansion projects altogether. Depending upon path conditions, it has been the Commission's experience that CARS stations in the 12 GHz frequency band using Amplitude Modulated Links (AML) can travel 11–15 miles and, in the 18 GHz frequency band, 8–11 miles. The Notice also refers to section 78.108 of the Commission's rules which requires minimum path lengths of 5 km between the end points of a fixed link using the 12 GHz CARS band. The Notice seeks comment on the estimates of effective range and the assertion that PCOs need additional range and raises related questions such as should PCOs be required to demonstrate that they need to transmit over more than 10 miles before they are eligible for a CARS license? The Notice requests comment on the technical impact on PCOs which continue to operate in the 18 GHz band. The Notice also requests comment on the impact to CARS operations, including franchised cable systems that are currently CARS licensees or may need access to CARS in the future, if PCO entities are allowed access to the 12.75–13.25 GHz band. Will cable systems' transition to fiber optics obviate their need for CARS stations thus lessening any potential negative impact and making more spectrum available to other applicants, such as PCOs and other MVPDs?

Effect on PCOs of Other Ongoing Commission Rulemakings

11. Optel contends that PCOs need access to the 12 GHz CARS frequency band because certain ongoing Commission rulemaking proceedings threaten to limit PCOs' use of the 18 GHz frequency band. Specifically, Optel argues its ability to compete with franchised cable operators in the Denver, CO and the Washington, D.C. markets has been limited by the Commission's decision to relocate Digital Electronic Message Services (''DEMS'') in connection with the establishment of ''exclusion zones.'' Optel further argues that its continued existence in the 18 GHz frequency band would be impaired by the grant of blanket licenses to fixed satellite service (''FSS'') users in the 18 GHz band as proposed in the *Notice of Proposed Rulemaking, Redesignation of the 17.7–19.7 GHz Frequency Band, Blanket Licensing of Satellite Earth Stations in the 17.7–20.2 GHz and 27.5–30.0 GHz Frequency Bands, and the Allocation of Additional Spectrum in the 17.3–17.8 GHz and 24.75–25.25 GHz Frequency Bands for Broadcast Satellite Service Use*, FCC 98–235, 63 FR 54100 (Oct. 8, 1998) (''*Redesignation NPRM*''). Currently, the 17.70 to 19.70 GHz band is allocated for shared use between satellite services and terrestrial fixed services. If the *Redesignation NPRM* is adopted as proposed, Optel and other terrestrial fixed services would lose their current co-primary status in the 18.30 GHz-18.55 GHz and 18.80 GHz-19.30 GHz bands but gain primary status in the 17.70 Ghz-18.30 Ghz bands. The Commission has determined that fixed services can continue to file for authorization to use these bands, but after the adoption of a Report and Order in *Redesignation NPRM* proceeding, such applications would be accorded secondary status to promote exclusive use of this spectrum by satellite operations. The Commission has explained that a service that is designated as co-primary must share a frequency band with other services designated as co-primary on a co-equal basis and that a service designated as secondary may use a frequency band as long as its operations do not cause interference to any primary designated operations. If interference occurs, the secondary designated service must cease operations. The Notice seeks comment on whether the increasing constraints that will be presented for terrestrial services at 18 GHz warrants making the 12 GHz CARS band available for PCO service, or whether other alternatives, such as 23 GHz, or use of fiber optic cable, can reasonably provide necessary capacity.

12. The Notice also takes note of another ongoing Commission proceeding that raises spectrum sharing issues with regard to the 12 GHz frequency bandwith, *i.e., In the Matter of Amendments of Parts 2 and 25 of the Commission's Rules to Permit Operation of NGSO FSS Systems Co-Frequency with GSO and Terrestrial Systems in the Ku-Band Frequency Range and Amendment of the Commission's Rules to Authorize Subsidiary Terrestrial Use of the 12.2–12.7 GHz Band by Direct Broadcast Satellite Licensees and Their Affiliates, Notice of Proposed Rulemaking* (''*NGSO 12 GHz NPRM*''), 64 FR 1786 (Jan. 12, 1999). Among other issues, the *NGSO 12 GHz NPRM* responds to a petition filed by SkyBridge LLC requesting that the Commission allow NGSO FSS gateway earth stations earth-to-space links in the CARS frequencies at 12.75 GHz-13.25 GHz on a co-primary basis, subject to appropriate coordination and spectrum sharing requirements. The *NGSO 12 GHz NPRM* takes notice of the Optel petition and requests comments on the

compatibility between new NGSO FSS operations and Optel's proposed use of the 12 GHz frequency band. As noted in the *NGSO 12 GHz NPRM,* 12.75–13.25 GHz is currently subject to heavy usage. Optel's request for use of the 12 GHz CARS band and that of SkyBridge, if granted, could greatly increase the terrestrial use of the 12 GHz band, although Optel's use of the 12 GHz CARS band for point-to-point and point-to-multipoint relay of signals will not differ from the current use of the band by CARS licensees. Spectrum sharing issues with respect to the proposed NGSO FSS operations in the 12.75–13.25 GHz band will be considered in ET Docket No. 98–206. Consideration of these issues need not be repeated in this docket. The Notice invites comment in this proceeding only on any additional issues specifically related to the question of expanding CARS eligibility.

Other Issues

13. The Commission, pursuant to 309(j) of the Telecommunications Act of 1996, is required to implement a system of competitive bidding when mutually exclusive applications are accepted for filing for any initial license or permit involving use of the spectrum. Currently CARS licenses are not auctioned. However, if the Commission determines that opening the CARS band to PCOs and other MVPDs creates mutually exclusive applications, the CARS spectrum would be subject to auction. Alternatively, the Commission could adopt priority of use rules, which would avoid mutual exclusivity and the auctioning of the CARS spectrum. The Notice seeks comment on the effect of auctioning CARS spectrum or adopting priority of use rules. The Notice also seeks comment on the applicability of the Commission's Part 1 auction rules to this service in the event the Commission decides to award CARS licenses through competitive bidding. The Notice also seeks comment on whether the Commission should adopt a minimum subscriber requirement to avoid permitting a PCO with a small number of subscribers to use a CARS station that could have been licensed, instead, to a cable system serving significantly more subscribers. Another option for consideration and comment is granting PCOs and other MVPDs secondary, but not primary, eligibility for using the 12 GHz CARS band.

14. Some PCOs currently use 18 GHz or 23 GHz to bundle data, voice, video and other services in one package for their customers. The 12 GHz CARS band must be used principally for the delivery of video programming. The Notice does not propose to change the principal use of CARS as a tool for relaying video programming between and among the components of a cable or other eligible system. However, we seek comment on whether and to what extent CARS licensees should be permitted to provide voice or data using the 12 GHz CARS band provided the principal use remains the delivery of video programming and subject to existing technical and operating requirements.

15. The Commission, on its own motion, seeks comment on the realignment and the reassignment of the channel frequency assignments set forth in Section 78.18(a) of the Commission's rules to provide for more efficient use of channels by facilitating continuous channel transmissions. Specifically, the Notice seeks comments on: (1) designating the unassigned guard band (12.9465–12.9525 GHz) as channel C43, and the unassigned second guard band (13.0057–13.0125) as channel D43; and (2) allowing CARS operators to slightly shift the frequencies of channels C04–C10, channels D04–D10, channels E04–E10, and channels F04–F10 to produce 6–6 MHz video channels for each channel group (i.e., C group, D group, E group, and F group). Currently, applicants must seek waivers for a change in the frequency assignments pursuant to Section 78.18 of the Commission's rules for such minor frequency shifts and to use the guard band. The Notice also seeks comment on whether other changes in frequency assignments are necessary to provide for more seamless and efficient use of the CARS frequency spectrum.

Paperwork Reduction Act

The requirements proposed in this Notice have been analyzed with respect to the Paperwork Reduction Act of 1995 and do not impose new or modified information collection requirements on the public.

OMB Approval Number: None.

Title: In the Matter of Petition for Rulemaking To Amend Eligibility Requirements in Part 78 Regarding 12 GHz Cable Television Relay Service.

Type of review: None.

Initial Regulatory Flexibility Analysis: As required by Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, the Commission is incorporating an Initial Regulatory Flexibility Analysis (''IRFA'') of the expected impact on small entities of the policies and proposals in this Notice of Proposed Rulemaking. Written public comments concerning the effect of the proposals in the NPRM, including the Initial Regulatory Flexibility Act, on small businesses are requested. Comments must be identified as responses to the IRFA and must be filed by the deadlines for the submission of comments in this proceeding. The Secretary shall send a copy of this NPRM, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

A. Reasons Why Agency Action is Being Considered

This Notice is in response to a petition for rulemaking filed by Optel.

B. Need for Action and Objectives of the Proposed Rule Change

The Commission undertakes this proceeding to address the spectrum sharing and technical issues presented by Optel's petition. Optel's petition, if granted, could increase competition to incumbent, franchised cable operators, particularly with regard to video programming service to multi-dwelling units. While we desire to promote competition and innovation by allowing for new services or additional spectrum use, we also need to consider the competing interests of the incumbent services in the 12 GHz CARS band. The Notice notes the need to consider the impact on PCOs of recent and pending Commission rulemakings involving the 18 GHz band. Thus, the Notice seeks comment on whether the proposed blanket licensing of GSO/FSS operators in the 18 GHz will unduly constrain future growth of incumbent PCO users.

C. Legal Basis

The authority for the action proposed for this rulemaking is contained in Sections 4(i)–(j), 303(c), (f), (g), and (r), and 309(j) of the Communications Act of 1934, as amended.

D. Description and Estimate of the Number of Small Entities Impacted

The IRFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the proposed rules. The IRFA defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small business concern'' under Section 3 of the Small Business Act. Under the Small Business Act, a small business concern is one which: (1) is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration.

Private Cable Operators

The proposal to permit PCOs to use the 12 GHz CARS band applies to all

private cable system operators. The Commission has developed, with the approval of the Small Business Administration (''SBA''), its own definition of a small cable system operator for rate regulation purposes. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. Based on our most recent information, the Commission estimates that there were 3,400 private cable operators serving multiple dwelling units that qualified as small cable companies. Some of those companies may have grown to serve from 800,000 to 1.5 million subscribers, and others may have been involved in transactions that caused them to be combined with other cable operators. Consequently, the Commission estimates that there are fewer than 3,400 small entity cable system operators that may be affected by the decisions and rules the Commission adopts.

E. Reporting, Recordkeeping, and Other Compliance Requirements

The Commission is not proposing to impose additional reporting or recordkeeping requirements.

F. Significant Alternatives Which Minimize the Impact on Small Entities and Are Consistent With Stated Objectives

The NPRM solicits comments on all alternatives to Optel's request which would minimize any adverse impact on small entities.

G. Federal Rules Which Overlap, Duplicate, or Conflict With the Commission's Proposal

None.

H. Report to Congress

The Commission shall send a copy of this IRFA along with this Notice in a report to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, codified at 5 U.S.C. 801(a)(1)(A). A copy of this IRFA will also be published in the **Federal Register**.

Ordering Clauses

It is ordered that, pursuant to Sections 4(i)–(j) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i)–(j), 303(c), (f), and (r), and 309(j), notice is hereby given of the proposed amendments to part 78 of the Commission's rules, in accordance with the proposals, discussions, and statements of issues contained in this Notice of Proposed Rulemaking, and that comment is sought regarding such proposals, discussions, and statements of issues.

It is further ordered that the Commission's Office of Public Affairs, Reference Operations Division, shall send a copy of this Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of Small Business Administration, in accordance with paragraph 603(a) of this regulatory Flexibility Act. Public Law 96–354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

List of Subjects in 47 CFR Part 78

Cable television, Communications equipment.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

[FR Doc. 99–19709 Filed 7–30–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of 90-Day Finding on Petition To Delist the Concho Water Snake

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 90-day petition finding.

SUMMARY: We, the Fish and Wildlife Service (Service) announce a 90-day finding for a petition to delist the Concho water snake (*Nerodia paucimaculata*) under the Endangered Species Act of 1973, as amended. We find that the petitioner did not present substantial information indicating that delisting this species may be warranted.

DATES: The finding announced in this document was made on July 13, 1999.

ADDRESSES: Comments, material, information, or questions should be sent to the Supervisor, U.S. Fish and Wildlife Service, Ecological Services, 10711 Burnet Road, Suite 200, Austin, Texas 78758. The petition and supporting data are available for public inspection by appointment during normal business hours at the above address. A copy of the finding announced in this notice may be obtained by writing to the above address.

FOR FURTHER INFORMATION CONTACT: Patrick Connor, Fish & Wildlife Biologist, at the above address (telephone 512–490–0057 ext. 227).

SUPPLEMENTARY INFORMATION:

Background

Section 4(b)(3)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information to demonstrate that the petitioned action may be warranted. To the maximum extent practicable, we must make this finding within 90 days of the date the petition is received, and this finding must be published promptly in the **Federal Register**. If the finding is that the petitioner has presented substantial information we must then promptly commence a status review of the species.

When evaluating whether the substantial information standard is met, we use the definition provided in the implementing regulations at 50 CFR 424.14(b). Substantial information is defined as ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted.'' The factors for listing, delisting or reclassifying species are described in 50 CFR 424.11. We may delist a species only if the best scientific and commercial data available substantiate that it is neither endangered nor threatened. Delisting may be based on one of the following reasons—(1) extinction, (2) recovery, or (3) original data for classification were in error.

On June 29, 1998, we received a petition by John W. Grant on behalf of the Colorado River Municipal Water District (CRMWD) dated June 24, 1998, to delist the Concho water snake (CRMWD 1998). The petition asserts that—(1) the status of the Concho water snake was stable at the time of listing and continues to be stable, (2) all putative threats are insubstantial, and (3) the determination that the Service made to list the snake as threatened was in error. After careful review, we find that the snake should remain classified as threatened under the Act.

The Concho water snake is endemic to the Concho and Colorado rivers in Runnels, Tom Green, Concho, McCulloch, Coleman, Brown, Mills, San Saba, Irion, Lampasas, and Coke counties, Texas. We listed the Concho water snake as threatened on September 3, 1986, due in part, to its limited geographic range, limited population sizes, and loss of important habitats and prey base resulting from water development projects (past, ongoing, and future) (51 FR 31412). We designated critical habitat for the species on June 29, 1989 (54 FR 27377).

Information presented in the petition indicates that, in the 15 areas monitored by CRMWD and in certain reaches of O.H. Ivie Reservoir's shoreline, Concho water snake populations persist. The voluminous data on the snake and its fish preybase submitted by the petitioner provides a detailed picture of snake's status at the CRMWD and Texas A&M University monitoring sites. However, as discussed in the petition, due to limitations in site visits and resultant low number of recaptures, CRMWD biologist were unable to make precise local Concho water snake population size estimates.

The current range of the Concho water snake is similar to when the species was listed 13 years ago. The snake's primary habitat remains riverine (located on or inhabiting the bank of a river). This habitat is threatened by inadequate instream flows to support the fish preybase for the snake. Each of the three major riverine sections (Concho River, Colorado River from Spence Reservoir to O.H. Ivie Reservoir, and Colorado River downstream of O.H. Ivie Reservoir) of the snake's range are downstream of reservoirs. Operations at these reservoirs (O.C. Fisher, Lake Nasworthy, Twin Buttes, E.V. Spence, and O.H. Ivie) can affect instream flows for snakes and their prey for significant periods of time.

In a biological opinion for the U.S. Army Corps of Engineers we identified instream flows (including flushing flows for channel maintenance) below Spence and Ivie reservoirs in our reasonable and prudent alternatives. If we delist the Concho water snake, the requirements of the biological opinion would no longer be in effect.

CRMWD biologists made multiple preybase surveys using seines at the 15 required monitoring sites, as well as other sites. The small fishes in these surveys, upon which snakes are known to feed, are variable in numbers from year to year but generally do not appear to have been a limiting factor for local populations during this period. However, if instream flows are inadequate there will be a decrease in Concho water snake prey.

We do not agree with statements made in the petition that reductions in stream flow are not (and will not be) a problem. Low flow conditions exacerbate any significant pollution problems (i.e. increases in nutrients and/or toxic compounds). If those conditions persist long enough (perhaps for as little as three years), water snakes in those reaches will be at risk of extirpation. The demise of the Concho water snake population below E.V. Spence Reservoir following its construction is likely related to inadequate instream flows (reservoir releases). Scott *et al.* (1989) found certain reaches of the Colorado River ''too dry for too long to support water snake populations.''

Since the early 1930s, at least five major droughts occurred State-wide in Texas lasting multiple years and disrupting normal use of the State's water resources (U.S. Geological Service 1991). An inadequate instream flow regime remains one of the most serious threats to the snake due to the prevalence of droughts in Texas.

According to information presented in the petition, in the years following the inundation of riverine habitat by O.H. Ivie Reservoir, Concho water snakes survived and reproduced in the reservoir. However, blockage to Concho water snake movement by Freese Dam and the discontinuous nature of some of the reservoir habitat remain as potential barriers to gene flow between populations. In addition, available information does not enable precise estimates on the size or health of the snake population on O.H. Ivie Reservoir. Despite indications that Concho water snakes have been able to survive for a decade, the mid-term and long-term fate of the Concho water snake in O.H. Ivie Reservoir remains uncertain. Examination of the data presented suggests that the abundance of snakes is variable among reservoirs and in general less than the abundance of snakes in suitable riverine habitat. Information presented and available to us indicates that habitat loss from water development and diversion projects remains a threat.

The information presented in the petition indicates that, at least in the early successional stages of O.H. Ivie Reservoir, snakes have been able to survive. However, in the course of the life of reservoirs such as O.H. Ivie, sediment will deposit in the upper reaches of the reservoir. Over time and depending on various conditions in the watershed, upper O.H. Ivie will likely become less suitable snake habitat. Furthermore, changes to the reservoir's fishery due to stockings of game fish and degradation of cover and structure may adversely affect Concho water snake prey availability. While Concho water snakes are somewhat flexible in their response to changes in prey items, an event that would result in the reduction of preferred size food items (e.g, small minnows for juvenile snakes) could affect the species' ability to sustain current population levels. If such an event lasted multiple years, we would expect the snake population to decline. Recruitment would be reduced and populations would decline.

Another factor that threatens the Concho water snake is the fragmentation and isolation of populations resulting from habitat disturbance and from physical barriers such as the Freese Dam. The petition discusses fragmentation citing the Concho water snake genetics study of Sites and Densmore (1991). There is general agreement on several issues—(1) the distribution of the Concho water snake is a linear array of demes (a series of local populations) connected with occasional gene flow and associated with specific habitat features such as riffles (a section of a river characterized by swifter currents, shallow depths and broken water with turbulence or waves at the surface); (2) the Freese Dam poses a barrier to water snake movement both upstream and downstream; (3) mitigation against fragmented habitats and conservation of the Concho water snake require the artificial movement of Concho water snakes between (a) the Colorado River below Freese Dam and the Concho River and (b) the Colorado River below Freese Dam and the Colorado River above Ivie Reservoir; and (4) water snakes (*Nerodia* spp.) in general and Concho water snakes specifically have very low levels of genetic variation.

The petition states that the Ivie Reservoir population effectively connects the Concho and upper Colorado River populations. However, two issues remain that indicate the reservoir itself may be a barrier—(1) the current discontinuity of habitat patches along the reservoir shoreline along with the variability with which Concho water snakes occupy those patches and (2) more importantly, the ultimate fate of (a) the reservoir's physical habitats in the upper reaches and (b) the Concho water snake reservoir populations.

One significant point not addressed by the petition is the wide variability in the health of Concho water snake reservoir populations. Concho water snakes are probably absent from the lakes of the San Angelo area. Available information dating to Martin Whiting's thesis (1993) indicates that the Spence Reservoir population is limited with probably less than 200 individual snakes total ($n < 200$ total) for his two study sites. Additionally, Whiting found no evidence that the two Spence Concho water snake populations (Pecan Creek and Pump Station populations) exchanged individuals even though they were in the same general area of the reservoir separated by about 2,000 meters (m) or (6,562 feet (ft)).

The likelihood of survival of Concho water snakes in specific reservoirs is likely to be dependent upon a variety of factors such as—(1) reservoir hydrology (inflows to and outflows/diversions from the lake); (2) the time scale chosen (changes to water snake habitats found along the shoreline and the shallow parts of a lake may occur over several decades as opposed to years); limnology (study of freshwater systems such as lakes ponds and rivers and their plant and animal communities as they are affected by their physical, chemical, and biotic environment); and (4) continuity and connectivity with other Concho water snake populations. The persistence of the Concho water snake in Spence Reservoir does not assure us that the snake will persist in Ivie Reservoir. The two reservoirs differ in their hydrology, and we believe more data are needed to understand the fate of the Concho water snake in Ivie Reservoir area.

Finding

In addition to the analysis discussed above, we evaluated the petition in the context of the snake's recovery criteria as set forth in the species' recovery plan (Service 1993). We will consider the Concho water snake for delisting when—(1) Adequate instream flows are assured; (2) viable populations are present in each of the three major reaches * * *; and (3) movement of an adequate number of snakes is assured to counteract the adverse effects of population fragmentation. Importantly, the petition does not address criterion one. In regards to criterion two, while Concho water snake population in each of the three major reaches are stable, there is no reliable data available to indicate that these populations remain viable. Viable populations are self-sustaining and can persist for the long-term (Soulé 1987).

We believe the information provided by the petitioner has added to our knowledge of the distribution and abundance of the Concho water snake. However, the petition lacks adequate information upon which to evaluate the long-term viability of individual populations. Further investigations are needed to understand the various factors important to the snake's long-term viability, including range wide monitoring, and the future distribution of habitat patches, whether occupied and unoccupied, including those at the O.H. Ivie Reservoir.

In summary, the petition fails to provide information indicating that any of the three criteria for delisting (from the recovery plan) are met. Further, the impact of declining instream flows (due to drought and/or water diversions), long term changes to lake habitats, pollution, and other habitat threats on the riffle-dwelling fish in the Concho and Colorado rivers are not addressed in the petition.

References Cited

Colorado River Municipal Water District. 1998. Petition to delist the Concho water snake. Submitted to United States Department of the Interior and Texas Parks and Wildlife Department. pp. 33 + appendices a–c.

Scott, N.J., Jr., T.C. Maxwell, O. W. Thornton, Jr., L.A. Fitzgerald, and J.W. Flury. 1989. Distribution, habitat, and future of Harter's water snake, Nerodia harteri, in Texas. Journal of Herpetology 23(4): 373–389.

Soulé, M.E. 1987. Introduction. In: Viable Populations for Conservation. M.E. Soulé, editor. Cambridge Univ. Press. New York. 189 pp.

U.S. Fish and Wildlife Service. 1993. Concho Water Snake Recovery Plan. Albuquerque, New Mexico vii+66 pp.

Whiting, M.J. 1993. Population ecology of the Concho water snake, Nerodia harteri paucimaculata, in artificial habitats. Unpublished M.S. thesis. Texas A&M University. xvi+137 pp.

Author: The author of this document is Patrick Connor, Austin Ecological Services Field Office (see **ADDRESSES** section).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 13, 1999.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–19711 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 072099F]

Gulf of Mexico Fishery Management Council; Public Hearings

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

ACTION: Notice of public hearings; request for comments.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will convene a series of 10 public workshops on the possible use of marine reserves as a fishery management tool in Federal waters of the Gulf of Mexico.

DATES: Written comments will be accepted until 5 p.m. on September 13, 1999. The public workshops will be held from August 9 through 24, 1999. See **SUPPLEMENTARY INFORMATION** for specific dates and times of the public hearings.

ADDRESSES: Written comments should be sent to the Gulf of Mexico Fishery Management Council, 3018 U.S. Highway 301, North, Suite 1000, Tampa, Florida 33619. Copies of the scoping documents that will be used at the workshops (Marine Reserves for Fisheries Management: Questions and Answers; and Marine Reserves Technical Document) can be obtained from the Council office at 813-228-2815; web site: http://www.gulfcouncil.org.

FOR FURTHER INFORMATION CONTACT: Steven Atran, Population Dynamics Statistician, Gulf of Mexico Fishery Management Council; (813) 228–2815; Fax: 813–225–7015.

SUPPLEMENTARY INFORMATION: These workshops are to introduce the concept of marine reserves, i.e., zones of restricted or no fishing, to the public, to solicit public comment on whether they are an appropriate tool to use for fishery management in the Gulf of Mexico, and if so, how they should be used. No specific options to create marine reserves will be presented at these workshops, but the the Council will consider comments provided by the workshop participants in deciding whether and how to proceed with the development of marine reserves. The Council intends to use an outside facilitator to gain the greatest amount of input from participants and avoid any perceptions of bias.

The workshops will be held from 7:00 p.m. to 10:00 p.m. at the following locations:

1. Monday, August 9, 1999—Four Points Sheraton, 3777 North Expressway, Brownsville, TX; telephone: 956–547–1500;
2. Tuesday, August 10, 1999—Ellis Memorial Library, 700 West Avenue A, Port Aransas, TX; telephone: 512–749–4116;
3. Wednesday, August 11, 1999—Texas A&M University Auditorium, 200 Seawolf Parkway, Galveston, TX; telephone:
409–740–4416;
4. Thursday, August 12, 1999—Four Points Sheraton, 333 Poydras Street, New Orleans, LA; telephone: 504–525–9444;
5. Monday, August 16, 1999—J. L. Scott Marine Education Center & Aquarium, 115 East Beach Boulevard, Biloxi, MS; telephone: 228–374–5550;
6. Tuesday, August 17, 1999—Hilton Beachfront Garden Inn, 23092 Perdito

Beach Boulevard, Orange Beach, AL; telephone:
334–974–1600;

7. Wednesday, August 18, 1999—The Boardwalk Beach and Conference Center, 9600 South Thomas Drive, Panama City Beach, FL; telephone: 850–234–3484;

8. Thursday, August 19, 1999—Steinhatchee Elementary School, 1st Avenue South, Steinhatchee, FL; telephone:
352–498–3303;

9. Monday, August 23, 1999—Harvey Government Center, 1200 Truman Avenue, Key West, FL; telephone: 305–292–4431; and

10. Tuesday, August 24, 1999—Radisson Bay Harbor Inn, 7700 Courtney Campbell Causeway, Tampa, FL; telephone: 813–281–8900.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Anne Alford at the Council (see **ADDRESSES**) by August 2, 1999.

Dated: July 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19642 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 64, No. 147
Monday, August 2, 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.

JOINT BOARD FOR THE ENROLLMENT OF ACTUARIES

Meeting of the Advisory Committee; Meeting

AGENCY: Joint Board for the Enrollment of Actuaries.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Executive Director of the Joint Board for the Enrollment of Actuaries gives notice of a closed meeting of the Advisory Committee on Actuarial Examinations in Chicago, IL at the Wyatt Company on September 27, 1999.

DATES: The meeting will be held on September 27, 1999 from 8:30 AM to 5 PM.

ADDRESSES: The meeting will be held in the Board Room on the twenty-fourth floor of the Wyatt Company, 303 West Madison Street, Chicago, IL.

FOR FURTHER INFORMATION CONTACT: Patrick W. McDonough, Director of Practice and Executive Director of the Joint Board for the Enrollment of Actuaries, 202–694–1805.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Advisory Committee on Actuarial Examinations will meet in the Board Room on the twenty-forth floor of the Wyatt Company, 303 West Madison Street, Chicago, IL on Monday, September 27, 1999 from 8:30 AM to 5 PM.

The purpose of the meeting is to discuss topics and questions which may be recommended for inclusion on future Joint Board examinations in actuarial mathematics, pension law and methodology referred to in 29 U.S.C. 1242(a)(1)(B).

A determination has been made as required by section 10(d) of the Federal Advisory Committee Act (Public Law 92–463) that the subject of the meeting falls with the exception to the open meeting requirement set forth in Title 5 U.S.C. 552(c)(9)(B), and that the public interest requires that such meeting be closed to public participation.

Dated: July 27, 1999.

Patrick W. McDonough,

Advisory Committee Manager Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc. 99–19768 Filed 7–30–99; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Notice of Solicitation for Membership to the National Agricultural Research, Extension, Education, and Economics Advisory Board

AGENCY: Research, Education, and Economics, USDA.

ACTION: Solicitation for membership.

SUMMARY: In accordance with the Federal Advisory Committee Act, 5 U.S.C. App., the United States Department of Agriculture announces solicitation for nominations to fill one vacancy as a result of a resignation on the National Agricultural Research, Extension, Education, and Economics Advisory Board.

DATES: Deadline for Advisory Board member nominations is August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Deborah Hanfman, Executive Director, National Agricultural Research, Extension, Education, and Economics Advisory Board, Research, Education, and Economics Advisory Board Office, Room 3918 South Building, U.S. Department of Agriculture, STOP: 2255, 1400 Independence Avenue, SW, Washington, DC 20250–2255. Telephone: 202–720–3684. Fax: 202–720–6199, or e-mail: lshea@reeusda.gov.

SUPPLEMENTARY INFORMATION: Section 802 of the Federal Agricultural Improvement and Reform Act of 1996 (The Farm Bill) authorized the creation of the National Agricultural Research, Extension, Education, and Economics Advisory Board. The Board is composed of 30 members, each representing a specific category related to farming or ranching, food production and processing, forestry research, crop and animal science, land-grant institutions, food retailing and marketing, rural economic development, and natural resource and consumer interest groups, among many others. The Board was first appointed in September 1996 and one-third of the 30 members were appointed for a 1, 2, and 3 year term, respectively.

As a result of a resignation, a vacancy has resulted and will be filled for the remaining 1-year term which will expire September 30, 2000. Nominees will be carefully reviewed for their broad expertise, leadership, and relevancy to a category. The vacancy is for Category:

S. Transportation of Food and Agricultural Products (foreign and domestic) Nominations are being solicited from organizations, associations, societies, councils, federations, groups, and companies that represent a wide variety of food and agricultural interests. Please indicate that your nomination is for Category S for each nominee. Each nominee must fill out a form AD–755, ''Advisory Committee Membership Background Information'' (which can be obtained from the contact person below) and will be vetted before selection. Send nominatee's name, resume, and their completed AD–755 to the Office of the Advisory Board, Research, Education, and Economics, Room 3918 South Building, Department of Agriculture, Washington, DC 20250–2255 no later than August 13, 1999.

Done at Washington, D.C., this 28th day of July 1999.

Eileen Kennedy,

Deputy Under Secretary, Research, Education, and Economics.

[FR Doc. 99–19750 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Request for Proposals for Grants for Emergency Assistance to Low Income Migrant and Seasonal Farmworkers

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This Notice requests proposals to assist migrant and seasonal farmworkers under the terms of the Emergency Supplemental Appropriations Act of FY 1999, Public Law 106–31 which made available $20,000,000 for this purpose.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Juan Marinez of the Cooperative State Research, Education, and Extension Service at 202–720–3430.

SUPPLEMENTARY INFORMATION: The Emergency Supplemental Appropriations Act of FY 1999, Pub. L. 106–31, signed into law on May 21, 1999, made available $20,000,000, to assist low income migrant and seasonal farm workers. This Notice requests proposals from public agencies or private organizations with tax exempt status under section 501(c)(3) of title 26 United States Code, that have experience in providing emergency services to low income migrant and seasonal farmworkers where the Secretary determines that a local, State, or national emergency or disaster has caused low income migrant or seasonal farmworkers to lose income, be unable to work, or to stay at home or return home in anticipation of work shortages. The types of service could include assistance in meeting rent or mortgage payments, utility bills, child care, transportation, school supplies, food, repair or rehabilitation of farmworker housing (not restricted to units financed by the Rural Housing Service), facilities related to farmworker housing such as an infirmary for emergency care of a child care facility, and the construction of new farmworker housing units. Prospective applicants should be aware they need to be in compliance with 7 CFR parts 3016 and 3019, which establish the uniform administrative requirements for grants and cooperative agreements to state and local governments and to non-profit organizations, as applicable.

Eligibility to Submit Proposals

Eligibility to submit proposals under this Notice is limited to States and local non-profit community development organizations with experience in delivering direct emergency assistance to farmworkers and their families.

DATES: The deadline for receipt of proposals in response to this Notice is 5:00 p.m. eastern daylight savings time, August 15, 1999. Proposals submitted after this deadline will not be accepted. Applicants intending to mail proposals must provide sufficient time to permit delivery on or before the closing deadline. Proposals will be accepted by Electronic Mail at,jmarinez@usda.gov, or by facsimile copy at 202–720–8987. Acceptance by a post office or private mailer does not constitute delivery. Postage due or COD proposals will not be accepted.

ADDRESSES: Proposals must be sent to Juan Marinez, Cooperative State Research, Education, and Extension Service, Room 305A Whitten Bldg., Mail Stop 2201, U.S. Department of Agriculture, 14th Street and Independence Ave., SW, Washington, DC 20250–0320.

Proposal Processing Deadlines

The deadline for the receipt of proposals is 5:00 p.m. eastern daylight savings time, August 15, 1999. Because of the relatively short time frame for processing selected proposals to permit obligation of the funds by September 30, 1999, the following review and processing time frames have been established:

August 15, 1999—Receipt of proposals closes.

August 31, 1999—Proposals reviewed and ranked by National Office staff.

September 30, 1999—Deadline for obligations of funds.

Discussion of Notice

Emergency grants to assist low income migrant and seasonal farmworkers are authorized by section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990. Grant assistance must be made available in an area experiencing a local emergency or a State or national disaster declaration. Proposals for this grant assistance must contain the nature and the date of the emergency or disaster and specifically identify the experience of the applicant in delivering such assistance to low income migrant or seasonal farmworkers defined as an individual:

(1) Who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages;

(2) Who has received not less than one-half of such individual's total income, or been employed at least one-half of total work time in farm work; and

(3) Whose annual family income within the 12 month period referred to in paragraph (1) does not exceed the higher of the poverty level or 70 percent of the lower living standard income level. The latter was defined in a Department of Labor, **Federal Register** Notice, dated May 6, 1998, Volume 63, No. 87, p. 25086. Copies of that Notice shall be made available on request.

Evaluation of Proposals

Evaluation and Scoring Criteria: Proposals will be evaluated by a team representing the appropriate Mission Areas in USDA. Proposals will be evaluated by the types of assistance to be provided to migrant and seasonal farmworkers. Because the types of assistance may differ depending on the geographic area to be served, and the nature of the disaster or emergency experienced, equal weight will be applied to each form of assistance to be rendered.

Proposals will be scored on the following basis:

- Experience of applicant providing emergency services.
- Number of farmworkers affected by the emergency.
- Number of farmworkers to be assisted by the proposal.
- Economic and social benefits to the farmworkers and their families from the services to be provided.

Dated: July 21, 1999.

Dan Glickman,

Secretary.

[FR Doc. 99–19751 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–01–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Center for Nutrition Policy and Promotion

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Disease Prevention and Health Promotion

Dietary Guidelines Advisory Committee: Meeting Notice

AGENCIES: Department of Agriculture and Department of Health and Human Services.

ACTION: Dietary Guidelines Advisory Committee: Notice of the fourth meeting, and opportunity to provide written comments.

SUMMARY: The Department of Agriculture (USDA) and the Department of Health and Human Services (HHS) (a) provide notice of the fourth meeting of the Committee, and (b) solicit written comments.

DATES: (1) The Committee will meet on September 7–9, 1999, from 8:45 a.m. to 5:30 p.m. on the first day, from 8:45 a.m. to 5:30 p.m. on the second day, and from 8:45 a.m to 5 p.m. on the third day. (2) Written comments on the guidelines may be submitted by 5 p.m. d.s.t. on August 18, 1999, to ensure transmission to the Committee prior to this meeting.

FOR FURTHER INFORMATION CONTACT: Shanthy Bowman, Ph.D., USDA, Agricultural Research Service, Nutrient Data Laboratory, 4700 River Road, Unit 89, Room 6D61, Riverdale, MD 20737, (301) 734–5640; Carole Davis, M.S.,

R.D., USDA Center for Nutrition Policy and Promotion, 1120 20th St., NW, Suite 200 North Lobby, Washington, DC 20036, (202) 418–2312; or Kathryn McMurry, M.S. or Linda Meyers, Ph.D., HHS, Office of Disease Prevention and Health Promotion, Office of Public Health and Science, Room 738–G, 200 Independence Ave., SW, Washington, DC 20201, (202) 205–4872.

SUPPLEMENTARY INFORMATION:

Dietary Guidelines Advisory Committee

The eleven-member Committee appointed by the Secretaries of the two Departments is chaired by Cutberto Garza, M.D., Ph.D., Cornell University, Ithaca, New York. Other members are Richard J. Deckelbaum, M.D., Columbia University, New York, New York; Johanna T. Dwyer, D.Sc., R.D., Tufts University, Boston, Massachusetts; Scott M. Grundy, M.D., Ph.D., University of Texas, Dallas, Texas; Rachel K. Johnson, Ph.D., R.D., University of Vermont, Burlington, Vermont; Shiriki K. Kumanyika, Ph.D., M.P.H., R.D., University of Pennsylvania School of Medicine, Philadelphia, Pennsylvania; Alice H. Lichtenstein, D.Sc., Tufts University, Boston, Massachusetts; Suzanne P. Murphy, Ph.D., R.D., University of Hawaii, Honolulu, Hawaii; Meir J. Stampfer, M.D., Dr.P.H., Harvard School of Public Health, Boston, Massachusetts; Lesley Fels Tinker, Ph.D., R.D., Fred Hutchinson Cancer Research Center, Seattle, Washington; and Roland L. Weinsier, M.D., Dr.P.H., University of Alabama at Birmingham, Birmingham, Alabama.

Announcement of Meeting

The Committee's fourth meeting will be September 7–9, 1999 from 8:45 a.m. to 5:30 p.m. on the first day, from 8:45 a.m. to 5:30 p.m. on the second day, and from 8:45 a.m to 5 p.m. on the third day. The meeting is open to the public. However, space is limited for all sessions. Please call Shanthy Bowman at (301) 734–5640 by 5 p.m. d.s.t. August 18, 1999, should you require a sign language interpreter.

Location of Meeting

The meeting will be held at the Waugh Auditorium located on the third floor of USDA's Economic Research Service, 1800 M Street NW, Washington DC, one block from Farragut North metro station and three blocks from the Farragut West metro station. Parking is available at local garages. Entry to the building is through the South Lobby Tower. The agenda will include (a) discussion of drafts prepared by members and (b) formulation of plans for future work of the Committee.

Written Comment

By this notice, the Committee is soliciting submission of written comments, views, information and data pertinent to review of the Dietary Guidelines for Americans. Written comments will be accepted throughout the process. To be considered for the fourth meeting, comments should be submitted by 5 p.m. d.s.t. August 18, 1999. Comments should be sent to Shanthy Bowman Ph.D., at Department of Agriculture, Agricultural Research Service, Nutrient Data Laboratory, 4700 River Road, Unit 89, Room 6D61, Riverdale, MD 20737.

Dated: July 27, 1999.

Edward Knipling,

Associate Administrator, Agricultural Research Service, Department of Agriculture.

Rajen Anand,

Executive Director, Center for Nutrition Policy and Promotion, Department of Agriculture.

Linda Meyers,

Acting Director, Office of Disease Prevention and Health Promotion, U.S. Department of Health and Human Services.

[FR Doc. 99–19749 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Special Cotton Import Quota Announcements Numbers 11 Through 20

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Ten special import quotas for upland cotton equal are established in accordance with section 136(b) of the Federal Agriculture Improvement and Reform Act of 1996 (the 1996 Act) under Presidential Proclamation 6301 of June 7, 1991, and Presidential Proclamation 6948 of October 29, 1996. The quotas are referenced as the Commodity Credit Corporation Special Cotton Import Quota Announcement Numbers 11 through 20 and are set forth in subheadings 9903.52.11 through 9903.52.20, subchapter III, chapter 99 of the Harmonized Tariff Schedule of the United States (HTS).

DATES: Each of the special quotas is subject to an established date and applies to upland cotton purchased not later than 90 days from the established date and entered into the United States not later than 180 days from the established date. Dates applicable to each individual special import quota are contained in this notice under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Gene S. Rosera, Farm Service Agency, United States Department of Agriculture, STOP 0518, 1400 Independence Avenue, SW, Washington, DC 20013–0518 or call (202) 720–3452.

SUPPLEMENTARY INFORMATION: The 1996 Act requires that a special import quota for upland cotton be determined and announced immediately if, for any consecutive 10-week period, the Friday through Thursday average price quotation for the lowest-priced U.S. growth, as quoted for Middling 1 3/32 inch cotton, C.I.F. northern Europe (U.S. Northern Europe price), adjusted for the value of any cotton user marketing certificates issued, exceeds the Northern Europe price by more than 3.00 cents per pound. This condition was met for 10 consecutive 10-week periods. Therefore, quotas referenced as Special Cotton Import Quota Announcement Numbers 11 through 20 are established subject to the following dates and quantities.

Secretary of Agriculture's Cotton Import Quota Announcement	HTS subheading	News release date	Quota start date	90-Day purchase date	180-Day import date	Quota amount (kilograms)	3-Month consumption base period
Number 11	9903.52.11	5/06/99	5/13/99	8/10/99	11/08/99	43,005,726	January–March 1999.
Number 12	9903.52.12	5/13/99	5/20/99	8/17/99	11/15/99	43,005,726	January–March 1999.
Number 13	9903.52.13	5/20/99	5/27/99	8/24/99	11/22/99	43,005,726	January–March 1999.
Number 14	9903.52.14	5/27/99	6/03/99	8/31/99	11/29/99	42,690,963	February–April 1999.

Secretary of Agriculture's Cotton Import Quota Announcement	HTS subheading	News release date	Quota start date	90-Day purchase date	180-Day import date	Quota amount (kilograms)	3-Month consumption base period
Number 15	9903.52.15	6/03/99	6/10/99	9/07/99	12/06/99	42,690,963	February–April 1999.
Number 16	9903.52.16	6/10/99	6/17/99	9/14/99	12/13/99	42,690,963	February–April 1999.
Number 17	9903.52.17	6/17/99	6/24/99	9/21/99	12/20/99	42,690,963	February–April 1999.
Number 18	9903.52.18	6/24/99	7/1/99	9/28/99	12/27/99	42,388,357	March–May 1999.
Number 19	9903.52.19	7/1/99	7/8/99	10/5/99	1/3/00	42,388,357	March–May 1999.
Number 20	9903.52.20	7/8/99	7/15/99	10/12/99	1/10/004	42,388,357	March–May 1999.

Each special import quota identifies a quantity of imports that is not subject to the over-quota tariff rate of a tariff-rate quota. The quota is not divided by staple length or by country of origin. The quota does not affect existing tariff rates or phytosanitary regulations. The quota does not apply to extra long staple cotton.

Authority: Sec. 136, P.L. 104–127 and U.S. Note 6(a), Subchapter III, Chapter 99 of the HTS.

Signed at Washington, D.C., on July 26, 1999.

Keith Kelly,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 99–19673 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Mining Activities on Piru Creek, Los Padres National Forest, Ventura County, CA; Intent To Prepare an Environmental Impact Statement

The Department of Agriculture, Forest Service is preparing an environmental impact statement (EIS) for approval of proposed Plans of Operation for mining activities along Piru Creek from Lockwood Flat to Pyramid Lake on the Mount Pinos Ranger District. Management emphases in the Los Padres National Forest Land Resources Management Plan (1988) are to improve water quality, vegetative diversity, and to protect property and cultural resources. Management emphasis for the project area is to manage as a potential Wild and Scenic River candidate.

Potential resource issues which may affect alternative development include the presence of riparian-dependent sensitive amphibians and reptiles; the presence of an amphibian species which is listed as endangered; sensitive heritage resources; water quality; conflicts in recreational uses of Piru Creek; inclusion of Piru Creek into the Wild and Scenic River System; maintaining biodiversity; and protecting the sensitive riparian ecosystem.

The California Department of Fish and Game and the U.S. Fish and Wildlife Service are invited to participate as cooperative agencies to evaluate potential impacts on threatened and endangered species habitat. Representatives from the Army Corps of Engineers and the Regional Water Quality Control Board are invited to participate in resolving issues that deal with water quality. Federal, State, and local agencies, as well as industry; and other individual and organizations who may be interested in or affected by the decision, were invited to participate in the scoping process that was initiated during the fall of 1993 and completed in the spring of 1994. This process included:

1. Identification of potential issues and/or concerns.
2. Identification of issues to be identified in depth.
3. Identification of issues which may be eliminated from further analysis.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review and comment by October of 1999. EPA will publish a notice of availability for the draft EIS in the **Federal Register**. The comment period will be 45 days from the date of the EPA's published notice of availability. All persons interested in the proposed project are urged to participate at that time. Comments on the draft EIS should be as specific as possible and may address the adequacy of the EIS or the merits of the alternatives considered. In addition, Federal court decisions have established that reviewers of a draft EIS must structure their participation in the environmental review so that it is meaningful and alerts an agency to the reviewer's positions and contentions. Environmental objections that could have been raised at the draft EIS review stage may be waived if not raised until after completion of the final EIS. The reason for this is to ensure that substantive comments and objections are made available to the Forest Service in a timely manner so that the agency can respond to them in the final EIS.

The final EIS is scheduled to be completed by April, 2000. In the final EIS, the Forest Service is required to respond to comments received from the public and consulted agencies. The responsible official will consider the comments, responses, laws, regulations and policies in making a decision regarding these project proposals. The responsible official will document the decision and reasons for the decision in the Record of Decision. The decision will be subject to appeal.

Jeanine Derby, Forest Supervisor, Los Padres National Forest, Goleta, CA, is the responsible official. Written comments, questions, and suggestions concerning the analysis should be sent to Mark Bethke, District Ranger, Mount Pinos Ranger District, 34580 Lockwood Valley road, Frazier Park, California 93225, (phone 661–245–3731).

Dated: June 25, 1999.

Jeanine A. Derby,

Forest Supervisor.

[FR Doc. 99–19645 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Sierra Nevada Forest Plan Amendment Environmental Impact Statement

AGENCY: Forest Service, USDA.

ACTION: Notice of additional public meetings related to the Sierra Nevada Forest Plan Amendment Environmental Impact Statement each month, September through December 1999.

SUMMARY: The Department of Agriculture, Forest Service, Regions 4 and 5 announce additional public meetings at the Sacramento, California office of the Sierra Nevada Framework Project on the first Wednesday of each month, September through December,

1999. Previously scheduled meetings included those held each month from May through July, 1999 and the upcoming meeting scheduled for August 4, 1999, 1:00–3:00 p.m. The Forest Service scheduled these public meetings to inform interested people about its progress in the development of the Sierra Nevada Forest Plan Amendment Environmental Impact Statement and to provide information about other Sierra Nevada Framework activities.

In response to continued public interest in the Sierra Nevada Framework Project activities, additional meetings are scheduled for the first Wednesday of each month, September through December 1999. *Public meetings* will be held at the Sierra Nevada Framework Project Office, *801 I Street, Sacramento, California, 95814, Room 484* as follows:

Wednesday, September 1, 1999, 1:00–4:00 p.m.

Wednesday, October 6, 1999, 1:00–4:00 p.m.

Wednesday, November 3, 1999, 1:00–4:00 p.m.

Wednesday, December 1, 1999, 1:00–4:00 p.m.

In response to public interest, the September public meeting will conclude with a discussion of the modeling design of fire behavior, fuel loading and fire effects.

In addition to the public meetings, the USDA Forest Service Pacific Southwest Region and Research Station are convening ''science workshops'' in which the public is invited to hear diverse science perspectives on the condition and management of Sierra Nevada ecosystems. Along with hearing from scientists, the public will be provided an opportunity to dialogue with scientists about concerns and possible approaches to management practices in Sierra Nevada ecosystems.

The first science workshop to discuss Sierra Nevada old-forest ecosystems is scheduled for *August 24 and 25, 1999, 8:00 a.m.–5:00 p.m.* each day, in *Freeborn Hall, University of California, Davis.* Additional science workshops are tentatively planned for aquatic, riparian and meadow ecosystems, September, 1999, Fresno, California; and assessment of environmental consequences of proposed management activities, October, 1999, Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact USDA Forest Service, Sierra Nevada Framework Project, Room 419, 801 ''I'' Street, Sacramento, CA 95814; phone number 916–492–7554; TTY via PacBell relay (800) 735–2929.

SUPPLEMENTARY INFORMATION: The USDA Forest Service Pacific Southwest Region and the Pacific Southwest Research Station are integrating new science into management of the national forests of California. The effort is called the Sierra Nevada Framework Project. One objective of the Framework Project is to amend forest plans in conformance with the National Forest Management Act and the National Environmental Policy Act. The Sierra Nevada Forest Plan Amendment Environmental Impact Statement (EIS) will amend national forest plans for the Humboldt-Toiyabe, Modoc, Lassen, Plumas, Tahoe, Eldorado, Stanislaus, Sierra, Sequoia, and Inyo National Forest, and the Lake Tahoe Basin Management Unit. Other activities of the Framework Project involve improving long-term cooperation and coordination among the Forest Service, tribes, local governments, state and federal agencies.

On November 20, 1998, the Region published a Notice of Intent in the **Federal Register** identifying five problem areas to address in an Environmental Impact Statement: old forest ecosystems; aquatic, riparian and meadow ecosystems; fire and fuels management; noxious weeds; and, lower westside hardwood ecosystems. Prior to drafting the Notice of Intent, the Pacific Southwest Region and Pacific Southwest Research Station reviewed recent science and gathered public comment and related information during a series of 37 community workshops throughout the Sierra and other locations in California and Nevada. Publication of the Notice of Intent initiated a 60-day opportunity for public comment, including 27 additional community workshops. To date, the Forest Service has received nearly 3500 comments via letters, postcards, and e-mail. Response to these comments is integrated into the alternatives being developed to address the five problem areas.

In response to the significant public interest in the development of alternatives, the Forest Service is making available summary descriptions of alternatives that may appear in the draft EIS. The Forest Service is not soliciting public comment on these preliminary drafts, but is making them available so people may be better prepared to comment on the draft EIS when it is published.

At present, several alternatives are being developed by the Forest Service. These alternatives reflect extensive public comment and suggestions, as well as recent scientific information. To view summaries of these draft alternatives, please see the USDA Forest Service Region 5 World Wide Web site www.r5.fs.fed.us or contact USDA Forest Service, Sierra Nevada Framework Project, 801 I Street, Room 419, Sacramento, CA 95814 to receive a copy by mail.

Dated: July 26, 1999.

Kent P. Connaughton,

Deputy Regional Forester.

[FR Doc. 99–19631 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Squirrel Meadows-Grand Targhee Resort Land Exchange Targhee National Forest, Teton County, WY

AGENCY: Forest Service, USDA.

ACTION: Revision of the Notice of Intent to prepare an Environmental Impact Statement for the Squirrel Meadows-Grand Targhee Resort Land Exchange as published in the **Federal Register** page 54039 to 54040 on October 17, 1997 (Vol. 62, No. 200). This revision includes a change of the Responsible Official, acres of land to be exchanged by both parties, and project schedule.

SUMMARY: The USDA, Forest Service is preparing an Environmental Impact Statement to document the analysis and disclose the environmental impacts of a proposed land exchange with Booth Creek, Inc., dba Grant Targhee Resort.

This revised Notice of Intent is to document some minor changes in the process.

- In the original NOI, the tentative date for filing the Draft EIS was May of 1998 and the Final EIS was scheduled for December, 1998. Due to the gathering of additional social and economic information and the creation of additional design concepts, the Draft EIS is not scheduled to be filed in August, 1999, and the final EIS about April of 2000.
- The original Responsible Official was the Regional Forester, Intermountain Region. The Responsible Official now is Jerry B. Reese, Forest Supervisor, Targhee and Caribou National Forests, 420 N. Bridge St, St. Anthony, Idaho 83445.
- The original NOI proposed exchanging up to 265 acres of NFS lands for 330 acres of private ground. The alternatives now is considered in the analysis propose exchanging up to 195 acres of NFS land for approximately 385 acres of private land.

DATES: These changes are minor and no formal comment period will be initiated.

ADDRESSES: Send correspondence to Jack Haddox, Teton Basin Ranger District, PO Box 777, Driggs, Idaho 83422.

FOR FURTHER INFORMATION CONTACT: Questions concerning this revised Notice of Intent the proposed action and the EIS should be directed to Patty Bates, Teton Basin District Ranger, Targhee National Forest, Telephone: (208) 354–2312.

Dated: July 23, 1999.

Jerry B. Reese,

Forest Supervisor, Targhee National Forest, Intermountain Region, USDA Forest Service.

[FR Doc. 99–19647 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

South Pyramid Timber Sales, Willamette National Forest, Linn County, Oregon

AGENCY: Forest Service, USDA.

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

SUMMARY: The USDA, Forest Service will prepare an environmental impact statement (EIS) on a proposal to harvest timber, regenerate harvested lands, construct or reconstruct forest roads, and associated mitigation projects in the South Pyramid subwatershed. The legal description for the planning area is T12S, R5E, sections 19, 28–34. The planning area is approximately 4,637 acres in the Middle Santiam Watershed.

The planning area is primarily designated Matrix-General Forest by the Northwest Forest Plan, with Riparian Reserves, Late Successional Reserve, and Matrix-Special Habitat Areas composing the rest of the landbase. The planning area includes many acres of overstocked 90–150 year forest, where growth rates have slowed. Information and analyses created during the Middle Santiam Watershed Analysis will also be considered when designing this project. This proposal is tentatively scheduled for implementation in fiscal year 2000–2003. The Willamette National Forest invites written comments and suggestions on the scope of this analysis, in addition to those comments received as a result of local public participation activities. The agency will also give notice of the full environmental analysis and decision making process so that interested and affected people are informed as to how they may participate and contribute to the final decision.

DATES: Comments concerning the scope and implementation of the analysis should be received in writing by August 16, 1999.

ADDRESSES: Please send written comments and suggestions concerning the South Pyramid Timber Sales to Mike Rassbach, District Ranger, Sweet Home Ranger District, Willamette National Forest, 3225 Hwy 20, Sweet Home, Oregon 97386.

FOR FURTHER INFORMATION CONTACT: Questions about the Proposed Action and scope of analysis should be directed to Brian McGinley, Resource Planner, Sweet Home Ranger District, Willamette National Forest, 3225 Highway 22, Sweet Home, Oregon 97386, phone 541–367–5168.

SUPPLEMENTARY INFORMATION: The Northwest Forest Plan has designed most of the forest's timber production capability to come from Matrix-General Forest lands. The purpose and need for this proposal is to improve tree growth rates and/or quality of overstocked matrix forests, and harvest timber in a landbase that is Matrix Land-General Forest, where timber management is a dominant resource objective. The Forest Service proposal will comply with the 1990 Willamette National Forest Land and Resource Management Plan, as amended by the 1994 Northwest Forest Plan.

This Proposed Action will consider regeneration harvest and/or commercial thinnings to meet project goals, and will compare conventional logging systems with helicopter logging. This project is expected to yield a volume of 4.0 to 4.4 million board feet, part of which will be achieved by thinning at least 40 acres of forest stands to improve growth rates reduced by overstocking. Other activities being considered are likely to involve: reforestation, managed standard improvements, road closures and obliteration, wildlife habitat enhancement, and noxious weed control.

Preliminary resources issues identified that will influence alternatives developed for this project are: old growth habitat retention; maintenance of large, unroaded landscape blocks; economic and biologic effects of logging systems; and northern spotted owl dispersal habitat. Other issues that will be addressed through project design are: edge effects of management on a neighboring Late Successional Reserve, big game habitat conditions, and habitat connectivity with adjacent watersheds.

Alternative have been developed around the Proposed Action addressing the dominant issues and will be compared to the ''No Action'' Alternative. One action alternative focuses on harvesting the least number of acres and staying out of the unroaded landscape blocks. To achieve project goals, this alternative proposes to regeneration harvest 77 acres (47 acres of which are old growth habitat) and thin 48 acres. Conventional skyline and tractor logging systems will be used. This alternative will require 1.1 miles of new road construction and the obliteration of 0.6 miles of road.

A second action alternative focuses on preserving old growth habitat and avoiding regeneration harvesting or road construction within large unroaded landscape blocks. Because only thinning is proposed, this alternative requires 287 acres (209 acres of which lies within the Pyramids unroaded landscape block) to meet project objectives. Helicopter logging will be used for most units, with only 0.8 miles of new road needed and the obliteration of 0.8 miles of road.

A third action alternative tries to balance the desires of preserving old growth and maintaining large, unroaded landscape blocks by regeneration harvesting 39 acres (23 acres of which is old growth habitat) and thinning 161 acres outside or around the edge of the Pyramids landscape block. This alternative proposes to construct 1.2 miles of new road and the obliteration of 0.6 miles of road.

The decisions to be made from the information and analysis include: number and location of harvest units; silvicultural prescriptions for each harvest unit; logging and transportation systems to access units; priorities of mitigation projects; selection of monitoring needs around this project.

Initial scoping began in November 1997. The forest Service will be seeking additional input and comments from other agencies, organizations and individuals who may be interested or affected by the proposed project. Additional input will be helpful in identifying resource issues not currently identified, and in developing alternatives for a draft EIS.

Comments received in response to this notice, including names and addresses of those who comment, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR Parts 215 or 217. Additionally, pursuant to 7 CFR 1.27(d) any person may request the agency to withhold a

submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within a specified number of days.

The scoping process included; identification of potential issues; identification of key issues to be analyzed in depth; exploration of additional alternatives based on identified issues from the scoping process; and identification of potential environmental effects from analyzed alternatives.

The draft EIS is expected to be filed with the Environmental Protection Agency (EPA) and will be available for public review by September 1999. The comment period for the draft EIS will be 45 days from the date the EPA publishes the notice of availability in the **Federal Register**.

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

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters in the draft statement. Comments may also address the adequacy of the draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points).

The final EIS is scheduled to be completed by January 2000. In the final EIS, the Forest Service is required to respond to substantive comments and responses received during the comment period that pertains to the environmental consequences discussed in the draft EIS and applicable laws, regulations, and policies considered in making the decision regarding this proposal. The Forest Service is the lead agency for this EIS. The responsible official is Mike Rassbach, District Ranger. As a responsible official, he will document the South Pyramid Timber Sales decision and rationale in the Record of Decision. That decision will be subject to Forest Service Appeal Regulations (36 CFR Part 215).

Dated: July 22, 1999.

Mike Rassbach,

Sweet Home District Ranger.

[FR Doc. 99–19676 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Request for Extension of a Currently Approved Information Collection

AGENCY: The Rural Housing Service, USDA.

ACTION: Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service's intention to request an extension for a currently approved information collection in support of the program for Prepayment and Displacement Prevention of Multiple Family Housing Loans.

DATES: Comments on this notice must be received by October 1, 1999 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Cynthia Reese-Foxworth, Senior Loan Officer, Office of Rural Housing Preservation, Multi-Family Housing Portfolio Management Division, Rural Housing Service, U.S. Department of Agriculture, Ag Box 0782, Washington, DC 20250, Telephone (202) 720–1940.

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1965–E, ''Prepayment and Displacement Prevention of Multiple Family Housing Loans''.

OMB Number: 0575–0155.

Expiration Date of Approval: December 31, 1999.

Type of Request: Extension of a currently approved information collection.

Abstract: The Rural Housing Service (RHS) is authorized under section 514, 515, 516 and 521 of Title V of the Housing Act of 1949, as amended, to provide loans and grants to eligible recipients for the development of rural rental housing. Such multiple family housing projects are intended to meet the housing needs of persons or families have with low-to moderate-incomes, senior citizens, the handicapped, and domestic farm laborers.

RHS has the responsibility of assuring the public that the housing projects financed are owned and operated as mandated by Congress. RD Instruction 1965–E was issued to insure proper servicing actions are accomplished for projects financed with multiple family housing loan and grant funds. Minimal requirements have been established as deemed necessary to assure that applicable laws and authorities are carried out as intended and to improve the Agency's ability to assure the continued availability of the facilities financed under RHS multiple housing programs to eligible users.

Without the provisions of this regulation, RHS would be unable to provide the necessary guidance to the RHS field staff to assist borrowers in processing servicing actions affecting their projects. RHS also would not be able to quickly respond to servicing requests from borrowers, initiate servicing actions or establish a uniform procedure for processing such requests from borrowers. RHS must be able to assure Congress and the general public that all projects financed with multiple family housing funds will be maintained for the purposes for which they are intended and for the benefit of those they are mandated to serve.

The Housing and Community Development Act of 1987 required that rural rental housing borrowers wishing to prepay their RHS financed loans must be offered a fair incentive to not prepay the loan when RHS makes the decision that the housing continues to be needed to serve low-and moderate-income tenants. If the borrower rejects the incentive, the housing must be offered for sale to a nonprofit organization or public agency. Prepayment can only be accepted if RHS decided there is no need for the housing or if no nonprofit

organization or public agency can be found to purchase the project at fair market value.

The information required is collected on a project-by-project basis and is in accordance with the Housing Act of 1949, as amended, so that RHS can provide guidance and be assured of compliance with the terms and conditions of loan, grant, and/or subsidy agreements.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 0.6 hours per response.

Respondents: Individuals or households, State of local governments, farms, businesses or other for-profits, non-profit institutions, existing borrowers, transferors and/or transferees.

Estimated Number of Respondents: 800.

Estimated Number of Responses per Respondent: 1.15.

Estimated Total Annual Burden on Respondents: 587 hours.

Copies of this information collection can be obtained from Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division, Branch, at (202) 692–0045.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of RHS, including whether the information will have practical utility; (b) the accuracy of RHS's estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Barbara Williams, Regulations and Paperwork Management Branch, Support Services Division, U.S. Department of Agriculture, Rural Development, STOP 0742, 1400 Independence Ave. SW, Washington, DC 20250. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: July 21, 1999.

Eileen Fitzgerald,

Acting Administrator, Rural Housing Service.

[FR Doc. 99–19672 Filed 7–30–99; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Vermont Advisory Committee to the Commission will convene at 9:00 a.m. and adjourn at 1:00 p.m. on August 20, 1999, at the Vermont State Retirement System, Conference Room 2, 133 State Street, Montpelier, Vermont 05633. The Committee will review its past civil rights monitoring activity, hear from invited guests on the role of private industry in addressing racial harassment in Vermont communities, and plan its next project.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kimberly B. Cheney, 802–229–0334, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 21, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–19649 Filed 7–30–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DoC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 5).

Agency: Economic Development Administration (EDA).

Title: Comprehensive Economic Development Strategy Guidelines.

Form Number: Not Applicable.

OMB Approval Number: 0610–0093.

Type of Request: Extension of a currently approved collection.

Burden: 33,150 hours.

Average Hours Per Response: (1) Initial CEDS for Districts and other EDA supported Planning Organizations—240 hours; (2) CEDS Document for non-districts and non-EDA supported organizations—25 hours; (3) Annual CEDS Report—50 hours; and (4) CEDS Update—75 hours.

Number of Respondents: Approximately 640 respondents.

Needs and Uses: The information is needed by EDA to ensure that areas served by an EDA supported planning organization have or are developing a continuous community-based planning process and have thoroughly thought out what type of economic development is needed in the area to alleviate unemployment, underemployment, and/or depressed incomes. This information is required under the Public Works and Economic Development Act of 1965, as amended, including the comprehensive amendments by the Economic Development Administration Reform Act of 1998, Public Law 105–393, (PWEDA). The information is used by EDA to determine: if statutory requirements are met on eligibility for projects for public works and economic adjustment (except for strategy/planning); district designation requirements; and for planning requirements are met. CEDS is the foundation for most of EDA's programs. CEDS is a continuous and broad based and diverse process put in place to describe and to address economic distress through a particular economic development project(s) activity(es).

Affected Public: State, local or Tribal Government and not-for profit organizations.

Frequency: One time for Initial Document, Annual for Report, and Updates are due every 5 years for districts and other EDA-supported Planning Organizations.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: David Rostker, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DoC Forms Clearance Officer, (202) 482–3272, U.S. Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, DC 20230. (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this

notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, Washington, DC 20503.

Dated: July 27, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–19722 Filed 7–30–99; 8:45am]

BILLING CODE: 3510–34–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Materials Processing Equipment Technical Advisory Committee; Notice of Open Meeting

A meeting of the Materials Processing Equipment Technical Advisory Committee will be held August 19, 1999, 9:00 a.m., in Room 3884 of the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW, Washington, DC. The Committee advises the Office of he Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing and related technology.

Agenda

1. Opening remarks by the Chairman.
2. Presentation of papers or comments by the public.
3. Consultation on renewal of Committee charter.
4. Review of reference guide being developed for manufacturing equipment items on the Commerce Control List (CCL).
5. Review of accuracies and related International Standards Organization standards used in the CCL.
6. Discussion of suggested changes to the CCL based on availability and new technology.
7. Other items that may come before the Committee.

The meeting will be open to the public and a limited number of seats will be available. To the extent that time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials two weeks prior to the meeting date to the following address: Ms. Lee Ann Carpenter, OAS/EA MS: 3876, Bureau of Export Administration, U.S. Department of Commerce, Washington, DC 20230.

For further information or copies of the minutes, contact Lee Ann Carpenter at 202–482–2583.

Dated: July 26, 1999.

Lee Ann Carpenter,

Committee Liaison Officer.

[FR Doc. 99–19766 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–33–M

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (''Sunset'') Reviews

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

ACTION: Notice of initiation of five-year (''sunset'') reviews.

SUMMARY: In accordance with section 751(c) of the Tariff Act of 1930, as amended (''the Act''), the Department of Commerce (''the Department'') is automatically initiating five-year (''sunset'') reviews of the antidumping and countervailing duty orders or suspended investigations listed below. The International Trade Commission (''the Commission'') is publishing concurrently with this notice its notices of *Institution of Five-Year Reviews* covering these same orders.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Scott E. Smith, or Martha V. Douthit, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560, (202) 482–6397 or (202) 482–3207, respectively, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Initiation of Reviews

In accordance with 19 CFR 351.218 (*see Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998)), we are initiating sunset reviews of the following antidumping and countervailing duty orders or suspended investigations:

DOC Case No.	ITC Case No.	Country	Product
A–201–802	A–451	Mexico	Grey Portland Cement and Cement Clinker.
A–588–815	A–461	Japan	Grey Portland Cement and Cement Clinker.
A–307–803	A–519	Venezuela	Grey Portland Cement and Cement Clinker.
C–307–804	C3–21	Venezuela	Grey Portland Cement and Cement Clinker.
A–588–817	A–469	Japan	Flat Panel Displays (Electroluminescent).
A–570–808	A–474	China	Chrome-Plated Lug Nuts.
A–583–810	A–475	Taiwan	Chrome-Plated Lug Nuts.
A–570–811	A–497	China	Tungsten Ore Concentrates.
A–614–801	A–516	New Zealand	Kiwifruit.
C–122–815	C–309	Canada	Pure Magnesium.
C–122–815	C–309	Canada	Alloy Magnesium.
A–122–814	A–528	Canada	Pure Magnesium.
A–557–805	A–527	Malaysia	Extruded Rubber Thread.
A–835–802	A–539	Kyrgyzstan	Uranium.
A–821–802	A–539	Russia	Uranium.
A–844–802	A–539	Uzbekistan	Uranium.
A–823–802	A–539	Ukraine	Uranium.

Statute and Regulations

Pursuant to sections 751(c) and 752 of the Act, an antidumping (''AD'') or countervailing duty (''CVD'') order will be revoked, or the suspended investigation will be terminated, unless revocation or termination would be likely to lead to continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry.

The Department's procedures for the conduct of sunset reviews are set forth in *Procedures for Conducting Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders*, 63 FR 13516 (March 20, 1998) (''*Sunset Regulations*''). Guidance on methodological or analytical issues relevant to the Department's conduct of sunset reviews is set forth in the Department's Policy Bulletin 98:3—*Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin*, 63 FR 18871 (April 16, 1998) (''*Sunset Policy Bulletin*'').

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the *Sunset Regulations* and *Sunset Policy Bulletin*, the Department's schedule of sunset reviews, case history information (*e.g.*, previous margins, duty absorption determinations, scope language, import volumes), and service lists, available to the public on the Department's sunset internet website at the following address: ''http://www.ita.doc.gov/import__admin/records/sunset/'.

All submissions in the sunset review must be filed in accordance with the Department's regulations regarding format, translation, service, and certification of documents. These rules can be found at 19 CFR 351.303 (1998). Also, we suggest that parties check the Department's sunset website for any updates to the service list before filing any submissions. We ask that parties notify the Department in writing of any additions or corrections to the list. We also would appreciate written notification if you no longer represent a party on the service list.

Because deadlines in a sunset review are, in many instances, very short, we urge interested parties to apply for access to proprietary information under administrative protective order (''APO'') immediately following publication in the **Federal Register** of the notice of initiation of the sunset review. The Department's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306 (*see Antidumping and Countervailing Duty Proceedings: Administrative Protective Order Procedures; Procedures for Imposing Sanctions for Violation of a Protective Order*, 63 FR 24391 (May 4, 1998)).

Information Required From Interested Parties

Domestic interested parties (defined in 19 CFR 351.102 (1998)) wishing to participate in the sunset review must respond not later than 15 days after the date of publication in the **Federal Register** of the notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(1)(ii). We note that the Department considers each of the orders listed above as separate and distinct orders and, therefore, requires order-specific submissions. Because the case number is the same for two countervailing duty orders covering different products from Canada, we request that all submissions clearly identify the order for which the submission is being made by product name as listed above. In accordance with the *Sunset Regulations*, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, the Department will automatically revoke the order without further review.

If we receive a notice of intent to participate from a domestic interested party, the *Sunset Regulations* provide that *all parties* wishing to participate in the sunset review must file substantive responses not later than 30 days after the date of publication in the **Federal Register** of the notice of initiation. The required contents of a substantive response are set forth in the *Sunset Regulations* at 19 CFR 351.218(d)(3). Note that certain information requirements differ for foreign and domestic parties. Also, note that the Department's information requirements are distinct from the International Trade Commission's information requirements. Please consult the *Sunset Regulations* for information regarding the Department's conduct of sunset reviews.[1] Please consult the Department's regulations at 19 CFR Part 351 (1998) for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at the Department.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: July 23, 1999.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19761 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] A number of parties commented that these interim-final regulations provided insufficient time for rebuttals to substantive responses to a notice of initiation (*Sunset Regulations*, 19 CFR 351.218(d)(4)). As provided in 19 CFR 351.302(b) (1998), the Department will consider individual requests for extension of that five-day deadline based upon a showing of good cause.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–815, C–428–817]

Notice of Initiation and Preliminary Results of Changed Circumstances Antidumping Duty and Countervailing Duty Reviews and Intent To Revoke Orders in Part: Certain Corrosion-Resistant Carbon Steel Flat Products From Germany

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

ACTION: Notice of initiation and preliminary results of changed circumstances antidumping duty and countervailing duty reviews and intent to revoke orders in part.

EFFECTIVE DATE: August 2, 1999.

SUMMARY: On June 11, 1999, the U.S. Department of Commerce (the Department) received a request on behalf of Bethlehem Steel Corporation, Ispat Inland Steel, LTV Steel Company, Inc., National Steel Corporation, and U.S. Steel Group, a unit of USX Corporation, petitioners in the above mentioned cases, for changed circumstances antidumping (AD) and countervailing duty (CVD) reviews for the purpose of revoking in part the AD and CVD orders with respect to specific corrosion-resistant carbon steel flat products from Germany. Petitioners' letter confirmed a lack of interest in the continuation of the AD and CVD orders with respect to the subject merchandise defined in the Scope of the Review section below.

Interested parties are invited to comment on these preliminary results.

FOR FURTHER INFORMATION CONTACT: Barbara Chaves (202–482–0414) or Linda Ludwig (202–482–3833), Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of

Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230.

SUPPLEMENTARY INFORMATION:

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 Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations at 19 CFR Part 351 (April, 1998).

Background

On August 17, 1993, the Department published the CVD order on certain corrosion-resistant carbon steel flat products from Germany (58 FR 43756). On August 19, 1993, the Department published the AD order on certain corrosion-resistant carbon steel flat products from Germany (58 FR 44170).

On June 11, 1999, petitioners requested partial revocation of the AD and CVD orders pursuant to section 751(b)(1) of the Act and section 351.222(g) of the Department's regulations, with respect to specific corrosion-resistant carbon steel flat products from Germany described below.

Scope of the Review

The corrosion-resistant steel products covered by these AD/CVC orders include flat-rolled carbon steel products, of rectangular shape, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating, in coils (whether or not in successively superimposed layers) and of a width of 0.5 inch or greater, or in straight lengths which, if of a thickness less than 4.75 millimeters, are of a width of 0.5 inch or greater and which measures at least 10 times the thickness or if of a thickness of 4.75 millimeters or more are of a width which exceeds 150 millimeters and measures at least twice the thickness, as currently classifiable in the HTS under item numbers 7210.31.0000, 7210.39.0000, 7210.41.0000, 7210.49.0030, 7210.49.0090, 7210.60.0000, 7210.70.6030, 7210.70.6060, 7210.70.6090, 7210.90.1000, 7210.90.6000, 7210.90.9000, 7212.21.0000, 7212.29.0000, 7212.30.1030, 7212.30.1090, 7212.30.3000, 7212.30.5000, 7212.40.1000, 7212.40.5000, 7212.50.0000, 7212.60.0000, 7215.90.1000, 7215.90.5000, 7217.12.1000, 7217.13.1000, 7217.19.1000, 7217.19.5000, 7217.22.5000, 7217.23.5000, 7217.29.1000, 7217.29.5000, 7217.32.5000, 7217.33.5000, 7217.39.1000, and 7217.39.5000. Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the merchandise under review is dispositive.

Included in these orders are flat-rolled products of nonrectangular cross-section where such cross-section is achieved subsequent to the rolling process (i.e., products which have been ''worked after rolling'')—for example, products which have been bevelled or rounded at the edges. Excluded from these orders are flat-rolled steel products either plated or coated with tin, lead, chromium, chromium oxides, both tin and lead (''terne plate''), or both chromium and chromium oxides (''tin-free steel''), whether or not painted, varnished or coated with plastics or other nonmetallic substances in addition to the metallic coating. Also excluded are clad products in straight lengths of 0.1875 inch or more in composite thickness and of a width which exceeds 150 millimeters and measures at least twice the thickness, and certain clad stainless flat-rolled products, which are three-layered corrosion-resistant carbon steel flat-rolled products less than 4.75 millimeters in composite thickness that consist of a carbon steel flat-rolled product clad on both sides with stainless steel in a 20%–60%–20% ratio.

Merchandise covered by these changed circumstances reviews and partial revocations are shipments of certain corrosion-resistant carbon steel flat products that are deep-drawing carbon steel strip, roll-clad on both sides with aluminum (AlSi) foils in accordance with St3 LG as to EN 10139/10140. The merchandise's chemical composition encompasses a core material of U St 23 (continuous casting) in which carbon is less than 0.08; manganese is less than 0.30; phosphorous is less than 0.20; sulfur is less than 0.015; aluminum is less than 0.01; and the cladding material is a minimum of 99% aluminum with silicon/copper/iron of less than 1%. The products are in strips with thicknesses of 0.07mm to 4.0mm (inclusive) and widths of 5mm to 800mm (inclusive). The thickness ratio of aluminum on either side of steel may range from 3%/94%/3% to 10%/80%/10%.

Initiation and Preliminary Results of Changed Circumstances AD and CVD Reviews and Intent To Revoke Orders in Part

At the request of the petitioners, in accordance with sections 751(d)(1) and 751(b)(1) of the Act and section 351.216 of the Department's regulations, the Department is initiating changed circumstances reviews of certain corrosion-resistant carbon steel flat products from Germany to determine whether partial revocation of the AD and CVD orders is warranted. Section 782(h)(2) of the Act and section 351.222(g)(1)(i) of the Department's regulations provide that the Department may revoke an order (in whole or in part) if it determines that producers accounting for substantially all of the production of the domestic like product have no further interest in the order, in whole or in part. In addition, in the event the Department determines that expedited action is warranted, section 351.221(c)(3)(ii) of the regulations permits the Department to combine the notices of initiation and preliminary results.

In accordance with section 751(b) of the Act and sections 351.222(g)(l)(i) and 351.221(c)(3) of the Department's regulations, we are initiating these changed circumstances reviews and have determined that expedited action is warranted. Our decision to expedite these reviews stems from the domestic industry's lack of interest in applying the AD and CVD orders to the specific carbon steel plate covered by these requests.

Based on the expression of no interest by petitioners and absent any objection by any other domestic interested parties, we have preliminarily determined that substantially all of the domestic producers of the like product have no interest in continued application of the AD and CVD orders to the corrosion-resistant steel subject to these requests. Therefore, we are notifying the public of our intent to revoke, in part, the AD and CVD orders as they relate to imports of certain corrossion-resistant carbon steel flat products from Germany, as described above.

Public Comment

Interested parties may submit case briefs and/or written comments no later than 14 days after the date of publication of these preliminary results. Rebuttal briefs and rebuttals to written comments, limited to issues raised in such briefs or comments, may be filed no later than 21 days after the date of publication. The Department will issue the final results of these changed

circumstances reviews, which will include the results of its analysis raised in any such written comments, no later than 270 days after the date on which these reviews were initiated, or within 45 days if all parties agree to our preliminary determinations. *See* section 351.216(e) of the Department's regulations.

If final revocation occurs, we will instruct the U.S. Customs Service to end the suspension of liquidation and to refund, with interest, any estimated AD and CVD duties collected for all unliquidated entries of the specific corrosion-resistant carbon steel flat products from Germany covered by these requests that are not subject to final results of an administrative review. The current requirement for a cash deposit of estimated AD and CVD duties on all subject merchandise will continue unless and until it is modified pursuant to the final results of these changed circumstances reviews.

This initiation of review and notice are in accordance with sections 751(b) of the Act (19 U.S.C. 1675(b)), and 19 CFR 351.216, 351.221, and 351.222 of the Department's regulations.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 99–19752 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072399A]

New England Fishery Management Council; Public Meetings

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) is scheduling a public meeting of its Interspecies Committee in August, 1999. Recommendations from the committee will be brought to the full Council for formal consideration and action, if appropriate.

DATES: The meeting will held on Tuesday, August 24, 1999, at 10 a.m.

ADDRESSES: The meeting will be held at the Sheraton Colonial Hotel, 427 Walnut Street, Lynnfield, MA 01880; telephone: (781) 245–9300.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231–0422. Requests for special accommodations should be addressed to the New England Fishery Management Council, 5 Broadway, Saugus, MA 01906–1036; telephone: (781) 231–0422.

SUPPLEMENTARY INFORMATION: The committee will discuss strawman proposals to manage capacity and latent effort in the multispecies, sea scallop and monkfish fisheries. A discussion of various permitting issues will include allowing the transfer of permits between vessels in limited access fisheries and allowing an increase in the number of combination (scallop and multispecies) permits. There will also be consideration of vessel upgrading issues.

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 Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is 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 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19737 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072399B]

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting via teleconference.

SUMMARY: The Pacific Fishery Management Council's (Council) Ad-Hoc Allocation Committee will confer by telephone.

DATES: The teleconference call will begin Wednesday, August 25, 1999, at 9 a.m. Pacific Daylight Time (PDT).

ADDRESSES: The public may participate in this teleconference (see **SUPPLEMENTARY INFORMATION** for call locations).

Council address: Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Mr. Jim Glock, telephone: (503) 326–6352.

SUPPLEMENTARY INFORMATION: The primary purpose of the conference call is to give guidance to the Groundfish Management Team in crafting options and analysis for rebuilding plans for lingcod, bocaccio rockfish, and Pacific ocean perch.

The public may participate in this teleconference meeting at the following locations:

1. Pacific Fishery Management Council office, 2130 SW Fifth Avenue, Suite 224, Portland, OR;

2. Pacific States Marine Fisheries Commission, 45 SE 82nd Drive, Suite 100, Gladstone, OR

Contact: Dave Hanson, (503) 650–5400;

3. Washington Department of Fish and Wildlife, 600 Capitol Way N, Olympia, WA

Contact: Phil Anderson, (360) 902–2720;

4. Oregon Department of Fish and Wildlife, 2040 SE Marine Science Drive, Newport, OR

Contact: Neal Coenen, (541) 867–4741 extension 226;

5. NMFS Northwest Region, 7600 Sand Point Way NE, Seattle, WA

Contact: Bill Robinson, (206) 526–6142.

Although other issues not contained in this agenda may come before this Committee 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 notice.

Special Accommodations

This 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 27, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–19738 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 062299A]

Marine Mammals; File No. 782–1510

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

ACTION: Issuance of permit.

SUMMARY: Notice is hereby given that the National Marine Mammal Laboratory, Northwest and Alaska Fisheries Science Center, National Marine Fisheries Service, (Principal Investigator: Marilyn Dahlheim), 7600 Sand Point Way, NE. Seattle, Washington 98115, has been issued a permit to take killer whales (*Orcinus orca*) for purposes of scientific research.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following offices (See **SUPPLEMENTARY INFORMATION**).

FOR FURTHER INFORMATION CONTACT: Ruth Johnson, 301/713–2289.

SUPPLEMENTARY INFORMATION: On May 11, 1999, notice was published in the **Federal Register** (64 FR 25294) that a request for a scientific research permit to take killer whales had been submitted by the above-named organization. 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.*), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216).

Application and documentation are available in the following locations:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910 (301/713–2289);

Regional Administrator, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668 (907/586–7221);

Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way, NE, BIN C15700, Bldg. 1, Seattle, WA, 98115–0070 (206/526–6150); and

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802–4213 (562/980–4001).

Dated: July 26, 1999.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–19641 Filed 7–30–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice.

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 October 1, 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 27, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services.

Type of Review: New.

Title: Extended Services Study, Supported Employment.

Frequency: Quarterly.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 20

Burden Hours: 158

Abstract: The purpose of this effort is to collect information related to the nature and extent of extended services that are being delivered to a large sample of supported employment consumers. Frequency and intensity of extended services will be related to participants' employment retention and career advancement.

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, D.C. 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 mail her at 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. 99–19670 Filed 7–30–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Notice.

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 September 1, 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 27, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Special Education and Rehabilitative Services.

Type of Review: Extension.

Title: Report of Randolph-Sheppard Vending Facility Program.

Frequency: Annually.

Affected Public: Individuals or households; Federal Government; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 51

Burden Hours: 720

Abstract: The information is needed to evaluate the effectiveness of the program and to promote growth. The information is transmitted to State agencies to assist in the conduct and expansion of the program at the State level. Respondents are the designated State vocational rehabilitation agencies.

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, D.C. 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 mail her at 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. 99–19671 Filed 7–30–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[CFDA No.: 84.033]

Federal Work-Study Programs

AGENCY: Department of Education.

ACTION: Notice of the closing date for institutions that participate in the Federal Work-Study (FWS) Program to submit the Campus-Based Reallocation Form (ED Form E40–4P).

SUMMARY: The Secretary gives notice to institutions of higher education of the deadline for an institution that participated in the FWS Program for the 1998–1999 award year (July 1, 1998 through June 30, 1999) to request supplemental FWS funds for the 1999–2000 award year (July 1, 1999 through June 30, 2000). The information collected is used to determine whether an institution is eligible to receive supplemental FWS funds for the 1999–2000 award year.

DATES: *Closing Date and Method for Submitting a Campus-Based Reallocation Form.* If you participated in the FWS Program for the 1998–99 award year and want to ensure that you will be considered for supplemental FWS funds for the 1999–2000 award year, you must submit the electronic Campus-Based Reallocation Form by August 27, 1999.

The new Fiscal Operations Report for 1998–1999 and Application to Participate for 2000–2001 (FISAP) software that you will receive in July 1999 also contains the Campus-Based Reallocation Form (E–40–4P). The Campus-Based Reallocation Form electronic data must be transmitted via the Department's Title IV Wide Area Network (Title IV WAN) using EDConnect. Specific information on this electronic transmission is provided in ''Dear Colleague'' letter CB–99–11 that was issued in July 1999. Transmit the Reallocation Form data to us only if you are releasing campus-based funds or are requesting supplemental 1999–2000 FWS funds.

Although the FISAP is not due until October 1, 1999, you must complete the Campus-Based Reallocation Form electronic data transmission prior to midnight, Eastern time, on August 27, 1999. (For purposes of this notice, this deadline means that an institution has all of August 27, 1999, to transmit electronically.)

SUPPLEMENTARY INFORMATION: The Department will reallocate unexpended FWS Federal funds from the 1998–99 award year as supplemental allocations for the 1999–2000 award year under the FWS Program. Supplemental allocations will be issued this fall in accordance with the reallocation procedures contained in the Higher Education Act of 1965, as amended (HEA). Under section 442(e) of the HEA, unexpended FWS funds returned to the Secretary must be reallocated to eligible institutions that used at least 10 percent of the total FWS Federal funds granted to the institution to compensate students employed in community services. Because reallocated FWS funds will be distributed on the basis of fair share shortfall criteria, you must also have a fair share shortfall to receive these funds. A fair share shortfall means that you have an unmet need for FWS funds as determined by the FWS allocation formula in the HEA that uses data reported on the FISAP. You must use all the reallocated FWS Federal funds to compensate students employed in community services. To ensure consideration for supplemental FWS Federal funds for the 1999–2000 award year, you must submit the Campus-Based Reallocation Form data by August 27, 1999.

Applicable Regulations

The following regulations apply to the Federal Work-Study Program:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Work-Study Programs, 34 CFR part 675.

(4) Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(5) New Restrictions on Lobbying, 34 CFR part 82.

(6) Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), 34 CFR part 85.

(7) Drug-Free Schools and Campuses, 34 CFR part 86.

FOR FURTHER INFORMATION CONTACT: For technical assistance concerning the Campus-Based Reallocation Form or other operational procedures of the campus-based programs, contact Mr. Milton Thomas, Jr., Institutional Financial Management Division, U.S. Department of Education, PO Box 23781, Washington, DC 20026–0781. Telephone (202) 708–9756. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape or computer diskette) on request to the contact person listed in the preceding paragraph.

Electronic Access to This Document

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text of Adobe Portable Document Format (PDF) on the Internet at either of the following sites:

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To use the PDF you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the PDF, call the U.S. Government Printing Office (GPO), toll free at 1–888–293–6498 or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the code of Federal Regulations is available on GPO Access at: http://www.access.gpo.gov/nara/index.html

Program Authority: 42 U.S.C. 2752.

Dated: July 27, 1999.

Greg Woods,

Chief Operating Officer, Office of Student Financial Assistance.

[FR Doc. 99–19723 Filed 7–30–99; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Monticello Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Monticello. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATE AND TIME: Wednesday, August 18 1999, 7:00 p.m.–9:00 p.m.

ADDRESS: San Juan County Courthouse, 2nd Floor Conference Room, 117 South Main, Monticello, Utah 84535.

FOR FURTHER INFORMATION CONTACT: Audrey Berry, Public Affairs Specialist, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO, 81502 (303) 248–7727.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to advise DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. The Board will receive an update on the repository status.
2. The Board will discuss the Monticello surface and groundwater.
3. The Committee will receive reports from subcommittees on local training and hiring, health and safety, and future land use.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Audrey Berry's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available by writing to Audrey Berry, Department of Energy Grand Junction Projects Office, P.O. Box 2567, Grand Junction, CO 81502, or by calling her at (303) 248–7727.

Issued at Washington, DC on July 28, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–19705 Filed 7–30–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy (DOE).

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Thursday, August 19, 1999: 5:30 p.m.–10:00 p.m.

ADDRESSES: Paducah Information Age Park Resource Center, 2000 McCracken Boulevard, Paducah, Kentucky.

OTHER INFORMATION CONTACT: John D. Sheppard, Site Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration and waste management activities.

Tentative Agenda

5:30 p.m.—Call to order/Discussion
6:00 p.m.—Approve Meeting Minutes
6:05 p.m.—Public Comment/Questions
6:30 p.m.—Presentations
7:15 p.m.—Sub Committee Reports
8:15 p.m.—Administrative Issues
8:30 p.m.—Adjourn

Final copies of the agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact John D. Sheppard at the address or telephone number listed above. Requests must be received 5 days prior

to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the end of the meeting.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information Center and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8:00 a.m. and 5:00 p.m. on Monday thru Friday or by writing to John D. Sheppard, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001 or by calling him at (502) 441–6804.

Issued at Washington, DC, on July 28, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–19706 Filed 7–30–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Office of Nonproliferation and National Security; Nonproliferation and National Security Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of closed meeting.

SUMMARY: This notice announces a meeting of the Nonproliferation and National Security Advisory Committee. The Federal Advisory Committee Act, 5 U.S.C. App. 2 § 10 (a)(2) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Tuesday, August 17, 1999, 9:00 a.m. to 5:00 p.m.; Wednesday, August 18, 1999, 9:00 a.m. to 5:00 p.m.; and Thursday, August 19, 1999, 9:00 a.m. to 5:00 p.m.

ADDRESSES: Sandia National Laboratories, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Waldron (202–586–2400), Designated Federal Officer, Office of Research and Development (NN–20), Office of Nonproliferation and National Security, 1000 Independence Avenue, SW, Washington, D.C. 20585.

SUPPLEMENTARY INFORMATION:

Purpose of the Meeting: To introduce members of the Committee and to begin discussion of the nonproliferation and national security research and development program.

Tentative Agenda

Tuesday, August 17, 1999

09:00–09:15 NNAC Welcome, Introductions

09:30–10:00 R&D Program Overview

10:00–10:15 NNAC Charge

10:15–12:00 Strategy-to-Task Briefing

12:00–13:00 Working Lunch

13:00–17:00 R&D Program Briefings Sandia National Laboratories (SNL)/ Los Alamos National Laboratory (LANL)

Wednesday, August 18, 1999

09:00–12:00 R&D Program Briefings SNL/LANL

12:00–13:00 Working Lunch

13:00–17:00 R&D Program Briefings SNL/LANL

Thursday, August 19, 1999

09:00–12:00 R&D Program Briefings SNL/LANL

12:00–13:00 Working Lunch

13:00–17:00 NNAC Discussions

Closed Meeting: In the interest of national security, the meeting will be closed to the public pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 2, § 10 (d), and the Federal Advisory Committee Management regulation, 41 CFR § 101–6.1023, ''Procedures for Closing an Advisory Committee Meeting'', which incorporate by reference the Government in the Sunshine Act, 5 U.S.C. § 552b, which, at §§ 552b (c)(1) and (c)(3) permits closure of meetings where restricted data or other classified matters are discussed.

Minutes: Minutes of the meeting will be recorded and classified accordingly.

Issued at Washington, D.C. on July 28, 1999.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 99–19704 Filed 7–30–99; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–398–002]

Caprock Pipeline Co.; Notice of Tariff Filing

July 27, 1999.

Take notice that on July 22, 1999, Caprock Pipeline Co. (CAPROCK) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets with an effective date of August 1, 1999:

Substitute Second Revised Sheet No. 6A
Second Substitute Sixth Revised Sheet No. 29A

CAPROCK states that it is submitting this filing to correct the GISG Standard 2.3.9 (Version 1.3) by placing it in the ''by reference'' tariff sheet.

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 protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19664 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–286–000]

Granite State Gas Transmission, Inc.; Notice of Technical Conference

July 27, 1999.

In the Commission's order issued on May 28, 1999, the Commission directed that a technical conference be held to address issues raised by the filing.

Take notice that the technical conference will be held on Wednesday,

August 4, 1999, at 10:00, in a room to be designated at the offices of the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426.

All interested parties and Staff are permitted to attend.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19663 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT99–46–001]

K N Interstate Gas Transmission Co; Notice of Revised Refund Report Filing

July 27, 1999.

Take notice that on June 29, 1999, K N Interstate Gas Transmission Company (KNI) filed a refund report pursuant to the Commission's February 22, 1995 Order issued in Docket No. RP95–124–000. The refund report shows the refund received by KNI from Gas Research Institute (GRI) overcollections in the amount of $413,712 and the pro rata allocation of that refund amount to KNI's eligible firm customers. KNI is making this filing to correct an inadvertent error contained in its June 24, 1999 GRI refund report.

KNI states that copies of the filing were served upon all affected firm customers of KNI and applicable state agencies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with section 385.211 of the Commission's rules and regulations. All such protests must be filed on August 4, 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19656 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–407–002]

KN Wattenberg Transmission LLC; Notice of Tariff Filing

July 27, 1999.

Take notice that on July 22, 1999, KN Wattenberg Transmission LLC (KNW) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheets, with an effective date of August 1, 1999:

Substitute First Revised Sheet No. 44A
Second Substitute Third Revised Sheet No. 67

KNW states that it is submitting this filing to correct the GISB Standard 2.3.9 (Version 1.3) by placing it in the ''by reference'' tariff sheet.

KNW states that copies of this filing have been served upon all affected firm customers of KNW and applicable state agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19666 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–445–000]

Koch Gateway Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

July 27, 1999.

Take notice that on July 21, 1999, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective August 20, 1999:

First Revised Sheet No. 900
Second Revised Sheet No. 901
Third Revised Sheet No. 1000
First Revised Sheet No. 1001
Third Revised Sheet No. 1002
Third Revised Sheet No. 1003
First Revised Sheet No. 1102

Koch Gateway states that the proposed tariff sheets make revisions to the wording of certain gas quality specifications and measurement procedure guidelines located in the General Terms and Conditions section of Koch's tariff.

Koch states that copies of this filing have been served upon Koch's 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 a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 or 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19668 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–588–000]

National Fuel Gas Supply Corporation; Notice of Request Under Blanket Authorization

July 27, 1999.

Take notice that on July 22, 1999, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP99–588–000 a request pursuant to sections 157.205 and 157.214 of the Commission's

Regulations under the Natural Gas Act (18 CFR 157.205, 157.214) for authorization to increase the storage capacity at Henderson Storage Field, located in Venango and Mercer Counties, Pennsylvania, under National Fuel's blanket certificate issued in Docket No. CP83–4–000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

National Fuel proposes to increase the maximum storage capacity of Henderson Storage Field from 3,900,000 Mcf to 4,400,000 Mcf, and to increase the maximum storage pressure from 250 psig to 275 psig, located in Venango and Mercer Counties, Pennsylvania.

According to National Fuel, the increase in capacity at Henderson Storage Field will support storage service to be offered to shippers of National Fuel. National Fuel states that the increase in capacity and pressure at Henderson Storage Field will not require additional facilities.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19655 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–416–001]

Natural Gas Pipeline Company of America; Notice of Compliance Filing

July 27, 1999.

Take notice that on July 21, 1999, Natural Gas Pipeline Company of America (Natural) tendered for filing as part of its FERC Gas Tariff, Sixth Revised Volume No. 1, the following tariff sheets to be effective August 1, 1999:

Substitute Fourth Revised Sheet No. 203A
Substitute Second Revised Sheet No. 246A

Natural states that these tariff sheets were filed in compliance with the Commission's Letter Order issued herein on July 15, 1999.

Natural requests waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective August 1, 1999.

Natural states that copies of the filing are being mailed to Natural's customers, interested state regulatory agencies and all parties in Docket No. RP99–416.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19667 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP99–405–002]

TCP Gathering Co.; Notice of Tariff Filing

July 27, 1999.

Take notice that on July 22, 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:

Substitute First Revised Sheet No. 88D
Second Substitute Fourth Revised Sheet No. 103A

TCP states that it is submitting this filing to correct the GISB Standard 2.3.9 (Version 1.3) by placing it in the ''by reference'' tariff sheet.

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 protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.

Acting Secretary.

[FR Doc. 99–19665 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3457–000]

Union Electric Company; Notice of Filing

July 27, 1999.

Take notice that on July 14, 1999, Union Electric Company (UE), tendered for filing an executed Amendment to the Wholesale Electric Service Agreement between UE and the City of Owensville, Missouri (Owensville) in order to allow Owensville to participate in a voluntary curtailment program similar to that applicable to its retail service customers in Missouri. UE has requested that the executed amendment be substituted for an unexecuted form of the amendment previously filed on July 1, 1999.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions and protests should be filed on or before August 6, 1999. Protests will be considered by the Commission to determine the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to

intervene. Copies of this filing are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet a hhtp://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19653 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP99–532–000]

Northern Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed 1999 Zone EF Expansion and Request for Comments on Environmental Issues

July 27, 1999.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the 1999 Zone EF Expansion involving modification of the Farmington Compressor Station by Northern Natural Gas Company (Northern Natural) in Dakota County, Minnesota.[1] This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Summary of the Proposed Project

Northern Natural proposes to increase its mainline capacity in Zone EF upstream of Farmington, Minnesota by uprating an electric motor driven reciprocating compressor at the Farmington Compressor Station from the current certificated 1,250 rated brake-horsepower (bhp) to 2,250 bhp. The location of the project facilities is shown in appendix 1.[2]

The uprating involves modifying the unit controls of the compressor and would involve no construction or ground disturbance. All activities would be confined within the existing fenced-in station yard.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. We call this ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission requests public comments on the scope of the issues it will address in the EA. All comments received are considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

The EA will discuss impacts that could occur as a result of the construction and operation of the proposed project. We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

Our independent analysis of the issues will be in the EA. Depending on the comments received during the scoping process, the EA may be published and mailed to Federal, state, and local agencies, public interest groups, interested individuals, affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A comment period will be allotted for review if the EA is published. We will consider all comments on the EA before we make our recommendations to the Commission.

To ensure your comments are considered, please carefully follow the instructions in the public participation section below.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commenter, your concerns will be addressed in the EA and considered by the Commission. You should focus on the potential environmental effects of the proposal, alternatives to the proposal (including alternative locations), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send two copies of your letter to: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426;
- Label one copy of the comments for the attention of the Environmental Review and Compliance Branch, PR–11.1;
- Reference Docket No. CP99–532–000; and
- Mail your comments so that they will be received in Washington, DC on or before August 26, 1999.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding known as an ''intervenor''. Intervenors play a more formal role in the process. Among other things, intervenors have the right to receive copies of case-related Commission documents and filing by other intervenors. Likewise, each intervenor must provide 14 copies of its filings to the Secretary of the Commission and must send a copy of its filings to all other parties on the Commission's service list for this proceeding. If you want to become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214) (see appendix 3). Only intervenors have the right to seek rehearing of the Commission's decision.

You do not need intervenor status to have your environmental comments considered. Additional information about the proposed project is available from Mr. Paul McKee of the Commission's Office of External Affairs at (202) 208–1088 or on the FERC website (www.ferc.fed.us) using the ''RIMS'' link to information in this docket number. Click on the ''RIMS'' link, select ''Docket #'' from the RIMS Menu, and follow the instructions. For assistance with access to RIMS the RIMS helpline can be reached at (202) 208–2222.

Similarly, the ''CIPS'' link on the FERC Internet website provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings. From the FERC Internet website, click on the ''CIPS'' link, select ''Docket #'' from the CIPS menu, and follow the instructions. For assistance with access to CIPS, the

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[1] Northern Natural's application was filed with the Commission under Section 7 of the Natural Gas Act and Part 157 of the Commission's regulations.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available from the Commission's Public Reference and Files Maintenance Branch, 888 First Street, NE, Washington, DC 20426, or call (202) 208–1371. Copies of the appendices were sent to all those receiving this notice in the mail.

CIPS helpline can be reached at (202) 208–2474.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19654 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Transfer of License and Soliciting Comments, Motions To Intervene, and Protests

July 27, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No.:* 2611–037.

c. *Date Filed:* July 2, 1999.

d. *Applicants:* Kimberly-Clark Tissue Company (Kimberly-Clark), UAH-Hydro Kennebec Limited Partnership (UAH), and Madison Paper Industries (Madison Paper).

e. *Name and Location of Project:* The Hydro-Kennebec Project is on the Kennebec River in Kennebec and Somerset Counties, Maine. The project does not occupy federal or tribal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For Kimberly-Clark: Ms. Nancy J. Skancke, Grammer Kissel Robbins Skancke & Edwards, 1225 Eye Street, NW, Suite 1225, Washington, DC 20005, (202) 408–5400. For UAH: Mr. Philip K. Dutton, United American Energy Corporation, 50 Tice Boulevard, Woodcliff Lake, New Jersey 07675, (201) 307–1818. For Madison Paper: Mr. Michael J. Kurman, Arent Fox Kintner Plotkin & Kahn, PLLC, 1050 Connecticut Avenue, NW, Washington, DC 20036–5339, (202) 857–6345.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

i. *Deadline for filing comments and or motions:* September 7, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the project number (P–2611–037) on any comments or motions filed.

j. *Description of Proposal:* Applicants propose a partial transfer of the license for Project No. 2611 from Kimberly-Clark and UAH to UAH and Madison Paper. Substitution of Madison Paper for Kimberly-Clark as co-licensee for this project is being sought in connection with Madison Paper's intended purchase of certain generation resources from Kimberly-Clark.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–2222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of practice and procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS,'' ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the descried application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19657 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of transfer of License and Soliciting Comments, Motions To Intervene, and Protests

July 27, 1999.

Take notice that the following application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 2615–031.

c. *Date Filed:* July 2, 1999.

d. *Applicants:* Kimberly-Clark Tissue Company (Kimberly-Clark), Madison Paper Industries (Madison Paper), FPL Energy Maine Hydro LLC (FPL), The Merimil Limited Partnership (Merimil), and The Brassua Hydroelectric Limited Partnership (Brassua).

e. *Name and Location of Project:* The Brassua Project is on the Moose River in Somerset County, Maine. The project does not occupy federal or tribal lands.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

g. *Applicant Contacts:* For Kimberly-Clark: Ms. Nancy J. Skancke, Grammer Kissel Robbins Skancke & Edwards, 1225 Eye Street, NW, Suite 1225, Washington, DC 20005, (202) 408–5400. For Madison Paper: Mr. Michael J. Kurman, Arent Fox Kintner Plotkin & Kahn, PLLC, 1050 Connecticut Avenue, NW, Washington, DC 20036–5339, (202) 857–6345.

h. *FERC Contact:* Any questions on this notice should be addressed to James Hunter at (202) 219–2839, or e-mail address: james.hunter@ferc.fed.us.

i. *Deadline for filing comments and or motions:* September 7, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE,Washington, DC 20426.

Please include the project number (P–2615–031) on any comments or motions filed.

j. *Description of Proposal:* Applicants propose a partial transfer of the license for Project No. 2615 from Kimberly-Clark, Madison Paper, FPL, Merimil, and Brassua to Madison Paper, FPL, Merimil and Brassua. Elimination of

Kimberly-Clark as co-licensee for this project is being sought in connection with the intended purchase by Madison Paper of certain generation resources from Kimberly-Clark.

One of the current licensees, Scott Paper Company (Scott), no longer exists. Through a corporate merger, transferor Kimberly-Clark is the successor-in-interest to Scott. The applicants request after-the-fact Commission approval of the transfer of the project license from Scott to Kimberly-Clark, as well as the prospective transfer to eliminate Kimberly-Clark as a licensee.

k. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm (Call (202) 208–222 for assistance). A copy is also available for inspection and reproduction at the addresses in item g above.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19658 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Scoping Meetings and Site Visits and Soliciting Scoping Comments

July 27, 1999.

Take notice that the following hydroelectric applications have been filed with the Commission and are available for public inspection:

a. *Type of Applications:* Two New Major Licenses and Three Subsequent Licenses.

b. *Project Nos.:* 2897–003, 2931–002, 2932–003, 2941–002, and 2942–005.

c. *Dated filed:* January 22, 1999.

d. *Applicant:* S.D. Warren Company.

e. *Names of Projects:* Saccarappa Project, Gambo Project, Mallison Falls Project, Little Falls Project, and Dundee Project.

f. *Location:* On the Presumpscot River, near the towns of Windham, Gorham, and Westbrook, in Cumberland County, Maine. These projects do not utilize federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791(a)–825(r).

h. *Applicant Contact:* Mr. Thomas Howard, S.D. Warren Company, 89 Cumberland Street, P.O. Box 5000, Westbrook, ME 04098–1597, (207) 856–4286.

i. *FERC Contact:* Bob Easton, robert.easton@ferc.fed.us, (202) 219–2782.

j. *Deadline for filing scoping comments:* September 27, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service lists for the projects. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Status of environmental analysis:* These applications are not ready for environmental analysis at this time.

l. *Description of the Projects:*

Saccarappa: The project consists of the following existing facilities: (1) a 322-foot-long diversion dam consisting of two concrete overflow structures separated by an island; (2) two bypassed reaches measuring 475 and 390 feet long; (3) a 380-foot-long and 36-foot wide intake canal; (4) a 49-foot-wide by 71-foot-long masonry powerhouse; (5) three turbine generator units, each with a rated capacity of 450 kilowatts (kW) for a total project installed capacity of 1,350 kW; (6) a 345-foot-long tailrace formed by a 33-foot-high guard wall; (7) a 1-mile-long 2.3 kilovolt (kV) transmission line/generator lead; and (8) other appurtenances.

Gambo: The project consists of the following existing facilities: (1) a 250-foot-long, 24-foot-high concrete overflow section and 50-foot-long intake structure; (2) a 737-foot-long and 15-foot-deep concrete-lined in take canal; (3) a 47-foot-wide by 78-foot-long reinforced concrete and brick powerhouse; (4) two turbine generator units, each with a rated capacity of 950 kW for a total project installed capacity of 1,900 kW; (5) a 300-foot-long by passed reach; (6) an 8-mile long, 11 kV transmission line; and (7) other appurtenances.

Mallison Falls: The project consists of the following existing facilities: (1) a 358-foot-long and 14-foot-high reinforced concrete, masonry, and cut granite diversion dam; (2) a 70-foot-long headgate structure; (3) a 675-foot-long, 41-foot-wide, and 6-foot-deep bedrock lined intake canal; (4) a 33-foot-wide by 51-foot-long reinforced concrete and masonry powerhouse; (5) two turbine generator units, each with a rated capacity of 400 kW for a total project installed capacity of 800 kW; (6) a 675-foot-long bypassed reach; (7) an 11 kV transmission line tied into the Gambo Project transmission line; and (8) other appurtenances.

Little Falls: The project consists of the following facilities: (1) a 330-foot-long and 14-foot-high reinforced concrete and masonry dam incorporating a 70-foot-long intake structure; (2) a 25-foot-wide by 95-foot-long masonry powerhouse which is integral to the dam; (3) four turbine generator units,

each with a rated capacity of 250 kW for a total project installed capacity of 1,000 kW; (4) a 300-foot-long bypassed reach; (5) an 11 kV transmission line tied into the Gambo Project transmission line; and (6) other appurtenances.

Dundee: The project consists of the following existing facilities: (1) a 1,492-foot-long dam, consisting of a 150-foot-long, 42-foot-high concrete spillway section flanked by two 50-foot-high earthen embankments, a 90-foot-long and 50-foot-high non-overflow section, and a 27-foot-long gate section; (2) a 44-foot-wide by 74-foot-long reinforced concrete powerhouse which is integral to the spillway section of the dam; (3) three turbine generator units, each with a rated capacity of 800 kW for a total project installed capacity of 2,400 kW; (4) a 1,075-foot-long bypassed reach; (5) a 1,075-foot-long, 30-foot-wide, and 11-foot-deep tailrace; (6) two 10-mile-long 11 kV transmission lines; and (7) other appurtenances.

m. *Locations of the application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, D.C. 20246, or by calling (202) 208–1371. This filing may be viewed on the web at http://www.ferc.fed.us/online/rims.htm (call 202–208–2222 for assistance). A copy is also available for inspection and reproduction at the address in item h above.

n. *Scoping Process:* The Commission intends to prepare a multiple project Environmental Assessment (EA) for the proposed relicensing of the Saccarappa Project (FERC No. 2897), Gambo Project (FERC No. 2931), Mallison Falls Project (FERC No. 2932), Little Falls Project (FERC No. 2941),and Dundee Project (FERC No. 2942), in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed actions.

Scoping Meetings

The Commission will hold two scoping meetings, one in the morning and one in the evening, to help us identify the scope of issues to be addressed in the EA.

The morning scoping meeting will focus on resource agency concerns, while the evening scoping meeting is primarily for public input. All interested individuals, organizations, and agencies are invited to attend the meetings, and to assist the staff in identifying the scope of the environmental issues that should be analyzed in the EA. The times and locations of these meetings are as follows:

Evening Meeting

August 25, 1999, 7:00 p.m., Windham High School, 406 Gray Road, Windham, ME 04061

Morning Meeting

August 26, 1999, 9:00 a.m., Windham High School, 406 Gray Road, Windham, ME 04062

To help focus discussions, we will distribute a Scoping Document (SD1) outlining the subject areas to be addressed in the EA to parties on the Commission's mailing list. Copies of the SD1 also will be available at the scoping meetings.

Site Visit

Warren and the Commission staff will conduct project site visits on August 25, 1999. We will meet at 9:00 a.m. at parking lot 7 of the Westbrook Mill on Cumberland Street. If you would like to attend, please call Tom Howard, S.D. Warren Company, at (207) 856–4286, no later than August 18, 1999.

Objectives

At the scoping meetings, the staff will: (1) summarize the environmental issues tentatively identified for analysis in the EA; (2) solicit from the meeting participants all available information, especially quantifiable data, on the resource at issue; (3) encourage statements from experts and the public on issues that should be analyzed in the EA, including viewpoints in opposition to, or in support of, the staff's preliminary views: (4) determine the resource issues to be addressed in the EA; and (5) identify those issues that require a detailed analysis, as well as those issues that do not require a detailed analysis.

Procedures

The meetings will be recorded by a stenographer and will become part of the formal record of the Commission's proceedings for these projects.

Individuals, organizations, and agencies with environmental expertise and concerns are encouraged to attend the meeting and to assist the staff in defining and clarifying the issues to be addressed in the EA.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19659 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of License And Soliciting Comments, Motions To Intervene, and Protests

July 27, 1999.

Take notice that the following hydrolectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Transfer of License.

b. *Project No:* 4796–029.

c. *Date Filed:* July 6, 1999.

d. *Applicants:* Glen Park Associates Limited Partnership, Niagara Mohawk Power Corporation, and Northbrook New York, L.L.C.

e. *Name of Project:* Glen Park.

f. *Location:* The Glen Park project is located in Jefferson County, New York. The project does not utilize federal or tribal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contacts:* F. Michael Tucker, Glen Parke Associates Limited Partnership, c/o Mercer Companies, Inc., 330 Broadway, Albany, NY 12207, (518) 434–1311; Michael W. Murphy, Esq., Law Department, A–3, Niagara Mohawk Power Corporation, 300 Erie Boulevard, West Syracuse, NY 13202–4250, (315) 428–6942; (Northbrook New York, L.L.C.) M. Curtis Whittaker, Rath Young and Pignatelli, One Capital Plaza, P.O. Box 1500, Concord, NH 03302, (603) 226–2600.

i. *FERC Contact:* Any questions on this notice should be addressed to Dave Snyder at (202) 219–2385 or by e-mail at david.snyder@ferc.fed.us.

j. *Deadline for filing comments and or motions:* September 9, 1999.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

Please include the Project Number (4796–029) on any comments or motions filed.

k. *Description of Transfer:* Glen Park Associates Limited Partnership (Glen Park) and Niagara Mohawk Power Corporation (NMPC), the licensees for Project No. 4796, request approval of the transfer of the project license to Northbrook New York, L.L.C. (Northbrook). Transfer approval is sought pursuant to an Asset Purchase, Sale and Termination Agreement dated December 1, 1998 (December 1998 Agreement), in which Glen Park agreed to sell the project to NMPC, and an

Asset Purchase Agreement dated June 7, 1999 (1999 APA), in which NMPC agree to sell the project to Northbrook. The applicants intend to close on their sales agreements simultaneously. However, the applicants request that, in the event that the closing of the 1999 APA occurs later, the Commission's approval also applies to separate transfers from NMPC and Glen Park to NMPC and from NMPC to Northbrook.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE, Room 2A, Washington, DC 20426, or by calling (202) 208–1371. The application may be viewed on the web at www.ferc.fed.us/online/rims.htm. Call (202) 208–2222 for assistance. A copy is also available for inspection and reproduction at the address in item h above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or, motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'' ''PROTEST,'' OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19660 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

July 27, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application: Preliminary Permit.*

b. *Project No.:* P–11750–000.

c. *Date filed:* June 11, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Opekiska L&D Hydro Project.

f. *Location:* At the exiting U.S. Army Corps of Engineers' Opekiska Lock and Dam on the Monongahela River, near Morgantown, Monongalia County, West Virginia.

g. *File Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* William Guey-Lee (202) 219–2808 or E-mail address at William.gueylee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Opekiska Lock and Dam, and would consist of the following facilities: (1) five new steel penstocks, each about 50 feet long and 96 inches in diameter; (2) a new powerhouse to be constructed on the downstream side of the dam with 5 generating units and an installed capacity of 6,800 kilowatts; (3) new 500-yard-long, 14.7-kilovolt transmission lines; and (4) appurtenant facilities. The average annual generation is estimated to be 42 gigawatthours. The cost of the studies under the permit will not exceed $1,500,000.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application. A competing preliminary permit application must conform with 18 CFR 4.30(b) and 4.36.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person

to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, local agencies are invited to file comments on the described application. A copy of any application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19661 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

July 27, 1999.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Preliminary Permit.

b. *Project No.:* P–11751–000.

c. *Date filed:* June 11, 1999.

d. *Applicant:* Universal Electric Power Corporation.

e. *Name of Project:* Hildebrand L&D Hydro Project.

f. *Location:* At the existing U.S. Army Corps of Engineers' Hildebrand Lock and Dam on the Monongahela River, near Morgantown, Monongalia County, West Virginia.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Ronald S. Feltenberger, Universal Electric Power Corp., 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115.

i. *FERC Contact:* William Guey-Lee (202) 219–2808 or E-mail address at William.gueylee@FERC.fed.us.

j. *Deadline for filing motions to intervene and protest:* 60 days from the issuance date of this notice.

All documents (original and eight copies) should be filed with: David P. Boergers, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. *Description of Project:* The proposed project would utilize the existing U.S. Army Corps of Engineers' Hildebrand Lock and Dam, and would consist of the following facilities: (1) five new steel penstocks, each about 50 feet long and 96 inches in diameter; (2) a new powerhouse to be constructed on the downstream side of the dam with 5 generating units and an installed capacity of 6,500 kilowatts; (3) new 400-yard-long, 14.7-kilovolt transmission lines; and (4) appurtenant facilities. The average annual generation is estimated to be 40 gigawatthours. The cost of the studies under the permit will not exceed $1,500,000.

m. *Available Locations of Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, NE, Room 2–A, Washington, DC 20426, or by calling (202) 219–1371. A copy is also available for inspection and reproduction at Universal Electric Power Corp., Mr. Ronald S. Feltenberger, 1145 Highbrook Street, Akron, Ohio 44301, (330) 535–7115. A copy of the application may also be viewed or printed by accessing the Commission's website on the Internet at http://www.ferc.fed.us/online/rims.htm or call (202) 208–2222 for assistance.

n. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before a specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application. A competing license application must conform with 18 CFR 4.30(b) and 4.36.

Notice of Intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit, if such an application may be filed, either a preliminary permit application or a development application (specify which type of application). A notice of intent must be served on the applicant(s) named in this public notice.

Proposed Scope of Studies Under Permit—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit would be 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on the results of these studies, the Applicant would decide whether to proceed with the preparation of a development application to construct and operate the project.

Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''NOTICE OF INTENT TO FILE COMPETING APPLICATION'', ''COMPETING APPLICATION'', ''PROTEST'', ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. An additional copy must be sent to Director, Division of Project Review, Federal Energy Regulatory Commission, at the above-mentioned address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–19662 Filed 7–30–99; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6411–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Criteria for Classification of Solid Waste Disposal Facilities and Practices (RCRA 257)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval; Criteria for Classification of Solid Waste Disposal Facilities and Practices (RCRA 257), OMB Control Number 2050–0154, expiration date September 30, 1999. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone, (202) 260–2740, by email farmer.sandy@epamail.epa.gov, or down load a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1745.03.

SUPPLEMENTARY INFORMATION:

Title: Criteria for Classification of Solid Waste Disposal Facilities and Practices, (RCRA 257), OMB Control Number 2050–0154; EPA ICR Number 1745.02, expiring on 9/30/99. This is a request for an extension of a currently approved collection.

Abstract: 40 CFR part 257—subpart B, as required under the 1984 Hazardous and Solid Waste Amendments (HSWA) to RCRA, established specific Criteria and reporting and recordkeeping provisions for owners and operators of non-municipal non-hazardous waste disposal units that receive CESQG hazardous wastes. The information collected, as a result of this rule, is used by States to regulate and ensure that non-municipal non-hazardous waste disposal units that receive CESQG hazardous wastes are complying with the final revisions contained in this rule. The information needs to be collected to ensure that States effectively implement and enforce this rule on a State level. The information to be collected is mandatory and must be submitted on an occasional basis. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control number for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on March 15, 1999 (64 FR 12803). No comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 67 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, precessing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: State, Local, or Tribal Governments, Business.

Estimated Number of Respondents: 164.

Frequency of Response: On Occasion.

Estimated Total Annual Hour Burden: 10,962 hours.

Estimated Total Annualized Cost Burden: $0.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following address.

Please refer to EPA ICR No. 1745.03 and OMB Control No. 2050–0154 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OP Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460; and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: July 27, 1999.

Stephen T. Vineski,

Acting Director, Regulatory Information Division.

[FR Doc. 99–19730 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6411–4]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Requirements for Generators, Transporters, and Hazardous Waste Management Facilities Under the RCRA Hazardous Waste Manifest System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Requirements for Generators, Transporters, and Hazardous Waste Management Facilities Under the RCRA Hazardous Waste Manifest System, EPA ICR No. 801.12, OMB Control Number 2050–0039, current expiration date 9/30/99. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 1, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 801.12.

SUPPLEMENTARY INFORMATION:

Title: Requirements for Generators, Transporters, and Hazardous Waste Management Facilities Under the RCRA Hazardous Waste Manifest System, OMB Control No. 2050–0039; EPA ICR No. 801.12) expiring 9/30/99. This is an extension of a currently approved collection.

Abstract: The Resource Conservation and Recovery Act (RCRA), as amended, establishes a national program to assure that hazardous waste management practices are conducted in a manner that is protective of human health and the environment. EPA's authority to require compliance with the manifest system stems primarily from RCRA section 3002(a)(5). This section mandates a hazardous waste manifest ''system'' to assure that all hazardous waste generated is designated for and arrives at the appropriate treatment, storage, disposal facility. An essential part of this manifest system is the Uniform Hazardous Waste Manifest (Form 8700–22A). The manifest is a tracking document that accompanies the waste from its generation site to its final disposition. The manifest lists the wastes that are being shipped and the final destination of the waste. The manifest system is a self-enforcing mechanism that requires generators, transporters, and owner/operators of treatment, storage, and disposal facilities to participate in hazardous waste tracking. In addition the manifest provides information to transporters and waste management facility workers on the hazardous nature of the waste, identifies wastes so that they can be managed appropriately in the event of an accident, spill, or leak, and ensures that shipments of hazardous waste are managed properly and delivered to their designated facilities.

This system does not ordinarily involve intervention on the part of EPA unless hazardous wastes do not reach their point of disposition within a specified time frame. In most cases, RCRA-authorized States operate the manifest system, and requirements may vary among authorized States.

EPA believes manifest requirements and the resulting information collection mitigate potential hazards to human health and the environment by ensuring that hazardous waste is sent to and received by appropriate treatment, storage, and disposal facilities, by initiating appropriate response actions if a shipment does not reach its intended destination, and by providing necessary emergency response information in the event of an accident, spill, or leak during transportation.

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 4/5/99 (64 FR 16444); 3 comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.26 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Generators, transporters, and treatment, storage, and disposal facilities (TSDFs).

Estimated Number of Respondents: 105,558.

Frequency of Response: Per shipment of hazardous waste.

Estimated Total Annual Hour Burden: 2,920,383 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: $1,871,246.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 801.12 and OMB Control No. 2050–0039 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for

EPA, 725 17th Street, NW, Washington, DC 20503.

Stephen T. Vineski,

Acting Director, Regulatory Information Division.

[FR Doc. 99–19731 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6411–1]

Underground Injection Control Program Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Rubicon, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final decision on no migration petition reissuance.

SUMMARY: Notice is hereby given that an exemption to the land disposal restrictions under the 1984 Hazardous and Solid Waste Amendments to the Resource Conservation and Recovery Act has been granted to Rubicon Inc., (Rubicon) for four Class I injection wells located at Geismar, Louisiana. As required by 40 CFR part 148, the company has adequately demonstrated to the satisfaction of the Environmental Protection Agency by the petition and supporting documentation that, to a reasonable degree of certainty, there will be no migration of hazardous constituents from the injection zone for as long as the waste remains hazardous. This final decision allows the underground injection by Rubicon, of the specific restricted hazardous wastes identified in the exemption, into four Class I hazardous waste injection well nos. 1, 2, 3, and 4 at the Geismar, Louisiana facility, until December 31, 2025, unless EPA moves to terminate the exemption under provisions of 40 CFR 148.24. As required by 40 CFR 148.22(b) and 124.10, a public notice was issued May 20, 1999. The public comment period closed on July 7, 1999. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of July 26, 1999.

ADDRESSES: Copies of the petition and all pertinent information relating thereto are on file at the following location: Environmental Protection Agency, Region 6, Water Quality Protection Division, Source Water Protection Branch (6WQ–S), 1445 Ross Avenue, Dallas, Texas 75202–2733.

FOR FURTHER INFORMATION CONTACT: Philip Dellinger, Chief Ground Water/UIC Section, EPA—Region 6, telephone (214) 665–7165.

Oscar Ramirez, Jr.,

Acting Director, Water Quality Protection Division (6WQ).

[FR Doc. 99–19732 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–36194; FRL–6097–3]

Organophosphate Pesticide Tolerances-No Finite Residues Considered to be Reassessed By EPA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that EPA is considering as reassessed 80 meat, milk, poultry, and egg (MMPE) tolerances. These MMPE tolerances are for residues of azinphos-methyl, coumaphos, fenthion, isofenphos, methidathion, naled, phorate, and profenophos. The Agency has evaluated 105 MMPE tolerances listed in the table in this Notice and has concluded that there are no reasonable expectations of finite pesticide residues in or on meat, milk, poultry, or eggs for the listed organophosphate pesticides. Since 25 of these tolerances were previously reassessed by final rule revocation in the **Federal Register**, 80 of the 105 tolerances are counted here as reassessments made toward the August 1999 review deadline of the Federal Food, Drug, and Cosmetic Act (FFDCA) section 408(q), as amended by the Food Quality Protection Act (FQPA) of 1996. EPA will propose a rule to revoke these 80 reassessed MMPE tolerances in a subsequent **Federal Register** notice.

FOR FURTHER INFORMATION CONTACT: Kimberly Lowe or Daniel Helfgott, U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460. Telephone: (703) 308-8059 or (703) 308-8054. E-mail:lowe.kimberly@epa.gov or helfgott.dan@epa.gov. Office location: Crystal Mall 2, 6th floor, 1921 Jefferson Davis Hwy., Arlington, VA.

SUPPLEMENTARY INFORMATION:

I. Important Information

A. Does This Action Apply to Me?

This action is directed to the public in general. Although this action may be of particular interest to those persons who are interested in the implementation of FQPA, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the information in this notice, consult the person listed in the ''**FOR FURTHER INFORMATION CONTACT**'' section.

B. How can I get additional information or copies of support documents?

1. *Electronically.* You may obtain electronic copies of this document from the EPA Home page at the Federal Register - Environmental Documents entry for this document under ''Laws and Regulations'' http://www.epa.gov/fedrgstr/.

2. *In person.* The official record for this notice, as well as the public version, has been established under docket control number [OPP–36194]. A public version of this record is available for inspection in room 119, Crystal Mall 2, 1921 Jefferson Davis Highway, Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

II. Background

This notice announces to the general public that EPA has determined that 105 tolerances for residues of organophosphate chemicals on meat, milk, poultry, and eggs are unnecessary per 40 CFR 180.6 (see table below). EPA has previously reassessed 25 of these tolerances.

When EPA establishes tolerances for pesticide residues in or on raw agricultural commodities, consideration must be given to the possible residues of those chemicals in meat, milk, poultry, and/or eggs produced by animals that are fed agricultural products (for example, grain or hay) containing pesticide residues (40 CFR 180.6). When considering this possibility, EPA can conclude that (1) finite residues will exist in meat, milk, poultry and/or eggs; (2) there is a reasonable expectation that finite residues will exist; or (3) there is a reasonable expectation that finite residues will not exist. If there is no reasonable expectation of finite pesticide residues in or on meat, milk, poultry, or eggs, tolerances do not need to be established for these commodities [40 CFR 180.6(b) and 40 CFR 180.6(c)].

EPA has evaluated the meat, milk, poultry, and egg tolerances listed in the table in this document and has concluded that there is no reasonable expectation of finite residues of azinphos-methyl, methidathion, naled, phorate, or profenphos in or on those commodities [180.6(a)(3)]. The determination that there is no reasonable expectation of finite residues was made based on feeding studies submitted since the time that the

tolerances were originally established. These feeding studies used exaggerated amounts of the compound (10x the dietary burden) and did not show measurable residues of the pesticides tested. Additionally, EPA has determined that fenthion no longer bears a use that could result in residues in poultry. Because there is no reasonable expectation of finite residues, these 80 tolerances are not required under the FFDCA and can be revoked. The Agency considers these 80 tolerances as reassessed and are counted in this document toward meeting the tolerance reassessment requirements listed in FFDCA section 408(q). EPA will propose a rule to revoke these 80 reassessed MMPE tolerances in a subsequent **Federal Register** notice.

Additionally, because there are no registered uses, EPA has previously revoked 25 of these OP tolerances: 4 coumaphos tolerances (64 FR 39072, July 21, 1999) (FRL–6093–6), 20 isofenphos tolerances and 1 sulprofos tolerance (63 FR 57067, October 26, 1998) (FRL–6035–6). These are also listed on the attached table as having no reasonable expectations of finite residues. These 25 tolerances have already been counted toward tolerance reassessment.

TABLE—ORGANOPHOSPHATE (OP) CHEMICALS WITH MEAT, MILK, POULTRY, AND/OR EGG TOLERANCES, BUT, FOR WHICH THERE IS NO REASONABLE EXPECTATION OF FINITE RESIDUES

OP Name	No of Tolerances	Tolerances Reassessed
Azinphos-methyl	13	cattle, fat; cattle, mbyp; cattle, meat; goats, fat; goats, mbyp; goats, meat; horses, fat; horses, mbyp; horses, meat; sheep, fat; sheep, mbyp; sheep, meat; milk
Coumaphos	4	poultry, fat; poultry, mbyp; poultry, meat; eggs
Fenthion	3	poultry, fat; poultry, mbyp; poultry, meat
Isofenphos	20	cattle, fat; cattle, mbyp; cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; poultry, fat; poultry, mbyp; poultry, meat; sheep, fat; sheep, mbyp; sheep, meat; milk; eggs
Methidathion	20	cattle, fat; cattle, mbyp; cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; poultry, fat; poultry, mbyp; poultry, meat; sheep, fat; sheep, mbyp; sheep, meat; milk; eggs
Naled	20	cattle, fat; cattle, mbyp; cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; poultry, fat; poultry, mbyp; poultry, meat; sheep, fat; sheep, mbyp; sheep, meat; milk; eggs
Phorate	20	cattle, fat; cattle, mbyp; cattle, meat; goats, fat; goats, mbyp; goats, meat; hogs, fat; hogs, mbyp; hogs, meat; horses, fat; horses, mbyp; horses, meat; poultry, fat; poultry, mbyp; poultry, meat; sheep, fat; sheep, mbyp; sheep, meat; milk; eggs
Profenophos	4	poultry, fat; poultry, mbyp; poultry, meat; eggs
Sulprofos	1	eggs

List of Subjects

Environmental protection, pesticides and pests, pesticide tolerance(s), tolerance reassessment, organophosphate(s), chemicals.

Dated: July 28, 1999.

Jack E. Housenger,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 99–19784 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–44652; FRL–6094–1]

TSCA Chemical Testing; Receipt of Test Data

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's receipt of test data on Phenol (CAS No. 108–95–2) and 1,6-Hexamethylene Diisocyanate (HDI) (CAS No. 822–06–0). These data were submitted pursuant to enforceable testing consent agreements/orders issued by EPA under section 4 of the Toxic Substances Control Act (TSCA). Publication of this notice is in compliance with section 4(d) of TSCA.

FOR FURTHER INFORMATION CONTACT: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408),Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543B, 401 M St., SW., Washington, DC 20460,(202) 554–1404, TDD (202) 554–0551, e-mail: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION: Under 40 CFR 790.60, all TSCA section 4 enforceable consent agreements/orders must contain a statement that results of testing conducted pursuant to enforceable consent agreements/orders will be announced to the public in accordance with procedures specified in section 4(d) of TSCA.

I. General Information

A. Does this action apply to me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this notice. If you have any questions regarding the applicability of this notice to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

B. How can I get additional information or copies of this document?

1. *Electronically*. You may obtain electronic copies of this document from the EPA Internet Home Page at the **Federal Register**-Environmental Documents entry for this document under ''Laws and Regulations'' (http://www.epa.gov/fedrgstr/).

2. *In person, by phone, fax, or e-mail*. EPA has established a public record for this TSCA section 4(d) receipt of test data notice (docket number OPPTS–44652). This record includes copies of the studies reported in this notice. The record, excluding Confidential Business Information (CBI), is available for inspection in the TSCA Nonconfidential Information Center, Rm. NE B–607, 401 M St., SW., Washington, DC, from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. Requests for

documents should be sent in writing to: Environmental Protection Agency, TSCA Nonconfidential Information Center (7405), 401 M St., SW., Washington, DC 20460 or fax: (202) 260–5069 or e-mail: oppt.ncic@epa.gov.

II. What are the details of the test data submissions

Test data for phenol were submitted by the Phenol Regulatory Panel of the Chemical Manufacturers Association (CMA) on behalf of its test sponsor companies: Allied Signal Inc.; Aristech Chemical Corporation; Dakota Gasification Company; Dow Chemical Company; Georgia Gulf Corporation; General Electric Corporation; GIRSA, Inc.; JLM Industries, Inc.; Kalama Chemical, Inc.; Merichem Company; Mitsubishi Company; Mitsui Co. (U.S.A.), Inc.; Shell Chemical Company; and Texaco Refining Marketing. The report was submitted pursuant to a TSCA section 4 enforceable testing consent agreement/order and was received by EPA on June 17, 1999. The submission includes a final report entitled ''Two-Generation Oral (Drinking Water) Reproductive Toxicity Study of Phenol in Rats.'' This chemical is produced in substantial quantities and is used in numerous consumer products.

Test data for HDI were submitted by The Chemical Manufacturers Association (CMA) on behalf of the Hexamethylene Diisocyanate Test Sponsors: Lyondell Chemical Company (formerly ARCO chemical Company), Newtown Square, PA; Bayer Corporation, Pittsburgh, PA: and Rhodia Inc. (formerly Rhone-Poulenc Inc.), Raleigh, NC. The reports were submitted in accordance with a TSCA section 4 enforceable testing consent agreement/order and were received by EPA on June 22, 1999. The submission includes two final reports entitled: (1) ''A Developmental Toxicity Study with 1,6-Hexamethylene Diisocyanate (HDI) in the Sprague-Dawley Rat'' and (2) ''A Combined Repeated Dose Toxicity Study with the Reproduction/Developmental Toxicity Screening Test using 1,6-Hexamethylene Diisocyanate (HDI) in the Sprague-Dawley Rat.'' This chemical is used in the manufacture of higher molecular weight biuret polyisocyanate resins and trimer polyisocyanate resins. HDI biuret polyisocyanate resins and trimers are mainly used as reactive components of two part polyurethane paint systems for automobile refinishing, industrial maintenance, marine coatings, and other high performance coating systems. For example, the civilian and military aircraft industry uses aliphatic diisocyanate containing paint almost exclusively because of its stability in ultraviolet light. Other consumer uses of HDI are not known at this time.

EPA has initiated its review and evaluation process for these data submissions. At this time, the Agency is unable to provide any determination as to the completeness of the submissions.

List of Subjects

Environmental protection, Test data.

Authority: 15 U.S.C. 2603.

Dated: July 22, 1999.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 99–19727 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[PB–402404–TX–A; FRL–6079–3]

Lead; Requirements for Lead-Based Paint Activities in Target Housing and Child-Occupied Facilities; State of Texas's Authorization Application; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: In the **Federal Register** of April 16, 1999 (64 FR 18906) (FRL–6073–6), EPA announced that the State of Texas had submitted an application for EPA approval to administer and enforce training and certification requirements, training program accreditation requirements, and work practice standards for lead-based paint activities in target housing and child-occupied facilities under section 402 of the Toxic Substances Control Act (TSCA). The notice also announced a 45–day public comment period and an opportunity to request a public hearing on the application. The document incorrectly listed a certification requirement. This notice corrects that error. In FR Doc. 99–9607, on page 18907, third column, first full paragraph, the second sentence, which reads ''The appropriate certification exam must be taken every 3 years for certain disciplines.'' is hereby removed.

FOR FURTHER INFORMATION CONTACT: Jeffrey Robinson, Regional Lead Coordinator, Environmental Protection Agency, Region VI, 1445 Ross Avenue, Suite 1200, 6PD–T, Dallas, TX 75202–2733. Telephone: 214–665–7577, e-mail address: robinson.jeffrey@epamail.epa.gov.

List of Subjects

Environmental protection, Hazardous substances, Lead, Reporting and recordkeeping requirements.

Dated: May 11, 1999.

Gerald W. Fontenot.

Acting Division Director, Multimedia Planning and Permitting, Region VI.

[FR Doc. 99–19726 Filed 7–30–99; 8:45 am]

BILLING CODE 6560–50–F

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board; Regular Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The regular meeting of the Board will be held at the Double Tree Hotel, San Diego, California, on August 12, 1999, from 1:00 p.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: Vivian L. Portis, Secretary to the Farm Credit Administration Board, (703) 883–4025, TDD (703) 883–4444.

ADDRESSES: Double Tree Hotel, 7450 Hazard Center Drive, San Diego, California 92108.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Board will be open to the public (limited space available), and parts will be closed to the public. In order to increase the accessibility to Board meetings, persons requiring assistance should make arrangements in advance. The matters to be considered at the meeting are:

Open Session

A. Approval of Minutes

July 8, 1999 (Open and Closed)

B. New Business

Regulations

—Transfer of Capital from Banks to Associations [12 CFR Part 615]

Closed Session*

A. Report

—OSMO Report

*Session Closed—Exempt pursuant to 5 U.S.C. 552b(c)(8) and (9).

Dated: July 28, 1999.

Nan P. Mitchem,

Acting Secretary, Farm Credit Administration Board.

[FR Doc. 99–19878 Filed 7–29–99; 1:16 pm]

BILLING CODE 6705–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice of information collection to be submitted to OMB for review and approval under the Paperwork Reduction Act of 1995.

SUMMARY: In accordance with requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the FDIC hereby gives notice that it plans to submit to the Office of Management and Budget (OMB) a request for OMB review and approval of the information collection system described below.

Type of Review: Renewal of a currently approved collection.

Title: Certified Statement for Semiannual Deposit Insurance Assessment.

Form Number: 6420/07A.

OMB Number: 3064–0057.

Annual Burden

Estimated annual number of respondents: 21,000.

Estimated time per response: 15 minutes.

Average annual burden hours: 5,250 hours.

Expiration Date of OMB Clearance: August 31, 1999.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503.

FDIC Contact: Tamara R. Manly, (202) 898–7453, Office of the Executive Secretary, Room F–4058, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

Comments: Comments on this collection of information are welcome and should be submitted on or before September 1, 1999, to both the OMB reviewer and the FDIC contact listed above.

ADDRESSES: Information about this submission, including copies of the proposed collection of information, may be obtained by calling or writing the FDIC contact listed above.

SUPPLEMENTARY INFORMATION: Certified statements are prepared and submitted semiannually to report and certify deposit liabilities and to compute the assessment payment due for deposit insurance protection.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 99–19748 Filed 7–30–99; 8:45 am]

BILLING CODE 6714–01–U

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, July 29, 1999, 10:00 a.m., meeting open to the public.

THE FOLLOWING ITEM HAS BEEN WITHDRAWN FROM THE AGENDA: Title 26 Final rules and explanation and justification on documentation required for matching of credit and debit card contributions.

PERSON TO CONTACT FOR INFORMATION: Ron Harris, Press Officer, Telephone (202) 694–1220.

Mary W. Dove,

Acting Secretary of the Commission.

[FR Doc. 99–19843 Filed 7–29–99; 11:37 am]

BILLING CODE 6715–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meeting of the Advisory Committee on Blood Safety and Availability

AGENCY: Office of the Secretary.

ACTION: Notice of meeting.

The Advisory Committee on Blood Safety and Availability will meet on August 26, 1999, from 9:00 a.m. to 5:00 p.m. and on August 27, 1999 from 9:00 a.m. to 3:00 p.m. The meeting will take place in the Ticonderoga Room of the Hyatt Regency Hotel on Capitol Hill, 400 New Jersey, NW., Washington, DC 20001. The meeting will be entirely open to the public.

On the morning of August 26, the Committee will consider responses to the deferral of certain former United Kingdom residents from blood donation. That afternoon, the Committee will consider the current availability of blood products, and the current status of the hepatitis C lookback effort. On August 27, the Committee will consider the issue of how federally mandated blood safety initiatives should be financed.

Public comment will be solicited on these topics both days. Public comment will be limited to five minutes per speaker. Those who wish to have printed material distributed to Advisory Committee members should submit thirty (30) copies to the Executive Secretary prior to close of business August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Stephen D. Nightingdale, M.D., Executive Secretary, Advisory Committee on Blood Safety and Availability, Office of Public Health and Safety, Department of Health and Human Services, 200 Independence Avenue SW, Washington, DC 20201. Phone (202) 690–5560 FAX (202) 690–6584 e-mail STEPHENDNIGHTINGALE @osophs.dhhs.gov.

Dated: July 15, 1999.

Stephen D. Nightingale,

Executive Secretary, Advisory Committee on Blood Safety and Availability.

[FR Doc. 99–19643 Filed 7–30–99; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[ATSDR–149]

Consultation and Coordination Policy With Indian Tribal Governments

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: This notice announces the final ATSDR policy on conducting consultation and coordination with federally recognized tribal governments. This policy has been finalized after consideration of comments from Agency tribal consultants. The policy is the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: Leslie C. Campbell, Acting Tribal Coordinator, Office of Tribal Affairs, Division of Health Assessment and Consultation, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E–32, Atlanta, Georgia 30333, telephone (404) 639–6337.

SUPPLEMENTARY INFORMATION: The Agency for Toxic Substances and Disease Registry issues the following policy statement:

Consultation and Coordination With Indian Tribal Governments

ATSDR's mission is to prevent exposure and adverse human health effects and diminished quality of life associated with exposure to hazardous substances from waste sites, unplanned releases, and other sources of pollution present in the environment.

ATSDR is committed to assisting tribal governments in meeting the environmental health needs of their people. ATSDR continues to work to improve its communication and cooperation with tribes. This new policy is in response to the Presidential Executive Order 13084, Consultation and Coordination With Indian Tribal Governments, May 14, 1998, and affirms the current ATSDR Policy on Government-to-Government Relations with Native American Tribal Governments (61 FR 42255). The policy focuses on environmental health issues related to the release of hazardous substances into the environment.

Consultations between ATSDR and tribal governments will continue to ensure effective collaboration in identifying, addressing, and satisfying the needs of tribal communities affected by hazardous substances. Consultation enables ATSDR staff and tribal members to interactively participate, exchange recommendations, and provide input on environmental health activities.

As defined by ATSDR, the new policy supports: (1) A consultative process with tribal nations and their members to work together to address tribal environmental public health needs; (2) mutual trust, respect, and shared responsibilities between all participating parties; and (3) open communication of information and opinions leading to mutual interaction and understanding.

ATSDR . . .

- Respects and honors the sovereignty of the tribes, the responsibilities and rights to self-governance, and the differences between tribal nations and individuals.
- Consults with tribal governments to ensure community concerns and impacts are carefully considered before the Agency takes action or makes decisions affecting tribal communities.
- Maintains government-to-government relationships with tribal governments.
- Ensures ongoing communication with tribal governments, communities, and individual tribal members to define concerns about possible health impacts from exposure to hazardous substances.

Dated: July 27, 1999.

Donna Garland,

Acting Director, Office of Policy and External Affairs, Agency for Toxic Substances and Disease Registry.

[FR Doc. 99–19677 Filed 7–30–99; 8:45 am]

BILLING CODE 4163–70–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Program Announcement 00007]

Research on Laboratory Markers of Recent HIV Infection: Notice of Availability of Funds

A. Purpose

The Centers for Disease Control and Prevention (CDC) announces the availability of $500,000 of fiscal year (FY) 2000 funds for a cooperative agreement program for Research on Laboratory Markers for Recent HIV Infection. This program addresses the ''Healthy People 2000'' priority area of HIV Infection. The purpose of the Program is to support research on laboratory markers that can be used to measure HIV infection incidence from cross-sectional samples and identify recently infected persons.

One example of this approach is provided by a newly described testing algorithm using a modified enzyme immuno assay (EIA) for HIV–1 antibody to identify persons who are in the early period of HIV infection (Janssen et al, JAMA 1998; 280:42–48). Specimens that are positive for HIV antibody by a standard EIA and Western blot are retested with a less sensitive EIA. The method was developed using the Abbott 3A11 EIA as the standard assay and a modified Abbott 3A11 EIA (employing a more dilute specimen and shorter incubation time) as the less sensitive assay. Persons who are HIV-positive on the sensitive assay, but negative on the less sensitive assay, are considered to be recently infected.

The objective is to develop laboratory tests or algorithms for identifying recent HIV infection (e.g., 3–12 months). These might include modifying existing EIAs or developing new serologic assays or testing algorithms. These assays or algorithms should be of sufficient simplicity to permit routine use in public health surveillance and programs.

B. Eligible Applicants

Applications may be submitted by public and private nonprofit and for-profit organizations and by governments and their agencies: that is, universities, colleges, research institutions, hospitals, other public and private nonprofit, and for-profit organizations, State and local governments or their bona fide agents, and federally recognized Indian tribal governments, Indian tribes, or Indian tribal organizations.

Note: Public Law 104–65 specifies that an organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 that engages in lobbying activities is not eligible to receive Federal funds constituting an award, grant, cooperative agreement, contract, loan, or any other form.

C. Availability of Funds

Approximately $500,000 is available in FY 2000 to fund up to two (2) awards. It is expected that the average award will be $250,000. It is also expected that the awards will begin on or about January 2, 2000 and will be made for a 12-month budget period within a project period of up to two (2) years. Funding estimates may change.

Continuation awards within an approved project period will be made on the basis of satisfactory progress as evidenced by required reports and the availability of funds.

Funding Preferences

Funding will be awarded to applicants proposing different approaches, in order to avoid funding more than one laboratory for the same or very similar research.

D. Program Requirements

In conducting activities to achieve the purpose of this program, the recipient will be responsible for the activities under 1. (Recipient Activities), and CDC will be responsible for activities under 2. (CDC Activities).

1. Recipient Activities

a. Develop an innovative testing methodology for identifying recent HIV infection, or adapt another commercially available HIV–1 serum EIA to detect early HIV–1 infection in individuals (e.g., 3–12 months), or adapt such methods to other body fluids (oral fluids, urine, etc.), or adapt such methods to rapid HIV testing.

b. Validate methods in appropriate study populations or appropriate panels of specimens using appropriate statistical methods for analysis.

c. Provide results and share data (individual & aggregate) with other collaborators in the field and with CDC.

2. CDC Activities

a. If the research protocol involves human subjects, CDC will assist in the development of a research protocol for

Institutional Review Board (IRB) review by each cooperating institution participating in the research project.

The CDC Institutional Review Board (IRB) will review and approve the protocol initially and on at least an annual basis until the research project is completed.

b. Provide assistance in the design and conduct of the research and statistical analysis.

c. Provide assistance on selected laboratory tests, when requested.

d. Coordinate research activities among diverse sites, when appropriate, as there may be identical samples that require testing by more than one venue.

e. Assist in the analysis of research information and the presentation and publication of research findings.

E. Application Content

Use the information in the Program Requirements, Other Requirements, and Evaluation Criteria Sections to develop the application content. Your application will be evaluated on the criteria listed, so it is important to follow them in laying out your program plan. The narrative should be no more than ten (10) double-spaced pages, printed on one side, with one inch margins, and unreduced font.

Budget

1. Submit line-item descriptive justification for personnel, travel, supplies, and other services. Be precise about the purpose of each budget item as it relates to the project.

2. If you request funding for contracts, include the name of the person or firm to receive the contract, the method of selection, the period of performance, the reason for using a contract, and a description of the contracted service requested.

3. Funding levels for year two (2) should be estimated.

Supporting Materials

1. Curriculum vitae and job description of critical staff.

2. Letters of endorsement or collaboration of participating centers, agencies or State or local public health departments.

F. Submission and Deadline

Application

Submit the original and two copies of PHS 5161–1 (OMB Number 0937–0189). Forms are available at the following internet address: www.CDC.gov...forms or in the application kit. On or before October 4, 1999, submit the application to the Grants Management Specialist identified in the ''Where to Obtain Additional Information'' Section of this announcement.

Deadline

Applications shall be considered as meeting the deadline if they are either:

(a) Received on or before the deadline date; or

(b) Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants must request a legibly dated U.S. Postal Service postmark or obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

Late Applications: Applications which do not meet criteria in (a) or (b) above are considered late applications, will not be considered, and will be returned to the applicant.

G. Evaluation Criteria

Each application will be evaluated individually against the following criteria by an independent review group appointed by CDC:

1. The applicant demonstrates the knowledge, ability, and experience necessary to conduct laboratory research on measures of recent HIV infection. (20 points)

2. The applicant demonstrates the ability to obtain and examine appropriate numbers and types of laboratory specimens. (20 points)

3. The applicant presents a sound plan for conducting and evaluating the research, including appropriate statistical analysis. (20 points)

4. The applicant's proposed objectives are measurable, specific, time-phased, and related to required recipient activities and program purpose. (20 points)

5. The applicant demonstrates willingness to cooperate in a study with CDC and other collaborating institutions. (10 points)

6. The size, qualifications, and other time allocation of the proposed staff and the availability of facilities are adequate for the study. (10 points)

7. The budget is reasonable, clearly justified, consistent with the intended use of funds, and allowable. All budget categories should be itemized. (not scored)

8. Does the application adequately address the requirements of Title 45 CFR Part 46 for the protection of human subjects?

9. The degree to which the applicant has met the CDC Policy requirements regarding the inclusion of women, ethnic, and racial groups in the proposed research. This includes: (a) The proposed plan for the inclusion of both sexes and racial and ethnic minority populations for appropriate representation; (b) The proposed justification when representation is limited or absent; and (c) A statement as to whether the design of the study is adequate to measure differences when warranted. (not scored)

H. Other Requirements

Technical Reporting Requirements

Provide CDC with original plus two copies of:

1. Progress Reports (semi annual);

2. Financial Status Report (FSR), no more than 90 days after the end of the budget period; and

3. Final financial status and performance reports, no more than 90 days after the end of the project period.

Send all reports to: Van Malone, Grants Management Specialist, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341.

The following additional requirements are applicable to this program: For a complete description of each, see Attachment I in the application kit.

AR–1 Human Subjects Requirements
AR–2 Requirements for Inclusion of Women and Racial and Ethnic Minorities in Research
AR–4 HIV/AIDS Confidentiality Provisions
AR–5 HIV Program Review Panel Requirements
AR–7 Executive Order 12372 Review
AR–9 Paperwork Reduction Act Requirements
AR–10 Smoke-Free Workplace Requirements
AR–11 Healthy People 2000
AR–12 Lobbying Restrictions

I. Authority and Catalog of Federal Domestic Assistance Number

This program is authorized under Section 301 of the Public Health Service Act, [42 U.S.C. 241, Section 311, 42 U.S.C. 243], as amended. The Catalog of Federal Domestic Assistance number is 93.943.

J. Where To Obtain Additional Information

Please refer to Program Announcement 00007 when you request information. For a complete program description, information on application procedures, an application package, and business management technical assistance, contact: Van Malone, Grants Management Specialist, Procurement and Grants Office, Announcement

00007, Centers for Disease Control and Prevention (CDC), 2920 Brandywine Road, Room 3000, Atlanta, GA 30341, Telephone: (770) 488–2733, Email address: Vxm7@cdc.gov.

For program technical assistance, contact: Donald Ruberti, Senior Public Health Advisor, Prevention Services Research Branch, Division of HIV/AIDS Prevention, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE, Mail Stop E46, Atlanta, Georgia 30333, Telephone: (404) 639–2098, Email address: http://www.dor1@cdc.gov. See also the CDC Home Page on the Internet: http://www.cdc.gov

To receive additional written information and to request an application kit, call 1–888-GRANTS4 (1–888–472–6874). You will be asked to leave your name and address and will be instructed to identify the Announcement number of interest.

Dated: July 27, 1999.

John L. Williams,

Director, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–19675 Filed 7–30–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0926]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Under the Federal Import Milk Act; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 26, 1999 (64 FR 40379). The document announced that a proposed collection of information has been submitted to the Office of Management and Budget for review and clearance under the Paperwork Reduction Act of 1995. The document was published with an inadvertent error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: LaJuana D. Caldwell, Office of Policy (HF–27), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7010.

SUPPLEMENTARY INFORMATION: In FR Doc. 99–18927, appearing on page 40379 in the **Federal Register** of Monday, July 26, 1999, the following corrections are made:

1. On page 40379, in the first column, the Docket number is corrected to read ''99N–0926''; and in the second column, under the **SUPPLEMENTARY INFORMATION** caption, in the title of the proposed collection of information, the OMB control number ''0910–021'' is corrected to read ''0910–0212''.

Dated: July 27, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation

[FR Doc. 99–19688 Filed 7–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

International Workshop on the Standardization of Whole Blood Coagulation Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a workshop entitled ''International Workshop on the Standardization of Whole Blood Coagulation Devices.'' The focus of the workshop is to define the issues relating to the calibration of whole blood coagulation assays. Workshop participants will be asked to develop a proposal for standardizing the calibration of these devices. The proposal will be referred to a standards development organization.

DATE: The workshop will be held on August 13, 1999, 1 p.m. to 6 p.m.

ADDRESSES: The workshop will be held at the Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Sheila J. Murdock, Office of Surveillance and Biometrics (HFZ–510), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850, 301–594–3060, FAX 301–594–2968, e-mail ''coagulation@cdrh.fda.gov''.

SUPPLEMENTARY INFORMATION: Whole blood clotting assays are used increasingly in the point of care testing environment. The calibration of these assays against plasma methods is achieved through a variety of approaches. Consequently, the consistency of results between different devices and the traceability of results to plasma methods are variable. Limited correlation between assays can be particularly problematic when monitoring anticoagulant drugs.

The workshop will focus on defining the issues relating to the calibration of whole blood coagulation devices. Workshop participants will collaborate on a proposal for the development of a standardized approach to the calibration of these assays. The proposal will be referred to a standards development organization.

In order to make the best use of limited workshop time, guest speakers will be asked to write a draft standardization proposal prior to the date of the workshop. This document will be posted on the CDRH website after July 15, 1999, at ''http://www.fda.gov/cdrh/meetings/coag.html''. Members of the public will be encouraged to e-mail comments and recommendations about this document to ''coagulation@cdrh.fda.gov''. Summaries of all e-mailed comments sent with author's name will be posted to the website in order to provide a forum for ongoing discussion up to the week of the workshop.

Those persons interested in attending the workshop should fax or e-mail their registration including name, title, affiliation (i.e., end-user, government nonregulatory, government regulatory, industry, professional organization, proficiency testing organization, trade press, standards development organization), mailing address, telephone number, fax number, e-mail address, and area of interest. There is no charge to attend the workshop, however, advance registration is requested due to limited seating. If you need special accommodations due to a disability, please contact Shirley L. Meeks at least 7 days in advance of the meeting, at the Office of Systems Management (HFZ–17), Center for Devices and Radiological Health, Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–1283, ext. 105, FAX 301–827–2929, e-mail ''SLM@CRDH.FDA.GOV''.

Registration forms and the preliminary agenda may also be accessed at the CDRH website at ''http://www.fda.gov/cdrh/meetings/coag.html''. The workshop agenda includes presentations by guest speakers, small breakout group discussions and deliberation and refining of a standardization proposal. The final plenary session will include reports to the assembly from the smaller group discussions. Time will be provided for public comments at the end of this session. The draft standardization proposal will be finalized according to the

recommendations of workshop participants. A summary report of the workshop will be available on CDRH's website approximately 15 working days after the workshop. The CDRH home page may be accessed at ''http://www.fda.gov/cdrh''.

Dated: July 23, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–19689 Filed 7–30–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Drug Testing Advisory Board; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Drug Testing Advisory Board of the Center for Substance Abuse Prevention in September 1999.

The first day (September 8) of the Drug Testing Advisory Board meeting will be closed from 8 a.m. until 4:30 p.m. and involves the review of sensitive National Laboratory Certification Program (NLCP) internal operating procedures and program development issues. Therefore, this portion of the meeting will be closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(2), (4), and (6) and 5 U.S.C. App.2, sec. 10(d).

The second day (September 9) of the Drug Testing Advisory Board meeting will be open from 8 a.m. until 3:30 p.m. The open session will include a roll call, general announcements, and a discussion of the information submitted by industry representatives regarding the use of alternative matrices (hair, sweat, oral fluids) and on-site tests to test for drugs of abuse. A public comment period will be scheduled during the open session. If anyone needs special accommodations for persons with disabilities please notify the Contact listed below.

An agenda for this meeting and a roster of board members may be obtained from: Ms. Giselle Hersh, Division of Workplace Programs, 5600 Fishers Lane, Rockwall II, Suite 815, Rockville, MD 20857, Telephone: (301) 443–6014.

Substantive program information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Drug Testing Advisory Board.

Meeting Date: September 8–9, 1999.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Closed: September 8, 1999; 8 a.m.–4:30 p.m.

Open: September 9, 1999; 8 a.m. –3:30 p.m.

Contact: Donna M. Bush, Executive Secretary, Telephone: (301) 443–6014 and FAX: (301) 443–3031.

Sandi Stephens,

Committee Management Officer, Substance Abuse and Mental Health, Services Administration.

[FR Doc. 99–19687 Filed 7–30–99; 8:45 am]

BILLING CODE 4162–20–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Coastal Barrier Improvement Act of 1990; Amendments to the Coastal Barrier Resources System

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: We, the Fish and Wildlife Service, have changed the boundaries on three maps of the Coastal Barrier Resources System, in Florida and South Carolina, as directed by Congress. In addition, recent legislation reactivates changes to eight maps in Florida that had been invalidated by a court decision on March 8, 1998. These changes are effective without the need to revise maps. We are using this notice to inform the public about the distribution and availability of the revised and reactivated maps.

DATES: The boundary revisions for these units became effective on October 21, 1998.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin N. Tuggle, Department of the Interior, U.S. Fish and Wildlife Service, Division of Habitat Conservation, (703) 358–2161.

SUPPLEMENTARY INFORMATION:

Background

In 1982, Congress passed the Coastal Barrier Resources Act (P.L. 97–348) to restrict Federal spending that could foster development of undeveloped coastal barriers along the Atlantic and Gulf of Mexico coasts. In the Coastal Barrier Improvement Act of 1990 (P.L. 101–591), Congress amended the CBRA to broaden the definition of a coastal barrier, and approved a series of maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990. These maps identify and depict those coastal barriers located on the coasts of the Atlantic Ocean, Gulf of Mexico, and the Great Lakes, and in Puerto Rico and the Virgin Islands that are subject to the Federal funding limitations outlined in the CBRA.

The CBRA also defines our responsibilities regarding the System maps. We have official custody of these maps, and prepare and distribute copies of the maps. We published a notice of the filing, distribution, and availability of the maps entitled ''Coastal Barrier Resources System'' dated October 24, 1990, in the **Federal Register** on June 6, 1991, (56 FR 26304–26312). We have announced all subsequent map revisions in the **Federal Register**.

Section 101(e) of Public Law 105–277, enacted on October 21, 1998, requires us to revise the maps of Coastal Barrier Resources System Unit FL–35/FL–35P in Monroe County, Florida, and Unit SC–03 in Georgetown County, South Carolina. Section 134 of Public Law 105–277 requires us to revise the map of Unit M09 in Colleton County, South Carolina. Section 335 of Public Law 105–277 gives ''the force and effect of law'' to a set of eight maps entitled ''Coastal Barrier Resources System'', dated October 24, 1990, revised November 12, 1996, that were previously announced in the **Federal Register** on May 28, 1997 (62 FR 28891–28892). These eight maps were invalidated by a court order on March 5, 1998 (*Coastal Alliance* v. *Babbitt*, Civil Action No. 97–1344 (D. D.C.)), but were reinstated as of October 21, 1998, by Section 335 of Public Law 105–277.

Three Revised Maps in Florida and South Carolina

Consistent with Congressional instructions, the following three maps were modified:

North Key Largo Unit FL–35/FL–35P—Congress excluded Pumpkin Key from the System. Congress also removed some developed property of the Ocean Reef community from the System.

Huntington Beach Unit SC–03—Congress changed the western boundary of this unit to remove developed property from the System.

Edisto Island Unit M09—Congress changed the southern and western boundary of this unit back to the boundary it established in 1982.

Eight Reactivated Maps in Florida

We substituted the eight maps dated ''October 24, 1990, revised November 12, 1996,'' for the previous maps for the units. These maps are described in the May 28, 1997, **Federal Register** (62 FR 28891–28892) and pertain to the following units:

Conch Island Unit P05;
Matanzas River Unit P05A;
Vero Beach Unit P10;
Hutchinson Island Unit P11;
Frank B. McGilvrey Unit P11A;
Sanibel Island Unit P18;
Cedar Keys Unit P25; and
Moreno Point Unit P32.

How To Get Copies of the Maps

The Service has given copies of the revised System maps to the House of Representatives Committee on Resources and the Committee on Banking and Financial Services, the Senate Committee on Environment and Public Works, and to each appropriate Federal, State, or local agency having jurisdiction over the areas in which the modified units are located.

You can purchase copies of System maps from the U.S. Geological Survey, Earth Science Information Center, P.O. Box 25286, Denver, Colorado 80225. The cost is $4.00 per map, plus a $3.50 shipping and handling fee for the entire order. Maps can also be viewed at the following Fish and Wildlife Service offices:

Washington Office—All System Maps

U.S. Fish and Wildlife Service, Division of Habitat Conservation, 4401 N. Fairfax Drive Room 400, Arlington, Virginia 22203, (703) 358–2201

Southeast Regional Office—all System Maps for NC, SC, GA, FL, AL, MS and LA

Region 4, U.S. Fish and Wildlife Service, 1875 Century Blvd., Atlanta, Georgia 30345, (404) 679–7125

Field Offices

Field Supervisor, U.S. Fish and Wildlife Service, 6620 S. Point Dr. South, #310, Jacksonville, Florida 32216 (904) 232–2580
Florida: maps for Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Dixie, Levy, Pasco Counties.
Field Supervisor, U.S. Fish and Wildlife Service, 1360 U.S. Highway 1, #5, Vero Beach, FL 32961, (561) 562–3909
Florida: maps for Pinellas, Hillsborough, Manatee, Sarasota, Charlotte, Lee, Collier, Monroe, Dade, Broward, Palm Beach, Martin, St. Lucie, Indian River Counties.
Field Supervisor, U.S. Fish and Wildlife Service, 1612 June Ave., Panama City, FL 32405–3721, (904) 769–0552
Florida: maps for Wakulla, Franklin, Gulf, Bay, Walton, Okaloosa, Santa Rosa, Escambia Counties.
Field Supervisor, U.S. Fish and Wildlife Service, 217 Fort Johnson Road, Charleston, SC 29422–2559, (843) 727–4707
South Carolina: maps for all counties

Dated: July 6, 1999.

Marshall P. Jones,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–19646 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

PRT–014030

Applicant: Tim H. Pham, Kingstowne, VA

The applicant requests a permit to import six captive-bred Asian bonytongue fish (*Scleropages formosus*) from a CITES-registered breeder, Panda Aquatic, Singapore, for the purpose of enhancement of the species through captive-breeding.

PRT–015107

Applicant: Ralph E. Bolda, Alpena, MI

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–015128

Applicant: Wildlife Conservation Society, Flushing, NY

The applicant requests a permit for interstate commerce of three male and two female captive-bred thick-billed parrots (*Rhynchopsitta p. pachyrhyncha*) from Florida, for the purpose of enhancement of the survival of the species through captive breeding.

PRT–014509

Applicant: Henry Doorly Zoo, Omaha, NE

The applicant requests a permit to import from Thailand and Indonesia biological samples taken from wild and captive-held (wild-born) Javan banteng (*Bos javanicus*) for the purpose of enhancement of the species through scientific research. This notification covers activities conducted by the applicant for a period of five years.

PRT–01437

Applicant: International Center for Gibbon Studies, Santa Clarita, CA

The applicant requests a permit to import one pileated gibbon (*Hylobates pileatus*) from the Twycross Zoo, England, for the purpose of enhancement of the species through propagation and scientific research.

PRT–784934

Applicant: Jeffrey R. Powell, New Haven, CT

The applicant requests renewal of their permit to import from Ecuador blood samples taken from wild Galapagos tortoises (*Geochelone nigra*) for the purposes of enhancement of the species through scientific research. This notification covers activities conducted by the applicant for a period of five years.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: July 26, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–19713 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Aquatic Nuisance Species Task Force Meeting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces the Summer 1999 field trip and meeting of the Aquatic Nuisance Species Task Force. The focus of the field trip and meeting topics are identified in the **SUPPLEMENTARY INFORMATION.**

DATES: The field trip will take place from 12:30 p.m. to 6 p.m., Tuesday, August 17, 1999. The Aquatic Nuisance Species Task Force will meet from 8:30

a.m. to 5 p.m., Wednesday, August 18, 1999, and 8:30 a.m. to 12 p.m., Thursday, August 19, 1999.

ADDRESSES: The field trip will begin at the Ramada Inn Governor House Hotel, 621 S. Capitol Way, Olympia, Washington. The meeting will be held at the John A. Cherberg Building, Washington State Capitol Campus, Senate Hearing Room 4, 14th Avenue and Water Street, Olympia, Washington.

FOR FURTHER INFORMATION CONTACT: Sharon Gross, Executive Secretary, Aquatic Nuisance Species Task Force at 703–358–2308 or by e-mail at: sharon__gross@fws.gov.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a field trip and meeting of the Aquatic Nuisance Species Task Force. The Task Force was established by the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990.

The field trip will consist of a visit to a local shellfish processing plant with a briefing about the impacts of invasive species and what the industry in general is doing to assist in prevention. The field trip will also include a visit to a docket ship with a presentation on ballast water. Topics to be covered during the meeting Wednesday include briefings about regional nonindigenous species problems and initiatives, presentation to the Task Force of a proposal for mitten crab control and management in California, an update on green crab control activities, a presentation of a Cooperative management and Prevention Program for *Caulerpa taxifolia,* an update on the implementation of the Invasive Species Executive Order and discussion of several other activities. Topics to be covered during the meeting on Thursday include updates from the Task Force's regional panels, a discussion of the Coast Guard's ballast water management program, and upcoming ballast water management workshops.

Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 851, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and will be available for public inspection during regular business hours, Monday through Friday.

Dated: July 27, 1999.

Rowan Gould,

Co-Chair, Aquatic Nuisance Species Task Force, Acting Assistant Director—Fisheries.

[FR Doc. 99–19710 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–040–99–1020–00]

Gila Box Riparian National Conservation Area Advisory Committee Meeting

AGENCY: Bureau of Land Management, DOI.

ACTION: Gila Box Riparian National Conservation Area Advisory Committee Meeting.

SUMMARY: The purpose of this notice is to announce the next meeting of the Gila Box Riparian National Conservation Area Advisory Committee Meeting. The purpose of the Advisory Committee is to provide informed advice to the Safford Field Office Manager on management of public lands in the Gila Box Riparian National Conservation Area. The committee meets as needed, generally between two and four times a year.

The meeting will take place at the Bureau of Land Management, Safford Field Office on August 27, 1999, commencing at 1:00 p.m. The topics that will be discussed; include review of the draft implementation plan and schedule, proposed management of new Eagle Creek parcel of land just acquired within the NCA boundary, and status of Safford Land Exchange EIS as it affect the NCA. A public comment period will be provided from 3:30 p.m. to 4:00 p.m.

DATES: Meeting will be held on August 27, 1999 starting at 1:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jon Collins, Gila Box Project Coordinator, Safford Field Office, 711 14th Ave., Safford AZ 85546, Telephone (520) 348–4400.

Dated: July 22, 1999.

Vernon L. Saline,

Acting Safford Field Manager.

[FR Doc. 99–19650 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–05; N–63019 and N–63020]

Notice of Realty Action: Lease/Conveyance for Recreation and Public Purposes

AGENCY: Bureau of Land Management.

ACTION: Recreation and public purpose lease/conveyance correction.

SUMMARY: On March 18, 1999 a Notice of Realty Action was published in the **Federal Register** on page 13441 for BLM serial numbers N–63021 and N–63022. The serial numbers should have been, N–63019 and N–63020. All of the other information in the NORA was correct.

Dated: July 2, 1999.

Rex Wells,

Assistant Field Manager, Division of Lands, Las Vegas, NV.

[FR Doc. 99–19651 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Environmental Documents Prepared for Proposed Oil and Gas Operations on the Gulf of Mexico Outer Continental Shelf (OCS)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the availability of environmental documents prepared for OCS mineral proposals on the Gulf of Mexico OCS.

SUMMARY: The Minerals Management Service (MMS), in accordance with Federal Regulations (40 CFR 1501.4 and 1506.6) that implement the National Environmental Policy Act (NEPA), announces the availability of NEPA-related Site-Specific Environmental Assessments (SEA's) and Findings of No Significant Impact (FONSI's) prepared by the MMS for the following oil and gas activities proposed on the Gulf of Mexico OCS. This listing includes all proposals for which the FONSI's were prepared by the Gulf of Mexico OCS Region in the period subsequent to publication of the preceding notice.

Activity/operator	Location	Date
Shell Deepwater Production, Inc.; Equilon Pipeline Company, L.L.C.; and Tejas Offshore Gathering, L.L.C.; Pipeline Activity, SEA Nos. G–15988, G–14711, and G–14283.	West Delta Area, Block 143, Leases, OCS–G 15988, 14711, and 14283, 19 miles offshore, south of Plaquemines Parish, LA.	06/30/99
Dauphin Island Gathering, Partners, Pipeline Activity, SEA No. G–21022.	Viosca Knoll Area, Blocks 823, 779, and 735; Main Pass Area, South and East Addition, Blocks 281, 282 261, 260, 248, and 225; Lease OCS–G 21022, 56 miles offshore Alabama.	05/18/99

Activity/operator	Location	Date
Equilon Pipeline Company, L.L.C., Pipeline Activity, SEA No. G–21047.	Main Pass Area, South and East Addition, Block 283, Lease OCS–G 21047, 41 miles from the nearest coastline.	07/20/99
Mobile Exploration & Producing U.S. Inc., Pipeline Activity, SEA Nos. P–12047, P–12062, and P–12063.	Mobile Area, Blocks 822 to 823, Leases OCS–G 5056 and 5057, 3 to 5 miles south of Dauphine, Island, Mobile County, Alabama.	04/14/99
OEDC Exploration & Production, L.P.'s and Chevron, U.S.A., Development Activity/Pipeline Activity, SEA Nos. S–4906, P–12209, P–12210, P–12111, P–12112, P–12113, P–12163, G–21035, and G–21036.	Destin Dome Area, Blocks 1 and 2, Leases OCS–G 6397 and 6398, 18 miles from the nearest shoreline.	06/25/99
Murphy Exploration & Production Company, Exploration Activity, SEA No. N–6343.	Mobile Area, Blocks 98 and 999, Leases OCS–G 18126 and 19888, 15 miles south of Baldwin County, Alabama.	05/24/99
Shell Deepwater Development Inc., Exploration Activity, SEA No. S–4912.	Alaminos Canyon Area, Block 660, Lease OCS–G 8580, 175 miles south of Galveston County, Texas.	05/21/99
PennzEnergy Exploration, and Production, L.L.C., Development Activity, SEA No. S–4694UA.	High Island Area, Blocks A–351 and A–368, Leases OCS–G 2429 and 2433, 120 miles from the Texas shoreline.	06/07/99
EEX Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–001A, 99–072, and 99–073.	West Cameron Area, Block 406 and Vermilion Area, Blocks 37 and 266; Leases OCS–G 11789, 15162, and 8672; 65 miles south of Cameron Parish, Louisiana.	05/21/99
Murphy Exploration & Production Co. Structure Removal Operations, SEA No. ES/SR 99–004A.	South Pelto Area, Block 20, Lease OCS 0074, 10 miles South of Terrebonne Parish, Louisiana.	06/07/99
Texaco Exploration & Production, Inc., SEA Nos. ES/SR 99–024A and 99–025A.	Eugene Island Area, Blocks 313, Lease OCS–G 2608, 74 miles south of St. Mary Parish, Louisiana.	06/30/99
Forest Oil Corporation, Structure Removal Operations, SEA No. ES/R 99–029.	Eugene Island Area, Block 342, Lease OCS–G 2319, 69 miles south of St. Mary Parish, Louisiana.	05/12/99
Samedan Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–036.	West Delta Area, Block 18, Lease OCS–G 5669, 12 miles southwest of Plaquemines Parish, Louisiana.	04/16/99
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–037.	West Cameron Area, Block 552, Lease OCS–G 13850, 96 miles south of Cameron Parish, Louisiana.	04/21/99
Seneca Resources Corporations, Structure Removal Operations, SEA Nos. ES/SR 99–037A and 99–075A.	West Cameron Area, Block 552 and Brazos Area, Block 504, Leases OCS–G 13850 and 3469, 29 miles south of Matagorda County, Texas, and 96 miles south of Cameron Parish, Louisiana.	06/18/99
Chevron U.S.A., Structure Removal Operations, SEA No. ES/SR 99–038.	West Delta Area, Block 20, Lease OCS–G 7789, 8 miles south of Plaquemines Parish, Louisiana.	05/03/99
Louisiana Land and Exploration Company, Structure Removal Operations, SEA Nos. ES/SR 99–039, 99–041, and 99–043.	Ship Shoal Area, Block 128; Vermilion Area, Block 120; and Eugene Island Area, Block 110; Leases OCS–G 8707, 13883, and 10722; 27–31 miles offshore the Louisiana coast.	05/04/99
Louisiana Land and Exploration Company, Structure Removal Operations, SEA Nos. 99–040 and 99–042.	Galveston Area, Block 313 and Matagorda Island Area, Block 639, Leases OCS–G 11313 and 4545, 14 to 23 miles offshore the Texas coast.	05/04/99
Burlington Resources Offshore Inc., Structure Removal Operations, SEA Nos. 99–044, through 99–047.	Brazos Area, Blocks 412, 413, and 400; West Cameron Area, Block 54; Leases OCS–G 5003, 9014, 9013, and 14304; 13 miles south of Matagorda, Texas and 9 miles south of Cameron Parish, Louisiana.	04/30/99
Walter Oil and Gas Corporation, Structure Removal Operations, SEA No. ES/SR 99–048.	Vermilion Area, Block 95, Lease OCS–G 5408, 25 miles south of Vermilion Parish, Louisiana.	05/12/99
Murphy Exploration & Production, Structure Removal Operations, SEA Nos. ES/SR 99–049 through 99–058.	Ship Shoal Area, Blocks 90, 93, 113, 114, 118, 119, and 136; South Pelto Area, Blocks 12 and 20; Leases OCS–G 5540 and 3790, OCS 063, 067, 064, 068, 069, 072, and 074; 9 to 19 miles south of Taerrebonne Parish, Louisiana.	05/11/99
Murphy Exploration & Production Company, Structure Removal Operations, SEA Nos. ES/SR 99–059 and 99–060.	Eugene Island Area, Blocks 24 and 26, Leases OCS–G 2893 and 3147, 9 miles south of St. Mary Parish, Louisiana.	05/06/99
Cockrell Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–061.	East Cameron Area, Block 199, Lease OCS–G 9457, 54 miles south of Cameron Parish, Louisiana.	04/30/99
Chevron U.S.A., Structure Removal Opertions, SEA No. ES/SR 99–062.	South Timbalier Area, Block 35, Lease OCS–G 3336, 9 miles south of Terrebonne Parish, Louisiana.	05/11/99
Walter Oil & Gas Corporation, Structure Removal Operations, SEA No. ES/SR 99–063.	South Marsh Island Area, Block 36 Lease OCS–G 7699, 44 miles southwest of Terrebonne Parish, Louisiana.	05/13/99
Walter Oil & Gas Corporation, Structure Removal Operations, SEA No. ES/SR 99–064.	High Island Area, Block A–22, Lease OCS–G 6180, 36 miles south of Jefferson County, Texas.	05/13/99
CNG Producing Company, Structure Removal Operations, SEA Nos. ES/SR 99–065 through 99–067.	High Island Area, Blocks A–462, A–477, and A–570, Lease OCS–G 3478, 6226, and 2390, 99 miles southeast of Galveston, Texas.	06/01/99
OEDC Exploration & Production, L.P., Structure Removal Operations, SEA No. ES/SR 99–068.	Viosca Knoll Area, Block 117, Lease OCS–G 6872, 24 miles South of Dauphin Island, Alabama.	05/20/99
Texaco Exploration and Production Inc., Structure Removal Operations, SEA No. ES/SR 99–069.	High Island Area, Block 111, Lease OCS–G 2354, 19 miles south of Jefferson County, Texas.	05/19/99
Marathon Oil Company, Structure Removal Operations, SEA No. ES/SR 99–070.	West Cameron Area, Block 80, Lease OCS–G 16113, 11 miles south of Cameron Parish, Louisiana.	05/18/99
CNG Producing Company, Structure Removal Operations, SEA No. ES/SR 99–071.	Vermilion Area, Block 313, Lease OCS–G 1172, 82 miles south of Vermilion Parish, Louisiana.	06/04/99
Snyder Oil Corporation, Structure Removal Operations, SEA No. ES/SR 99–074.	Vermilion Area, Block 282, Lease OCS–G 2084, 80 miles south of Vermilion Parish, Louisiana.	06/04/99

Activity/operator	Location	Date
Seneca Resources Corporation, Structure Removal Operations, SEA No. ES/SR 99–075.	Brazos Area, Block 504, Lease OCS–G 3469, 29 miles southwest of Matagorda, Texas.	06/04/99
Newfield Exploration Company, Structure Removal Operations, SEA No. ES/SR 99–076.	East Cameron Area, Block 89, Lease OCS–G 0935, 22 miles south of Cameron Parish, Louisiana.	06/04/99
EEX Corporation, Structure Removal Operations, SEA No. ES/SR 99–077.	East Cameron Area, Block 234, Lease OCS–G 11841, 80 miles south of Cameron Parish, Louisiana.	06/04/99
Ocean Energy, Inc., Structure Removal Operations, SEA Nos. ES/SR 99–078 and 99–079.	Galveston Area, Blocks 357 and 349, Leases OCS–G 12505 and 7251, 26 miles southeast of Galveston, Texas.	06/07/99
Unocal Corporation, Structure Removal Operations, SEA No. ES/SR 99–080.	Matagorda Island Area, Block 670, Lease OCS–G 6048, 22 miles southeast of Calhoun County, Texas.	06/09/99
Unocal Corporation, Structure Removal Operations, SEA Nos. ES/SR 99–083 through 99–087.	Vermilion Area, Blocks 40 and 42, Leases OCS–G 2869 and 0208, 11 miles south of Vermilion Parish, Louisiana.	07/02/99
Santa Fe Snyder Corporation, Structure Removal Operations, SEA No. ES/SR 99–088.	Main Pass Area, Block 202, Lease OCS–G 5714, 30 miles offshore the Louisiana Coast.	07/02/99
Hall Houston Oil Company, Structure Removal Operations, SEA Nos. ES/SR 99–100 and 99–101.	Eugene Island and Ship Shoal Areas, Blocks 28 and 184 respectively, Leases OCS–G 5479 and 12947 respectively, 11 to 29 miles offshore the Louisiana coast.	07/12/99

Persons interested in reviewing environmental documents for the proposals listed above or obtaining information about EA's and FONSI's prepared for activities on the Gulf of Mexico OCS are encouraged to contact the MMS office in the Gulf of Mexico OCS Region.

FOR FURTHER INFORMATION CONTACT: Public Information Unit, Information Services Section, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, New Orleans, LA 70123–2394, Telephone (504) 736–2519.

SUPPLEMENTARY INFORMATION: The MMS prepares EA's and FONSI's for proposals which relate to exploration for and the development/production of oil and gas resources on the Gulf of Mexico OCS. The EA's examine the potential environmental effects of activities described in the proposals and present MMS conclusions regarding the significance of those effects. Environmental Assessments are used as a basis of determining whether or not approval of the proposals constitutes major Federal actions that significantly affect the quality of the human environment in the sense of NEPA section 102(2)(C). A FONSI is prepared in those instances where the MMS finds that approval will not result in significant effects on the quality of the human environment. The FONSI briefly presents the basis for that finding and includes a summary or copy of the EA.

This notice constitutes the public notice of availability of environmental documents required under the NEPA Regulations.

Dated: July 26, 1999.

Chris C. Oynes,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 99–19746 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Availability of Draft Environmental Impact Statement and Public Hearing; Denali National Park and Preserve, Alaska

AGENCY: National Park Service, Interior.

ACTION: Notice of availability of the draft environmental impact statement for access to Spruce Creek; Notice of public hearings for access to inholding, and notice of significant restriction to subsistence use, Denali National Park and Preserve, Alaska.

SUMMARY: The National Park Service (NPS) announces the availability of a draft environmental impact statement (EIS) and subsistence evaluation on a request for access to an inholding, Spruce #4, in the Kantishna Hills of Denali National Park and Preserve. The document describes and analyzes the environmental effects of the applicants' proposed access and three other alternatives for access. The no-action alternative also is evaluated. The subsistence evaluation includes a description and analysis of impacts on subsistence uses and needs. This notice announces the dates and locations of public hearings: (1) to solicit comments on the draft EIS; (2) as required by section 810 of the Alaska National Interest Lands Conservation Act (ANILCA) for an action that may significantly restrict subsistence uses, and; (3) as required by ANILCA Title XI regulations at 43 CFR 36.6 (a) (4) and 36.10 (d).

DATES: Comments on the draft EIS and subsistence evaluation must be received no later than September 30, 1999. Hearing locations, dates, and times are listed under Supplementary Information below.

ADDRESSES: Comments on the draft EIS and subsistence evaluation should be submitted to the Superintendent, Denali National Park and Preserve, Post Office Box 9, Denali Park, Alaska 99755. Comments also can be sent by email to: spruceEIS@nps.gov. Copies of the draft EIS and subsistence evaluation and a 15-page Executive Summary of the draft EIS are available by request from the aforementioned address. The documents also are available on the web at: www.nps.gov/dena/plans/sprucecreek.

FOR FURTHER INFORMATION CONTACT: Bud Rice, EIS Project Leader, National Park Service, Alaska Support Office, Anchorage, Alaska. Telephone: (907) 257–2466.

SUPPLEMENTARY INFORMATION: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (Pub. L. 91–190, as amended), the Alaska National Interest Lands Conservation Act of 1980 (Pub. L. 96–487, as amended), and 43 CFR 36.6 and 36.10 (d), the National Park Service has prepared a draft EIS and subsistence evaluation for requested access to an inholding, Spruce #4, in Denali National Park and Preserve, Alaska. ANILCA requires the Secretary of Interior shall provide adequate and feasible access for economic and other purposes to inholdings surrounded by conservation system units in Alaska, subject to reasonable regulations. The regulations at 43 CFR part 36, ''Access into Conservation System Units in Alaska,'' specify that the NPS shall permit the right-of-way requested by the applicant unless it finds that the route or method of access would cause significant adverse impacts, jeopardize public health and safety, be inconsistent with the management plans for and purposes of the area, or is unnecessary to accomplish the applicant's land use objective. If the NPS makes one of these

findings, then another alternative route or method of access shall be specified that provides adequate and feasible access. The NPS has analyzed alternatives to the proposal and mitigating measures to minimize adverse environmental impacts to the park, but no agency-preferred alternative has been identified in the draft EIS. Section 810 of ANILCA requires an evaluation of ''effect of the proposed permit on subsistence uses and needs, the availability of other lands for the purposes sought to be achieved, and other alternatives which would reduce or eliminate the use, occupancy, or deposition of public lands needed for subsistence purposes.'' Notice to subsistence committees and regional councils and a hearing are required steps for authorizing a federal land use that would significantly restrict subsistence uses. Two of the draft EIS alternatives would significantly restrict subsistence uses.

Informational meetings and public hearings on the draft EIS and subsistence evaluation are scheduled for the locations, dates, and times indicated below:

Anchorage, AL

August 23, 1999, 7–10 p.m.; University of Alaska—Anchorage, Business Education Building, Room BEB–101.

Fairbanks, AL

August 24, 1999, 7–10 p.m.; Noel Wien Library Auditorium; 1215 Cowles Street.

McKinley Village, AL

August 25, 1999, 7–10 p.m.; Community Center; Mile 230 George Parks Highway.

Kantishna, AL

August 26, 1999, 9–11 p.m.; Kantishna Roadhouse library; Mile 90 Denali Park Road.

Washington, DC

September 14, 1999, 2–4 p.m.; Main Interior Building Auditorium; 1849 C Street NW.

The first hour of each meeting will be an open house format. Representatives of the NPS will be available to provide information about the access request and the draft EIS and to answer questions in an informal setting. Public testimony on the draft EIS and subsistence evaluation will be recorded at the public hearing that will begin at the second hour.

Background

The Draft Environmental Impact Statement for Access to Spruce Creek considers an access proposal and four alternatives to a 20-acre inholding on Spruce Creek in the Kantishna Hills of Denali National Park and Preserve. The inholding lies about 10 miles east of mile 88 of the Denali Park Road. The owners have applied to the NPS for a right-of-way permit to upgrade and maintain a gravel road and airstrip to access, construct, and operate a remote lodge with 30 double-occupancy cabins for overnight visitors. The draft EIS alternatives differ in terms of route, means, or a combination of both, as well as impact on subsistence. The requested access and four alternatives are proximate to but outside of the Denali Wilderness Area.

The proposed Moose Creek Route Alternative (the applicants' proposed action) would be approximately a 10-mile improved road over an existing mining access route, where practical, from the Denali Park Road at mile 88 to the Spruce #4 parcel of land. This alternative includes a spur road to an extension of the Glen Creek landing strip for air access in winter and for optional summer access. This route would cross Moose Creek, Spruce Creek, and other streams a total of 30 times in the form of fords. This alternative would result in a significant restriction of subsistence uses.

Alternatives to the proposed action are:

- North Bench Route Alternative would follow the first three miles of the Moose Creek route. This 9.7-mile route would cross Moose Creek with a new bridge and then traverse benches north of Moose Creek to Spruce #4, crossing Rainy, Dry, and Glen Creeks once each with a reinforced ford. About 5 miles of new road and extension of the Glen Creek landing strip would need to be constructed. This alternative would result in a significant restriction of subsistence uses.
- Skyline Drive Alternative would follow a ridge-top mining access route from mile 91 of the Denali Park Road to Glen Creek and over a bench to Spruce Creek. This 12-mile route would follow 10 miles of existing mining access routes, require 2 miles of new road, and ford Glen Creek 24 times. The existing Kantishna Airstrip would be used as needed for air access. This alternative would not result in a significant restriction of subsistence uses.
- Air-Access-Only Alternative would require a 2,500-foot new airstrip adjacent to the Spruce #4 parcel of land with a short spur road. This alternative would not result in a significant restriction of subsistence uses.
- No-Action Alternative represents no change from the current management direction. This alternative is included for comparative purposes. The affirmative requirements of Title XI of ANILCA and its implementing regulations preclude selection of this alternative absent a change in circumstances. Those circumstances could include acquisition of the property by the NPS or withdrawal of the application. In the meantime, the applicants could apply for access with no road or airstrip improvements. This alternative would not result in a significant restriction of subsistence uses.

Facilities common to each action alternative would include a lodge with 30 cabins and related utility, maintenance, and staff facilities. Guests would be transported to the lodge by the park Visitor Transport System buses to Kantishna and from there by two 15-passenger vans or by single engine aircraft. About 30 guests would be transported in and out of the lodge each day during the summer season, and in the winter season about 10 people would be transported in and out of the lodge once every 3 days. Recreational activities would include hiking, wildlife viewing, gold panning, sport fishing, dog mushing, skiing, and snowshoeing. About 13 people would be employed during the winter season and 17 to 21 people during the summer season.

Paul R. Anderson,

Acting Regional Director, Alaska.

[FR Doc. 99–19786 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Denali National Park and Preserve and the Chairperson of the Denali Subsistence Resource Commission announce a forthcoming meeting of the Denali National Park Subsistence Resource Commission. The following agenda items will be discussed:

(1) Call to order by the Chair.
(2) Roll call and confirmation of quorum.
(3) Superintendent's welcome and introductions.

(4) Approval of minutes of last meeting.
(5) Additions and corrections to the agenda.
(6) Business:
a. Draft Subsistence Management Plan.
(7) Public and other agency comments.
(8) Set time and place of next SRC meeting.
(9) Adjournment.

DATES: The meeting date is: Friday, August 6, 1999, 9 a.m. to 5 p.m.

ADDRESSES: The meeting location is: McKinley Village Community Center, McKinley, AK.

FOR FURTHER INFORMATION CONTACT: Hollis Twitchell, Subsistence Coordinator or Andrea Hansen, Denali National Park, P.O. Box 9, Denali Park, AK 99755. Phone (907) 683–9544.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commissions are authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96–487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

Paul R. Anderson,

Acting Regional Director.

[FR Doc. 99–19787 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–70–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request approval for the collection of information for three OSM grant forms—OSM–47 (Budget Information Report), OSM–49 (Budget Information and Financial Reporting) and OSM–51 (Performance and Program narrative).

DATES: Comments on the proposed information collection must be received by October 1, 1999, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR part 1320, which implements the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection activity that OSM will Be submitting to OMB for extension or re-approval. This collection is a series of three forms used by State and Tribal regulatory and reclamation authorities to request grant funds and describe program performance.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: Budget information, financial reporting, and performance reporting forms.

OMB Control Number: 1029–0059.

Summary: State and Tribal reclamation and regulatory authorities are requested to provide specific budget and program information as part of the grant application and reporting processes authorized by the Surface Mining Control and Reclamation Act.

Bureau Form Numbers: OSM–47, OSM–49, OSM–51.

Frequency of Collection: Semiannually and annually.

Description of Respondents: State and Tribal regulatory and reclamation authorities.

Total Annual Responses: 131.

Total Annual Burden Hours: 655 hours.

Dated: July 28, 1999.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 99–19788 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request Office of Management and Budget's (OMB) renewal approval for the collection of information for 30 CFR part 80, Abandoned mine reclamation fund—fee collection and coal production reporting.

DATES: Comments on the proposed information collection must be received by October 1, 1999, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210–SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR part 1320, which implements the Paperwork Reduction Act of 1995 (Pub. L. 104–13), requires that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8(d)). This notice identifies an information collection activity that OSM will be submitting to OMB for extension. This collection was assigned OMB clearance number 1029–0090, and is contained in 30 CFR part 870, Abandoned mine reclamation fund—fee collection and coal production reporting.

OSM has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden. OSM will request

a 3-year term of approval for this information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB.

This notice provides the public with 60 days in which to comment on the following information collection activity:

Title: 30 CFR part 870—Abandoned mine reclamation fund—fee collection and coal production reporting.

OMB Control Number: 1029–00090.

Summary: Section 402 of SMCRA requires fees to be paid to the Abandoned Mine Reclamation Fund by coal operators on the basis of coal tonnage produced. This information collection request is needed to support verification of the moisture deduction allowance. The information will be used by OSM during audits to verify that the amount of excess moisture taken by the operator is appropriate.

Frequency of Collection: Quarterly.

Description of Respondents: Coal mine operators.

Total Annual Responses: 1,000.

Total Annual Burden Hours: 750.

Dated: July 28, 1999.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 99–19789 Filed 7–30–99; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

Proposed Agency Information Collection; Comment Request

AGENCY: United States International Trade Commission.

ACTION: Notice of proposed information collection and request for comment.

EFFECTIVE DATE: July 27, 1999.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1995, the U.S. International Trade Commission intends to seek approval from the Office of Management and Budget for extension of a currently approved collection (OMB No.: 3117–0188) for the purpose of obtaining feedback from readers of Commission reports to help meet regular program assessment requirements. Under Public Law 103–62, the Government Performance and Results Act of 1993, the U.S. International Trade Commission is seeking a long-term, continuing means for conducting program evaluations by using the proposed one-page collection, ITC Reader Satisfaction Survey, to help determine the extent to which USITC reports effectively meet the needs of customers. Comments concerning the proposed information collection are requested in accordance with 5 CFR 1320.8(d).

DATES: To be assured of consideration, written comments must be received at the Commission within 60 days of publication of this notice.

ADDRESSES: Signed comments should be submitted to Donna Koehnke, Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: The proposed information collection, for which the Commission intends to request approval from OMB for extension, is published with this notice. Copies of the draft Supporting Statement to be submitted to the Office of Management and Budget will be posted on the Commission's World Wide Web site at http://www.usitc.gov or may be obtained from Larry Brookhart, Office of Industries, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436 (telephone no. 202–205–3418). Hearing impaired individuals are advised that information on this matter can be obtained by contacting our TTD terminal, (telephone no. 202–205–1810).

SUPPLEMENTARY INFORMATION:

Request for Comments

Comments are solicited as to: (1) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; (3) the quality, utility, and clarity of the information to be collected; and (4) minimization of the burden of the proposed information collection on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other forms of information technology, e.g., permitting electronic submission of responses.

Summary of the Proposed Information Collection

Public Law 103–62, the Government Performance and Results Act of 1993, enacted on August 3, 1993, sets forth objectives for Federal agencies to, among other things, initiate measures to improve information on program performance, and specifically, to focus on evaluating results, quality, and customer satisfaction. The one-page survey asks for voluntary input from respondents by circling responses that indicate an assessment of reader satisfaction regarding the value and quality of Commission reports. The ''tear-out'' survey is being placed inside the cover of certain reports issued by the Commission (excluding Title VII reports for which a separate survey is being designed), including all public studies requested by the Congress and the United States Trade Representative, or reports conducted by the USITC on its own motion, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332(g)), and other public reports that meet agency program requirements for a research program set forth in its Strategic Plan (available on the agency's World Wide Web site at http://www.usitc.gov). Following are highlights of the proposed information collection:

(1) Number of forms to be submitted: One single-page form

(2) Title of form: USITC Reader Satisfaction Survey

(3) Type of request: Proposed extension of a currently approved collection

(4) Frequency of use: Annual or on occasion information gathering

(5) Description of Respondents: Interested parties receiving most all public reports issued by the USITC, with the exception of Title VII reports

(6) Estimated number of respondents: 2,500 annually

(7) Estimated total number of hours to complete the forms: 625 hours annually

(8) Response burden: Less than 15 minutes for each individual respondent

(9) Information requested on a voluntary basis is not proprietary in nature, but rather for program evaluation purposes and is not intended to be published. Commission treatment of questionnaire responses will be followed; responses will be aggregated and will not be presented in a manner that will reveal the individual parties that supplied the information.

Although the survey will be made available on the Commission's web site, responses must be in paper form.

Issued: July 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

ITC READER SATISFACTION SURVEY

Title of Report

The U.S. International Trade Commission (ITC) is interested in your voluntary comments (burden <15 minutes) to help us assess the value and quality of our reports, and to assist us in improving future products. Please return survey by fax (202–205–3161) or by mail to the ITC.

Your name and title (please print; *responses below not for attribution*): _____

Please specify information in this report most useful to you/your organization: _____

Was any information missing that you consider important? Yes (specify below) No

If yes, please identify missing information and why it would be important or helpful to you: _____

Please assess the value of this ITC report (answer below by circling all that apply): SA—Strongly Agree; A—Agree; N—No Opinion/Not Applicable; D—Disagree; SD—Strongly Disagree

Report presents new facts, information, and/or data.	SA	A	N	D	SD
Staff analysis adds value to facts, information, and/or data.	SA	A	N	D	SD
Analysis is unique or ground breaking.	SA	A	N	D	SD
Statistical data are useful to me/my organization.	SA	A	N	D	SD
Subject matter and analysis are timely.	SA	A	N	D	SD
ITC is the only or the preferred source of this information.	SA	A	N	D	SD
If not, please identify from what other source the information is available _____.					

Please evaluate the quality of this report (answer below by circling all that apply): SA—Strongly Agree; A—Agree; N—No Opinion/Not Applicable; D—Disagree; SD—Strongly Disagree

Written in clear and understandable manner.	SA	A	N	D	SD
Report findings or executive summary address key issues.	SA	A	N	D	SD
Figures, charts, graphs are helpful to understanding issue.	SA	A	N	D	SD
Analysis throughout report answers key questions.	SA	A	N	D	SD
Report references variety of primary and secondary sources.	SA	A	N	D	SD
Sources are fully documented in text or footnotes.	SA	A	N	D	SD

Please provide further comment on any of the above performance measures, as appropriate:

Suggestions for improving this report and/or future reports: _____

Other topics/issues of interest or concern: _____

Please provide your Internet address and update your mailing address below, if applicable: _____

OMB No.: 3117–0188

[FR Doc. 99–19742 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–856 (Preliminary)]

Certain Ammonium Nitrate From Russia

AGENCY: United States International Trade Commission.

ACTION: Institution of antidumping investigation and scheduling of a preliminary phase investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–856 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Russia of certain ammonium nitrate, provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by September 7, 1999. The Commission's views are due at the Department of Commerce within five business days thereafter, or by September 13, 1999.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: July 23, 1999.

FOR FURTHER INFORMATION CONTACT: Larry Reavis (202–205–3185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on July 23, 1999, by the Committee for Fair Ammonium Nitrate Trade, (''COFANT''), an ad hoc committee whose members include a number of U.S. producers of the subject product. These U.S. producers are Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co., Oklahoma City, OK; Nitram, Inc., Tampa, FL; La Roche Industries, Inc., Atlanta, GA; and Wilgro Fertilizer, Inc., Celina, TX.

Participation in the investigation and public service list.—Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under

investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.—Pursuant to § 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on August 13, 1999, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202–205–3185) not later than August 11, 1999, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions.—As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before August 18, 1999, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to § 207.12 of the Commission's rules.

Issued: July 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19741 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731-TA–474–475 (Review)]

Chrome-Plated Lug Nuts From China and Taiwan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders on chrome-plated lug nuts from China and Taiwan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders on chrome-plated lug nuts from China and Taiwan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1991, the Department of Commerce issued antidumping duty orders on imports of chrome-plated lug nuts from China and Taiwan (56 F.R. 47736 and 47737). The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–028. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and Taiwan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as chrome-plated and stainless steel-capped lug nuts. One Commissioner defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of chrome-plated and stainless steel-capped lug nuts. One Commissioner defined the Domestic Industry differently.

(5) The *Order Date* is the date that the antidumping duty orders under review became effective. In these reviews, the Order Date is September 20, 1991.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of

subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19754 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–469 (Review)]

Electroluminescent Flat Panel Displays From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on electroluminescent flat panel displays from Japan.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on electroluminescent flat panel displays from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–027. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On September 4, 1991, the Department of Commerce issued an antidumping duty order on imports of electroluminescent flat panel displays from Japan (56 FR 43741). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as high-information content flat panel displays and display glass therefor. Certain Commissioners defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of high-information content flat panel displays and display glass therefor. The Commission also found that the Domestic Industry did not include integrators, assemblers, or the company In Focus. Certain Commissioners defined the Domestic Industry differently.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is September 4, 1991.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested

information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1990.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in units and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19755 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–527 (Review)]

Extruded Rubber Thread From Malaysia

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on extruded rubber thread from Malaysia.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on extruded rubber thread from Malaysia would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On October 7, 1992, the Department of Commerce issued an antidumping duty order on imports of extruded rubber thread from Malaysia (57 FR 46150). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is Malaysia.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as extruded rubber thread. Certain Commissioners defined the Domestic Like Product differently.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of extruded rubber thread. Certain Commissioners defined the Domestic Industry differently.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is October 7, 1992.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–032. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/ business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s'') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods;

development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19757 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–516 (Review)]

Fresh Kiwifruit From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on fresh kiwifruit from New Zealand.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on fresh kiwifruit from New Zealand would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background.—On June 2, 1992, the Department of Commerce issued an antidumping duty order on imports of fresh kiwifruit from New Zealand (57 FR 23203). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) Subject Merchandise is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The Subject Country in this review is New Zealand.

(3) The Domestic Like Product is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as fresh Hayward-variety kiwifruit.

(4) The Domestic Industry is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as growers of fresh Hayward-variety kiwifruit.

(5) The Order Date is the date that the antidumping duty order under review became effective. In this review, the Order Date is June 2, 1992.

(6) An Importer is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the review and public service list.—Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–030. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

INFORMATION TO BE PROVIDED IN RESPONSE TO THIS NOTICE OF INSTITUTION: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. § 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. § 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in tray equivalents and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in tray equivalents and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s'') operations on that product during calendar year 1998 (report quantity data in tray equivalents and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19759 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 303–TA–21 (Review) and 731–TA–451, 461, and 519 (Review)]

Gray Portland Cement and Clinker From Japan, Mexico, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty orders and suspended investigations on gray portland cement & clinker from Japan, Mexico, and Venezuela.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty orders and termination of the suspended investigations on gray portland cement & clinker from Japan, Mexico, and Venezuela would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On the dates listed below, the Department of Commerce issued antidumping duty orders on the subject imports:

Order date	Product/country	Inv. No.	F.R. cite
8/30/90	Gray portland cement and clinker/Mexico	731–TA–451	55 F.R. 35443.
5/10/91	Gray portland cement and clinker/Japan	731–TA–461	56 F.R. 21658.

On the dates listed below, the Department of Commerce suspended the following countervailing duty and antidumping duty investigations:

Order date	Product/country	Inv. No.	F.R. cite
2/27/92	Gray portland cement and clinker/Venezuela	731–TA–519	57 F.R. 6706.
3/17/92	Gray portland cement and clinker/Venezuela	303–TA–21	57 F.R. 9242.

The Commission is conducting reviews to determine whether revocation of the orders and termination of the suspended investigations would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–026. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Japan, Mexico, and Venezuela.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined the Domestic Like Product as gray portland cement and cement clinker.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of gray portland cement and cement clinker, including ''grinding only'' operations.

In all cases, the Commission concluded that ''appropriate circumstances'' existed for a regional analysis of the industry; however, the Commission found different regions to be appropriate based on the facts of each investigation. In its determination concerning Mexico, two Commissioners found that either the southern-tier region (the Gulf States and California) or the alternative southern-tier region (excludes northern California and the inland counties of the Gulf States) was appropriate and that no compelling case was made for one rather than the other. For purposes of the determination, they used the southern-tier region because it was the more difficult region within which to reach an affirmative finding. One Commissioner found that the alternative southern-tier region was appropriate. In its determination concerning Japan, the Commission found the regional industry to consist of producers in southern California; certain Commissioners found the regional industry to consist of producers in the State of California. In its determinations concerning Venezuela, the Commission found the regional industry to consist of producers in Florida. For purposes of this notice, you should report information separately on each of the following Domestic Industries: (1) Producers of gray portland cement and cement clinker, including ''grinding only'' operations, located in the southern-tier region (the Gulf States and California); (2) producers of gray portland cement and cement clinker, including ''grinding only'' operations, located in southern California; (3) producers of gray portland cement and cement clinker, including ''grinding only'' operations, located in Florida; and, producers of gray portland cement and cement clinker, including ''grinding only'' operations, located in the United States as a whole.

(5) The *Order Dates* are the dates that the antidumping duty orders under review became effective and the investigations were suspended. In these reviews, the Order Dates are as presented in the preceding tabulations.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall

notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty orders and termination of the suspended investigations on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since the years the petitions were filed. The Subject Merchandise, the Subject Countries, and the years the petitions were filed are listed below:

Subject merchandise/subject country	Years
Gray portland cement and clinker/Mexico	1989
Gray portland cement and clinker/Japan	1990
Gray portland cement and clinker/Venezuela	1991

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) the quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in short tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) the quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods;

development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

Issued: July 27, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19756 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701–TA–309 (Review) and 731–TA–528 (Review)]

Magnesium From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the countervailing duty and antidumping duty orders on magnesium from Canada.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. § 1675(c)) (the Act) to determine whether revocation of the countervailing duty and antidumping duty orders on magnesium from Canada would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission; [1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1992, the Department of Commerce issued the following orders:

Product/country	Inv. No.	F.R. cite
Pure magnesium/Canada	731–TA–528	57 F.R. 39390.
Alloy magnesium/Canada	701–TA–309	57 F.R. 39392.
Pure magnesium/Canada	701–TA–309	57 F.R. 39392.

The Commission is conducting reviews to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce. In this case Commerce identified two classes or kinds of subject merchandise: pure magnesium and alloy magnesium.

(2) The *Subject Country* in these reviews is Canada.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determinations, the Commission defined one Domestic Like Product consisting of primary magnesium. Certain Commissioners defined the Domestic Like Product differently. A U.S.-Canada Binational Panel subsequently remanded the case to the Commission, with instructions to conduct a separate injury analysis for the following two industries: (1) Alloy magnesium and (2) pure magnesium. For purposes of this notice, you should report information separately on each of the following two Domestic Like Products: (1) Alloy magnesium and (2) pure magnesium.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–031. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the Domestic Industry as producers of primary magnesium. Certain Commissioners defined the Domestic Industry differently. A U.S.-Canada Binational Panel subsequently remanded the case to the Commission, with instructions to conduct a separate injury analysis for the following two industries: (1) Alloy magnesium and (2) pure magnesium. For purposes of this notice, you should report information separately on each of the following two Domestic Industries: (1) Alloy magnesium and (2) pure magnesium.

(5) The *Order Date* is the date that the countervailing duty and antidumping duty orders under review became effective. In these reviews, the Order Date is August 31, 1992.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

Please provide the requested information separately for each Domestic Like Product, as defined above, and for each of the products identified by Commerce as Subject Merchandise. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product to which your response pertains, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the countervailing duty and antidumping duty orders on each Domestic Industry for which you are filing a response in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of each Domestic Like Product for which you are filing a response. Identify any known related parties and the nature of the relationship as defined in section

771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of a Domestic Like Product, provide the following information separately on your firm's operations on each product during calendar year 1998 (report quantity data in metric tons and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of each Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of each Domestic Like Product produced in your U.S. plant(s); and

(c) the quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in metric tons and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in metric tons and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for each Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19758 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–497 (Review)]

Tungsten Ore Concentrates from China

AGENCY: United States International Trade Commission.

ACTION: Institution of a five-year review concerning the antidumping duty order on tungsten ore concentrates from China.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the antidumping duty order on tungsten ore concentrates from China would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of this review and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 F.R. 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–029. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On November 21, 1991, the Department of Commerce issued an antidumping duty order on imports of tungsten ore concentrates from China (56 FR 58681). The Commission is conducting a review to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by the Department of Commerce.

(2) The *Subject Country* in this review is China.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original determination, the Commission defined the Domestic Like Product as all grades of tungsten ore concentrates.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the Domestic Industry as producers of all grades of tungsten ore concentrates.

(5) The *Order Date* is the date that the antidumping duty order under review became effective. In this review, the Order Date is November 21, 1991.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Review and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the review as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the review.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this review available to authorized applicants under the APO issued in the review, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the review. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this review must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the review must be served on all other parties to the review (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the review you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determination in the review.

Information To be Provided in Response to This Notice of Institution:

As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Country that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in metric tons of contained tungsten (MTW) and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/ which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in MTW and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Country accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Country; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Country, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in MTW and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Country accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Country accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Country since the Order Date, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Country, and such merchandise from other countries.

(11) (OPTIONAL) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This review is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19753 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–539–B, C, E, and F (Review)]

Uranium From Kyrgyzstan, Russia, Ukraine, and Uzbekistan

AGENCY: United States International Trade Commission.

ACTION: Institution of five-year reviews concerning the antidumping duty order on uranium from Ukraine and suspended antidumping investigations on uranium from Kyrgyzstan, Russia, and Uzbekistan.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)) (the Act) to determine whether revocation of the

antidumping duty order on uranium from Ukraine and termination of the suspended investigations on uranium from Kyrgyzstan, Russia, and Uzbekistan would be likely to lead to continuation or recurrence of material injury. Pursuant to section 751(c)(2) of the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission;[1] to be assured of consideration, the deadline for responses is September 21, 1999. Comments on the adequacy of responses may be filed with the Commission by October 15, 1999.

For further information concerning the conduct of these reviews and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A, D, E, and F (19 CFR part 207). Recent amendments to the Rules of Practice and Procedure pertinent to five-year reviews, including the text of subpart F of part 207, are published at 63 FR 30599, June 5, 1998, and may be downloaded from the Commission's World Wide Web site at http://www.usitc.gov/rules.htm.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Elizabeth Haines (202–205–3200), or Vera Libeau (202–205–3176), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

On October 16, 1992, the Department of Commerce suspended antidumping duty investigations on imports of uranium from Kyrgyzstan, Russia, Ukraine, and Uzbekistan (57 FR 49220, Oct. 30, 1992). On August 30, 1993, the Department of Commerce issued an antidumping duty order on imports of uranium from Ukraine (58 FR 45483). The Commission is conducting reviews to determine whether revocation of the order and termination of the suspended investigations would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. It will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full reviews or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions

The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are Kyrgyzstan, Russia, Ukraine, and Uzbekistan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the Subject Merchandise. In its original preliminary determination concerning the U.S.S.R. and in its original final determination concerning Ukraine, the Commission defined the Domestic Like Product as coextensive with the articles under investigation.[2] Certain Commissioners defined the Domestic Like Product differently in the final determination concerning Ukraine.

(4) The *Domestic Industry* is the U.S. producers as a whole of the Domestic Like Product, or those producers whose collective output of the Domestic Like Product constitutes a major proportion of the total domestic production of the product. In its original preliminary determination concerning the U.S.S.R., the Commission defined the Domestic Industry as producers of the product coextensive with the articles under investigation, including the U.S. Department of Energy's uranium enrichment operations. In its original final determination concerning Ukraine, the Commission defined the Domestic Industry as producers of uranium, including uranium concentrate producers, natural uranium hexafluoride converters, the U.S. Enrichment Corporation, and fuel fabricators. Certain Commissioners defined the Domestic Industry differently.

(5) The *Order Dates* are the dates that the antidumping duty order under review became effective and/or the investigations were suspended. In the reviews concerning the suspended investigations, the Order Date is October 16, 1992. In the review concerning the antidumping duty order, the Order Date is August 30, 1993.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the Subject Merchandise into the United States from a foreign manufacturer or through its selling agent.

Participation in the Reviews and Public Service List

Persons, including industrial users of the Subject Merchandise and, if the merchandise is sold at the retail level, representative consumer organizations wishing to participate in the reviews as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the reviews.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and APO Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in these reviews available to authorized applicants under the APO issued in the reviews, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. § 1677(9), who are parties to the reviews. A separate service list will be maintained by the Secretary for those

[1] No response to this request for information is required if a currently valid Office of Management and Budget (OMB) number is not displayed; the OMB number is 3117–0016/USITC No. 99–5–033. Public reporting burden for the request is estimated to average 7 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436.

[2] The articles covered in the preliminary investigation concerning the U.S.S.R. and the final investigation concerning Ukraine included natural uranium in the form of uranium ores and concentrates; natural uranium metal and natural uranium compounds; alloys, dispersions (including cermets), ceramic products and mixtures containing natural uranium or natural uranium compounds; uranium enriched in U_{235} and its compounds; alloys, dispersions (including cermets), ceramic products, and mixtures containing uranium enriched in U_{235} or compounds of uranium enriched U_{235}. The articles covered in the final investigation concerning Ukraine also included low-enriched uranium and highly-enriched uranium.

parties authorized to receive BPI under the APO.

Certification

Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with these reviews must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other reviews or investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Written Submissions

Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is September 21, 1999. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is October 15, 1999. All written submissions must conform with the provisions of sections 201.8 and 207.3 of the Commission's rules and any submissions that contain BPI must also conform with the requirements of sections 201.6 and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the reviews must be served on all other parties to the reviews (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the reviews you do not need to serve your response).

Inability To Provide Requested Information

Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution

If you are a domestic producer, union/worker group, or trade/business association; import/export Subject Merchandise from more than one Subject Country; or produce Subject Merchandise in more than one Subject Country, you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent Subject Country. As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm/entity is a U.S. producer of the Domestic Like Product, a U.S. union or worker group, a U.S. importer of the Subject Merchandise, a foreign producer or exporter of the Subject Merchandise, a U.S. or foreign trade or business association, or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in these reviews by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order and the termination of the suspended investigations on the Domestic Industry in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of Subject Merchandise on the Domestic Industry.

(5) A list of all known and currently operating U.S. producers of the Domestic Like Product. Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the Subject Merchandise and producers of the Subject Merchandise in the Subject Countries that currently export or have exported Subject Merchandise to the United States or other countries since 1991.

(7) If you are a U.S. producer of the Domestic Like Product, provide the following information on your firm's operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the Domestic Like Product accounted for by your firm's(s') production;

(b) The quantity and value of U.S. commercial shipments of the Domestic Like Product produced in your U.S. plant(s); and

(c) The quantity and value of U.S. internal consumption/company transfers of the Domestic Like Product produced in your U.S. plant(s).

(8) If you are a U.S. importer or a trade/business association of U.S. importers of the Subject Merchandise from the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of Subject Merchandise from the Subject Countries accounted for by your firm's(s') imports;

(b) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of Subject Merchandise imported from the Subject Countries; and

(c) The quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of

Subject Merchandise imported from the Subject Country.

(9) If you are a producer, an exporter, or a trade/business association of producers or exporters of the Subject Merchandise in the Subject Countries, provide the following information on your firm's(s') operations on that product during calendar year 1998 (report quantity data in pounds and value data in thousands of U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of Subject Merchandise in the Subject Countries accounted for by your firm's(s') production; and

(b) The quantity and value of your firm's(s') exports to the United States of Subject Merchandise and, if known, an estimate of the percentage of total exports to the United States of Subject Merchandise from the Subject Countries accounted for by your firm's(s') exports.

(10) Identify significant changes, if any, in the supply and demand conditions or business cycle for the Domestic Like Product that have occurred in the United States or in the market for the Subject Merchandise in the Subject Countries since the Order Dates, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the Domestic Like Product produced in the United States, Subject Merchandise produced in the Subject Countries, and such merchandise from other countries.

(11) (Optional) A statement of whether you agree with the above definitions of the Domestic Like Product and Domestic Industry; if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: These reviews are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: July 27, 1999.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19760 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. TA–204–2]

Wheat Gluten: Monitoring Developments in the Domestic Industry

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of an investigation under section 204(a) of the Trade Act of 1974 (19 U.S.C. 2254(a)) (the Act).

SUMMARY: The Commission instituted the investigation for the purpose of preparing the report to the President and the Congress required by section 204(a)(2) of the Trade Act of 1974 on the results of its monitoring of developments with respect to the domestic wheat gluten industry since the President imposed quantitative limitations on imports of wheat gluten [1] effective June 1, 1998.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's rules of practice and procedure, part 201, subparts A through E (19 CFR part 201), and part 206, subparts A and B (19 CFR part 206).

Background

Following receipt of a report from the Commission in March 1998 under section 202 of the Trade Act of 1974 (19 U.S.C. 2252) containing an affirmative determination and remedy recommendation, the President, on May 30, 1998, pursuant to section 203 of the Trade Act of 1974 (19 U.S.C. 2253), issued Proclamation 7103 (as amended by Proclamation 7202 of May 28, 1999), imposing import relief in the form of quantitative limitations on imports of wheat gluten for a period of 3 years and 1 day. Section 204(a)(1) of the Trade Act of 1974 (19 U.S.C. 2254(a)(1)) requires that the Commission, so long as any action under section 203 of the Trade Act remains in effect, monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition. Section 204(a)(2) requires that whenever the initial period of an action under section 203 of the Trade Act exceeds 3 years, the Commission shall submit a report on the results of the monitoring under section 204(a)(1) to the President and the Congress not later than the mid-point of the initial period of the relief, or by December 1, 1999, in this case. Section 204(a)(3) requires that the Commission hold a hearing in the course of preparing each such report.

EFFECTIVE DATE: July 27, 1999.

FOR FURTHER INFORMATION CONTACT: Joanna Bonarriva (202–708–4083), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Participation in the investigation and service list.—Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules, not later than 14 days after publication of this notice in the **Federal Register**. The Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Public hearing.—As required by statute, the Commission has scheduled a hearing in connection with this investigation. The hearing will be held beginning at 9:30 a.m. on October 7, 1999 at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before September 28, 1999. All persons desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on October 1, 1999, at the U.S. International Trade Commission Building. Oral testimony

[1] Wheat gluten is classified in subheadings 1109.00.10 and 1109.00.90 of the Harmonized Tariff Schedule of the United States.

and written materials to be submitted at the hearing are governed by §§ 201.6(b)(2) and 201.13(f) of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony in *camera* no later than 7 days prior to the date of the hearing.

Written submissions.—Each party is encouraged to submit a prehearing brief to the Commission. The deadline for filing prehearing briefs is October 1, 1999. Parties may also file posthearing briefs. The deadline for filing posthearing briefs is October 15, 1999. In addition, any person who has not entered an appearance as a party to the investigation may submit, on or before October 15, 1999, a written statement concerning the matters to be addressed in the Commission's report to the President. All written submissions must conform with the provisions of § 201.8 of the Commission's rules; any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with § 201.16(c) of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under the authority of section 204(a) of the Trade Act of 1974; this notice is published pursuant to § 206.3 of the Commission's rules.

Issued: July 28, 1999.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 99–19743 Filed 7–30–99; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Attorney General

[A.G. Order No. 2237–99]

Certification of the Attorney General; Chickasaw County, Mississippi

In accordance with Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, I hereby certify that in my judgment the appointment of examiners is necessary to enforce the guarantees of the Fourteenth and Fifteenth Amendments of the Constitution of the United States in Chickasaw County, Mississippi. This county is included within the scope of the determinations of the Attorney General and the Director of the Census made on August 6, 1965, under Section 4(b) of the Voting Rights Act of 1965 and published in the **Federal Register** on August 7, 1965 (30 FR 9897).

Dated: July 28, 1999.

Janet Reno,

Attorney General of the United States.

[FR Doc. 99–19845 Filed 7–29–99; 12:15 pm]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 27, 1999, Calbiochem-Novabiochem Corporation, 10394 Pacific Center Court, Attn: Receiving Inspector, San Diego, California 92121–4340, made application to the Drug Enforcement Administration to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Tetrahydrocannabinols (7370)	I
Mescaline (7381)	I
Phencyclidine (7471)	II
Phenylacetone (8501)	II
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances to make reagents for distribution to the biomedical research community.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of these basic classes of controlled substances may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 1, 1999.

This procedure is to be conducted simultaneously with and independent of the procedure described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 1, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–19640 Filed 7–30–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importation of Controlled Substances; Notice of Application

Pursuant to Section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(i)), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedule I or II and prior to issuing a regulation under Section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with Section 1301.34 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on May 25, 1999, Chiragene, Inc., 7 Powder Horn Drive, Warren, New Jersey 07059, made application by renewal to the Drug Enforcement Administration to be registered as an importer of phenylacetone (8501) a

basic class of controlled substance listed Schedule II.

The firm plans to import the phenylacetone to manufacture amphetamine.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.43 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than (30 days from publication).

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e), and (f). As noted as a previous notice at 40 FR 43745–46 (September 23, 1975), all applicants for registration to import basic classes of any controlled substances in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(a), (b), (c), (d), (e), and (f) are satisfied.

Dated: July 6, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–19639 Filed 7–30–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Violence Against Women Grants Office; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of information collection under review; STOP Violence Against Women Formula Grants 29 C.F.R. Part 90 Certification.

The Department of Justice, Office of Justice Programs, Office of Violence Against Women G Grants Office has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget approval is being sought for the information collection list below. This proposed information collection was previously published in the **Federal Register** on December 11, 1998, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until September 1, 1999. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285. Comments may also be submitted to the Department of Justice (DOJ), Justice Management Division, Information Management and Security Staff, Attention: Department Deputy Clearance Officer, Suite 850, 1001 G Street, NW, Washington, DC 20530.

Written comments and/or suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility:

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of response.

Overview of this information:

(1) *Type of information collection:* Reinstatement of collection for which OMB Clearance has expired.

(2) *The title of the form/collection:* Certification of Compliance with the Statutory Eligibility Requirements of the Violence Against Women Act.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: None. Violence Against Women Grants Office, Office of Justice Programs, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State Governments. Other: none.

The STOP Violence Against Women Formula Grants were authorized through the Violence Against Women Act, Title IV of the Violent Crime Control and Law Enforcement Act of 1994, to make funds available to States to combat domestic violence, sexual assault, and stalking crimes against women.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* The time burden of the 56 respondents to complete the certification form is estimated to be 15 minutes.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total annual hour burden to complete the certification form is 14 hours.

If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 27, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–19678 Filed 7–30–99; 8:45 am]

BILLING CODE 4410–18–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

Office of Juvenile Justice and Delinquency Preventon; Agency Information Collection Activities: Proposed Collection; Comment Request

ACTION: Notice of Information Collection Under Review; New Collection Drug-Free Communities Support Program Site Visit Protocol.

The Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, has submitted the following information

collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with emergency review procedures of the Paperwork Reduction Act of 1995. OMB approval has been requested by August 10, 1999. The proposed information collection is published to obtain comments from the public and affected agencies. If granted, the emergency approval is only valid for 180 days. Comments should be directed to OMB, Office of Information Regulation Affairs, Attention: Department of Justice Desk Officer (202) 395–3122, Washington, DC 20530.

During the first 60 days of this same review period, a regular review of this information collection is also being undertaken. All comments and suggestions, or questions regarding additional information, to include obtaining a copy of the proposed information collection instrument with instructions, should be directed to Kellie Dressler, 202–514–4817, U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, 810 Seventh Street, NW, Room 3163, Washington, DC 20531, or should be electronically mailed to the Internet address dresslek@ojp.usdoj.gov, or should be faxed to 202–353–9096.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information. Your comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information:

(1) *Type of information collection:* New collection.

(2) *The title of the form/collection:* Drug-Free Communities Support Program Site Visit Protocol.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, United States Department of Justice.

(4) Affected pubic who will be asked or required to respond, as well as a brief abstract: Primary: Designated Drug-Free Communities Support Program Coalition representatives, which may include not-for-profit institutions, Local or Tribal government. Other: None. This collection will gather information on promising practices used by diverse community anti-drug coalitions to improve prevention efforts and reduce substance abuse among youth. The site visit protocol will facilitate: (1) provision of technical assistance to grantees; and (2) documentation of coalition and community factors that contribute to various short- and long-term outcomes.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* There are 15 sites and one respondent per site for a total of 15 respondents. It is estimated that the site visit protocol will require an average of 12 hours per site to complete.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the site visit protocol is 210 burden hours. If additional information is required contact: Mrs. Brenda E. Dyer, Deputy Clearance Officer, United States Department of Justice, Information Management Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530.

Dated: July 23, 1999.

Brenda E. Dyer,

Department Deputy Clearance Officer, United States Department of Justice.

[FR Doc. 99–19679 Filed 7–30–99; 8:45 am]

BILLING CODE 4410–18–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–102]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Bios Group LP, of Santa Fe, New Mexico, has applied for an exclusive patent license to practice the invention described and claimed in NASA Case No. ARC–14366, entitled, Masked Proportional Routing, for which a U.S. Patent Application was filed and assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objection to the proposed grant of a license should be sent to NASA Ames Research Center.

DATES: Responses to this notice must be received by October 1, 1999.

FOR FURTHER INFORMATION CONTACT: Robert Padilla, Patent Counsel, Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000; telephone (650) 604–5104.

Dated: July 22, 1999.

Edward A. Frankle,

General Counsel

[FR Doc. 99–19638 Filed 7–30–99; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 99–101]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of prospective patent license.

SUMMARY: NASA hereby gives notice that Preferred Engineering, a subsidiary of Preferred Utilities Manufacturing Corp., has applied for an exclusive license to practice the invention described and claimed in a U.S. Patent No. 5,730,806 entitled ''Gas-Liquid Supersonic Cleaning and Cleaning Verification Spray System,'' which is assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Program Manager, Dual Use and Licensing, John F. Kennedy Space Center.

DATES: Responses to this notice must be received by October 1, 1999.

FOR FURTHER INFORMATON CONTACT: Melanie R. Chan, Program Manager, Dual Use and Licensing, John F. Kennedy Space Center, Mail Code: MM–E, Kennedy Space Center, FL 32899, telephone (407) 867–6367.

Dated: July 23, 1999.

Edward A. Frankle,

General Counsel.

[FR Doc. 99–19637 Filed 7–30–99; 8:45 am]

BILLING CODE 7510–01–P

NUCLEAR REGULATORY COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: U.S. Nuclear Regulatory Commission (NRC).

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: The NRC has recently submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

1. Type of submission, new, revision, or extension: Extension.

2. The title of the information collection: 10 CFR Part 30—Rules of General Applicability to Domestic Licensing of Byproduct Material.

3. The form number if applicable: N/A.

4. How often the collection is required: Required reports are collected and evaluated on a continuing basis as events occur. There is a one-time submittal of information to receive a license. Renewal applications are submitted every 10 years. Information submitted in previous applications may be referenced without being resubmitted. In addition, recordkeeping must be performed on an on-going basis.

5. Who will be required or asked to report: All persons applying for or holding a license to manufacture, produce, transfer, receive, acquire, own, possess, or use radioactive byproduct material.

6. An estimate of the number of responses: There are 6,225 NRC licensee responses and 17,302 Agreement State licensee responses annually for a total of 23,527.

7. The estimated number of annual respondents: The number of annual respondents: 5,529 NRC licensees and 16,000 Agreement State licensees. The total number of respondents is 21,529.

8. An estimate of the total number of hours needed annually to complete the requirement or request: 47,032 hours for the NRC licensees (19,459 reporting + 27,573 recordkeeping) and 111,753 hours for the Agreement State licensees (38,344 reporting + 73,409 recordkeeping). The total burden is 158,785.

9. An indication of whether Section 3507(d), Pub. L. 104–13 applies: Not Applicable

10. Abstract: 10 CFR part 30 establishes requirements that are applicable to all persons in the United States governing domestic licensing of radioactive byproduct material. The application, reporting and recordkeeping requirements are necessary to permit the NRC to make a determination whether the possession, use, and transfer of byproduct material is in conformance with the Commission's regulations for protection of the public health and safety.

A copy of the final supporting statement may be viewed free of charge at the NRC Public Document Room, 2120 L Street, NW (lower level), Washington, DC. OMB clearance requests are available at the NRC worldwide web site (http://www.nrc.gov/NRC/PUBLIC/OMB/index.html). The document will be available on the NRC home page site for 60 days after the signature date of this notice.

Comments and questions should be directed to the OMB reviewer listed below by September 1, 1999. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Erik Godwin, Office of Information and Regulatory Affairs (3150–0017), NEOB–10202, Office of Management and Budget, Washington, DC 20503

Comments can also be submitted by telephone at (202) 395–3087.

The NRC Clearance Officer is Brenda Jo. Shelton, 301–415–7233.

Dated at Rockville, Maryland, this 22nd day of July 1999.

For the Nuclear Regulatory Commission.

Brenda Jo Shelton,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–19698 Filed 7–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–344]

Pacificorp, Trojan Plant; Notice of Consideration of Approval of Application Regarding Proposed Merger and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering the issuance of an order under 10 CFR 50.80 approving the indirect transfer of Facility Operating License No. NFP–1 for the Trojan Plant to the extent currently held by Pacificorp, as a co-owner of the Trojan Plant.

According to an application for approval filed by Pacificorp, Pacificorp plans to merge with Scottish Power, NA General Partnership (''ScottishPower'') and become an indirect wholly owned subsidiary of ScottishPower, thereby effecting an indirect transfer of Pacificorp's interest in the Trojan license to Scottish Power. No physical changes to the Trojan facility or operational changes are being proposed in the application. No direct transfer of the license would result from the merger.

Pursuant to 10 CFR 50.80, no license, or any right thereunder, shall be transferred, directly or indirectly, through transfer of control of the license, unless the Commission shall give its consent in writing. The Commission will approve an application for the indirect transfer of a license, if the Commission determines that the proposed transfer of control will not affect the qualifications of the holder of the license, and that the transfer is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission pursuant thereto.

The filing of requests for hearing and petitions for leave to intervene, and written comments with regard to the license transfer application, are discussed below.

By August 23, 1999, any person whose interest may be affected by the Commission's action on the application may request a hearing, and, if not the applicants, may petition for leave to intervene in a hearing proceeding on the Commission's action. Requests for a hearing and petitions for leave to intervene should be filed in accordance with the Commission's rules of practice set forth in Subpart M, ''Public Notification, Availability of Documents and Records, Hearing Requests and Procedures for Hearings on License Transfer Applications,'' of 10 CFR Part 2. In particular, such requests and petitions must comply with the requirements set forth in 10 CFR 2.1306, and should address the considerations contained in 10 CFR 2.1308(a). Untimely requests and petitions may be denied, as provided in 10 CFR 2.1308(b), unless good cause for failure to file on time is established. In addition, an untimely request or petition should address the factors that the Commission will also consider, in reviewing untimely requests or petitions, set forth in 10 CFR 2.1308(b)(1)–(2).

Requests for a hearing and petitions for leave to intervene should be served upon Mary A. Murphy, Esq., Leboeuf, Lamb, Greene, and MacRae L.L.P., 1875 Connecticut Avenue, Washington, D.C. 20009–5728; George M. Galloway, Esq., Stoel Rives L.L.P., Standard Insurance Center, 900 SW Fifth Avenue, Suite 2300, Portland, OR 97204–1268; the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555 (e-mail address for filings regarding license transfer cases only: OGCLT@NRC.gov); and the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, in accordance with 10 CFR 2.1313.

The Commission will issue a notice or order granting or denying a hearing request or intervention petition, designating the issues for any hearing that will be held and designating the Presiding Officer. A notice granting a hearing will be published in the **Federal Register** and served on the parties to the hearing.

As an alternative to requests for hearing and petitions to intervene, by September 1, 1999, persons may submit written comments regarding the license transfer application, as provided for in 10 CFR 2.1305. The Commission will consider and, if appropriate, respond to these comments, but such comments will not otherwise constitute part of the decisional record. Comments should be submitted to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and should cite the publication date and page number of this **Federal Register** notice.

For further details with respect to this action, see the application dated May 24, 1999, 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 Branford Price Millar Library, Portland State University, 934 S.W. Harrison Street, Portland, OR 92707.

Dated at Rockville, Maryland this 27th day of July 1999.

For the Nuclear Regulatory Commission.

Michael T. Masnik,

Chief, Decommissioning Section, Project Directorate IV & Decommissioning, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19696 Filed 7–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Notice of Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License Nos. DPR–77 and DPR–79 issued to the Tennessee Valley Authority (TVA, the licensee) for operation of the Sequoyah Nuclear Plant (SQN), Units 1 and 2, located in Hamilton County, Tennessee.

The proposed amendment would change the SQN Technical Specification (TS) requirements, Sections 3.8.2.1 and 3.8.2.2, by providing an allowance to use a fully qualified and tested spare vital bus electrical inverter in place of any of the eight normal inservice inverters.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

A. The proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated

The proposed changes to the onsite power distribution systems of the SQN TSs will not alter the safety function of the inverters or the 120-V [volt] vital instrument power boards. While additional automatic and manual transfer capabilities have been added, the function of the inverters will remain the same and the availability of a spare inverter will provide improved capability to tolerate inverter failures and support maintenance activities. These improvements will reduce the potential for unit trips and required shutdowns as a result of inverter failures. The new design, along with the operating requirements, have been evaluated and determined to not present the potential to increase the probability of an accident. In addition, the inverters and the associated 120-V vital instrument power boards are utilized to support instrumentation that monitor critical plant parameters to aid in the detection of accidents and to support the mitigation of accidents, but are not considered to be an initiator of a design basis accident. Therefore, the probability of an accident is not increased by the proposed changes to the TSs and the potential for unit shutdowns will be minimized.

The functions of the inverters remain the same based on the proposed change to the TSs. Other design changes, that are independent of the requested change, will improve the ability of the inverters to supply power for the identification and mitigation of accidents. Since the inverter functions and their operation will not be affected by the proposed TS change, the consequences of an accident will not be increased although the consequences should be further minimized as a result of the inverter design changes.

B. The proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The inverters and the 120-V vital instrument power boards are not considered to be an initiator of a design basis accident. These features provide power to instrumentation that support the identification and mitigation of accidents as well as system control functions during normal plant operations. The functions of the inverters are not altered by the proposed TS change and will not create the possibility of a new or different accident.

C. The proposed amendment does not involve a significant reduction in a margin of safety.

The plant setpoints and limits that are utilized to ensure safe operation and detect accident conditions are not impacted by the proposed TS change. The inverters and 120-V vital instrument power boards will continue to provide reliable power to the safety-related instrumentation for the identification and mitigation of accidents and in support of plant operation. The ability to utilize spare inverters that can provide the desired level of redundancy will enhance the safety functions during periods of inverter maintenance or failure that would otherwise have to rely on a single power source without a backup source. Therefore, the margin of safety is not reduced based on the additional capability to utilize a spare inverter that enhances the level of safety without change to plant safety limits.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed

determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to Room 6D59, Two White Flint North, 11545 Rockville Pike, Rockville, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By September 1, 1999, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Rules of Practice for Domestic Licensing Proceedings'' in 10 CFR Part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to 15 days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, ET10H, Knoxville, Tennessee 37902, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated June 24, 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 Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland, this 26th day of July 1999.

For the Nuclear Regulatory Commission.

Ronald W. Hernan,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19697 Filed 7–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–123]

University of Missouri, Rolla, Nuclear 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–79, issued to University of Missouri, Rolla (the licensee) for operation of the University of Missouri, Rolla Research Reactor (UMRR).

Environmental Assessment

Identification of the Proposed Action

The proposed action would allow extension of the license expiration time from November 20, 1999, to January 14, 2005, for the UMRR as requested by the licensee on May 24, 1999, in accordance with the provisions of 10 CFR 50.90. The licensee submitted an Environmental Report on June 24, 1999.

Need for the Proposed Action

The proposed action is necessary for the continued operation of the UMRR in order to continue instruction, training, and research at the University of Missouri, Rolla.

Environmental Impact of the Proposed Action

The UMRR is located at the University of Missouri, Rolla campus in a metal building on the east side of the campus near 14th Street and Pine Street.

The UMRR is a low power (200 kilowatts), pool-type research reactor (200 kilowatts). The NRC licensed the facility in 1961 at 10 kilowatts and increased maximum authorized power level to 200 kilowatts in 1966. The facility license was renewed in 1985. Since about 1985, the facility has operated about 9 megawatt-hours per year on average. During that time, the gaseous radiological release has been about 100 millicuries/year of Argon-41. Liquid releases have been minimized and radiological liquid releases have been eliminated since about 1994. Solid releases of radioactive material have averaged about 70 microcuries since about 1985. Currently, there are no plans to change any operating characteristics of the reactor during the license extension period.

The Commission concludes that the radiological effects of the continued operation will be minimal based on past radiological releases. The radiological exposures for facility operations have been within regulatory limits. Conditions are not expected to change.

With regard to potential non-radiological impacts, the proposed action does not involve any historic sites. It does not affect non-radiological effluents and has no other environmental impact. Therefore, there are no significant non-radiological environmental impacts associated with the proposed action.

In addition, the environmental impact associated with operation of research reactors has been generically evaluated by the staff and is discussed in the attached generic evaluation. This evaluation concludes that there will be no significant environmental impact associated with the operation of research reactors licensed to operate at power levels up to and including 2 megawatts thermal and that an Environmental Impact Statement is not required for the issuance of construction permits or operating licenses for such facilities. We have determined that this generic evaluation is applicable to operation of the UMRR and that there are no special or unique features that would preclude reliance on the generic evaluation.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

The alternative to the proposed action for the Research Reactor Facility is to deny the application (i.e., ''no action'' alternative). If this were the case, the licensee has indicated that they would apply for license renewal and operate under the timely renewal provisions of 10 CFR 2.109 until the Commission renewed or denied the license renewal application. With operation under timely renewal or renewal, the actual conditions of the reactor would not change. If the Commission denied license renewal, UMRR Operations would stop and decommissioning would be required with a likely small impact on the environment.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Environmental Assessment prepared for the renewal of University of Missouri, Rolla's license in January 1985.

Agencies and Persons Contacted

On June 30, 1999, the staff consulted with the Missouri Environmental Public Health Official, Gary McNutt, 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 May 24, 1999, as supplemented in a letter dated June 24, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

Dated at Rockville, Maryland, this 23rd 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. 99–19695 Filed 7–30–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–245]

Northeast Nuclear Energy Company, Millstone Nuclear Power Station, Unit 1; Issuance of Final Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director of the Office of Nuclear Reactor Regulation has issued a Final Director's Decision with regard to a Petition dated August 21, 1995, and supplemented on August 28, 1995, submitted by George Galatis and We the People, Inc. (the Petitioners), requesting action under

Title 10 of the Code of Federal Regulations, Section 2.206 (10 CFR 2.206). The Petition pertains to Millstone Nuclear Power Station, Unit 1, operated by Northeast Nuclear Energy Company (licensee).

The Petitioners requested that the NRC (1) suspend the license for the Millstone Unit 1 facility for a period of 60 days after the unit is brought into compliance with the license and the design basis; (2) revoke the operating license until the facility is in full compliance with the terms and conditions of its license; (3) perform a detailed independent analysis of the offsite dose consequences of the total loss of spent fuel pool water; and (4) take enforcement action pursuant to 10 CFR 50.5 and 50.9. As bases for their requests, the Petitioners raised the following three issues: (1) the licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendment Nos. 39 and 40; (2) License Amendment Nos. 39 and 40 for Millstone Unit 1 are based on material false statements made by the licensee in documents submitted to the NRC; and (3) the license amendment proposed in a letter dated July 28, 1995, should be denied and the licensee should be required to operate in full conformance with License Amendment No. 40. By letter dated October 26, 1995, the staff informed the Petitioners that Issue 3 was determined to be a request for a licensing action and therefore, was beyond the scope of 10 CFR 2.206.

In a Partial Director's Decision dated December 26, 1996, the Acting Director of the Office of Nuclear Reactor Regulation partially granted Requests 1, 2, and 3 of the Petition on the basis of the staff's technical review of the core offloading issues presented by the Petitioners. The reasons for that decision were explained in the ''Partial Director's Decision Pursuant to10 CFR 2.206'' (DD–96–23).

As stated in the Partial Director's Decision, the staff noted that the focus of the Petition was on assertions of wrongdoing on the part of the licensee in certain of its actions and, at the time, that the assertions were still being reviewed by the staff. The staff has completed its review in this area and for the reasons given in the ''Final Director's Decision Pursuant 10 CFR 2.206'' (DD–99–09), Request 4 of the Petition is partially granted.

Additional information is included in the ''Final Director's Decision Pursuant to 10 CFR 2.206'' (DD–99–09), the complete text of which follows this notice and which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555–0001, and at the local public document room located at the Learning Resources Center, Three Rivers Community-Technical College, 574 New London Turnpike, Norwich, Connecticut 06360 and at the Waterford Library, Attn: Vince Juliano, 49 Rope Ferry Road, Waterford, Connecticut 06385.

As provided in 10 CFR 2.206(c), a copy of this Final Director's Decision will be filed with the Secretary of the Commission for the Commission's review. This Decision will constitute the final action of the Commission 25 days after issuance unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 27th day of July 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Final Director's Decision Pursuant to 10 CFR 2.206

I. Introduction

On August 21, 1995, George Galatis and We the People, Inc. (Petitioners), filed a Petition with the Executive Director for Operations of the U.S. Nuclear Regulatory Commission (NRC) pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). A supplement to the Petition was submitted on August 28, 1995. These two submittals will hereinafter be referred to as the ''Petition.''

The Petition raised three issues regarding the Millstone Nuclear Power Station, Unit 1 (Millstone Unit 1), operated by Northeast Nuclear Energy Company (NNECO or the licensee). First, the Petitioners asserted that the licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendment Nos. 39 and 40. Specifically, Petitioners asserted that NNECO had offloaded more fuel assemblies into the Millstone Unit 1 spent fuel pool (SFP) during refueling outages than permitted under these license amendments. Second, Petitioners asserted that License Amendments Nos. 39 and 40 for Millstone Unit 1 are based on material false statements made by the licensee in documents submitted to the NRC. Third, Petitioners asserted that the license amendment proposed by the licensee under cover of a letter dated July 28, 1995, regarding offloading of the entire core of spent fuel assemblies at Millstone Unit 1, should be denied and the licensee should be required to operate in full conformance with License Amendment No. 40.

On the basis of these assertions, the Petitioners requested that the NRC (1) institute a proceeding under 10 CFR 2.202 to suspend the license for the Millstone Unit 1 facility for a period of 60 days after the unit is brought into compliance with the licensing basis and the design basis, (2) revoke the operating license for the Millstone Unit 1 facility until it is in full compliance with the terms and conditions of its license, (3) perform a detailed independent analysis of the offsite dose consequences of the total loss of SFP water, before reinstatement of the license, and (4) take enforcement action against NNECO pursuant to 10 CFR 50.5 and 50.9. Finally, Petitioners requested that the proposed license amendment sought by NNECO be denied.

In the supplement to the Petition dated August 28, 1995, the Petitioners made additional assertions in support of their first and third issues. Specifically, in support of Issue 1, the Petitioners asserted that the licensees for Millstone Units 2 and 3 and Seabrook Unit 1 also performed full core offloads in violation of their licenses. In support of Issue 3, the Petitioners asserted that there is a material false statement in a submission used to support a previous Millstone Unit 3 license amendment request, and that there is an unanalyzed condition in the Millstone Unit 3 Updated Final Safety Analysis Report in that system piping had not been analyzed for the full core offload normal end-of-cycle event. Also, with regard to Seabrook Station Unit 1, the Petitioners asserted that there are Technical Specification violations related to criticality analysis and gaps in Boraflex material.

By letter dated October 26, 1995, the NRC informed the Petitioners that the Petition had been referred to the Office of Nuclear Reactor Regulation pursuant to 10 CFR 2.206 of the Commission's regulations for preparation of a response. The NRC also informed the Petitioners that the NRC staff would take appropriate action within a reasonable time regarding the specific concerns raised in the Petition. Additionally, the NRC staff informed the Petitioners that their request with regard to issues associated with the requested license amendment (i.e., Petitioners' third issue) was not within the scope of 10 CFR 2.206 and thus was not appropriate for consideration under 10 CFR 2.206.

In a Partial Director's Decision (DD–96–23) dated December 26, 1996, the staff documented its technical review of the full core offload issue at Millstone Units 1, 2, and 3 and Seabrook Unit 1.

The staff concluded that Millstone Units 1 and 3 and Seabrook Unit 1 could safely offload full cores. Additionally, the staff found that Millstone Unit 2 was not routinely performing full core offloads as asserted by the Petitioners. However, the staff's followup of SFP issues raised by the Petitioners led, in part, to the identification of a broad spectrum of configuration management concerns that had to be corrected before the Commission allowed restart of any Millstone unit.

On August 14, 1996, the NRC staff issued a Confirmatory Order establishing an Independent Corrective Action Verification Program (ICAVP) for each Millstone unit to ensure that the plant's physical and functional characteristics were in conformance with its licensing and design basis. The ICAVP was performed and completed for Millstone Units 2 and 3 to the satisfaction of the NRC before the Commission allowed the plants to restart.[1] To the extent that Millstone Unit 1 permanently ceased operation, as stated in the Partial Director's Decision, the staff determined that the Petitioners' requests for suspension and revocation of the Millstone Unit 1 operating license was partially granted. The staff further stated that it had evaluated spent fuel accidents beyond the design bases and, to this extent, the Petitioners' request to perform analyses of such accidents was also partially granted.

In the Partial Director's Decision, the staff stated that since the Petitioners' letter of August 28, 1995, contained assertions relating to the third issue (that the license amendment proposed by the licensee under cover of a letter dated July 28, 1995, should be denied) and that the issue was not appropriate for consideration under 10 CFR 2.206, the staff would forward its findings to the Petitioners by separate correspondence. In a letter to the Petitioners dated July 1, 1999, the staff addressed these assertions.

In the Partial Director's Decision, the staff stated that it was still considering the Petitioners' assertions that the licensee knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendment Nos. 39 and 40 and submitted material false statements to obtain License Amendment Nos. 39 and 40 (as they support the Petitioners' fourth request). As explained below, the NRC staff has taken actions that, in part, grant the Petitioners' request.

II. Discussion

Request for Enforcement Action Against NNECO Pursuant to 10 CFR 50.5 and 50.9

The Petitioners based their requests on their assertion that the licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendments Nos. 39 and 40 and that License Amendment Nos. 39 and 40 for Millstone Unit 1 are based on material false statements. Specifically, the Petitioners stated that the licensee conducted full core offloads as a routine practice when its licensing basis analyses assumed one-third core offloads as the normal refueling practice. In their supplemental letter of August 28, 1995, the Petitioners asserted that the licensees for Millstone Units 2 and 3 and Seabrook Unit 1 also performed full core offloads in violation of their licenses. The Petitioners further contend that the licensee's actions subjected the public to an unacceptable risk.

As explained in the Partial Director's Decision, the staff concluded that Millstone Units 1 and 3 and Seabrook Unit 1 could safely offload full cores. Additionally, the staff found that Millstone Unit 2 was not routinely performing full core offloads as asserted by the Petitioners.

In a letter to the licensee dated May 25, 1999, regarding a Notice of Violation and Exercise of Enforcement Discretion, the staff stated that it had completed the investigations concerning the performance of fuel offloads at Millstone Unit 1. Regarding the Petitioners' assertion concerning the Millstone Unit 1 full core offload practice, the NRC has drawn a distinction between routinely conducting full core offloads and conducting any offloads before the delay times assumed in the Final Safety Analysis Report (FSAR). The NRC has concluded that enforcement action is not warranted at Millstone Unit 1 and other nuclear facilities for conducting full core offloads on a routine basis. The NRC determined that the use of the terms ''abnormal'' and ''emergency'' in describing the full core offload scenario in the FSAR did not appear to be presented by the licensee nor understood by the staff as a commitment to limit the frequency with which full core offloads were conducted at Millstone Unit 1. In this regard, the licensee informed the NRC staff of its practice of offloading the full core at Millstone Unit 1 in a meeting on June 16, 1988, associated with the License Amendment No. 40 request pertaining to SFP reracking. Further, although the analytical constraints and assumptions for the full core offload were generally less restrictive than those for a partial core offload, in licensing actions (typically rerack amendments) for nuclear plants, including Millstone Unit 1, the NRC found the plant design for removing the full core acceptable. Finally, as a way of addressing shutdown risk, the NRC encouraged, and still does, the practice of full core offloads. Thus, consistent with the conclusions drawn for all other plants that routinely performed full core offloads, enforcement is not being proposed for the Millstone Unit 1 full core offloading practices.

The staff's followup of spent fuel pool issues raised by the Petitioners, however, led, in part, to the identification of a broad spectrum of configuration management concerns that had to be corrected before the Commission allowed restart of any Millstone unit. On the basis of information developed during the investigation by the NRC's Office of Investigations, the NRC cited the licensee for four violations of NRC requirements. Specifically, the NRC determined that, in careless disregard of NRC requirements, the licensee (1) performed both partial and full core offloads before the delay times assumed in the FSAR without the appropriate engineering analysis; (2) utilized unapproved and unanalyzed system configurations to augment SFP cooling during refueling outages, without procedures to govern those activities; and (3) in two instances, submitted incomplete and inaccurate information to the NRC (violations of 10 CFR 50.9(a)) related to the performance of fuel offloads that were actually commenced before the delay times assumed in the analysis submitted to the NRC.

In its May 25, 1999, letter transmitting the Notice of Violation, the NRC also stated that these violations, which existed for a long time, appeared to be the result of the deficient safety culture, which contributed to the shutdown of all three Millstone units for an extended period and resulted in a number of other violations for which the NRC issued a $2,100,000 civil penalty to the licensee on December 10, 1997. That penalty was based, in part, on (1) the licensee's failure to ensure that the plant was maintained in the configuration as designed and specified in the licensing basis and (2) the licensee's failure to promptly correct nonconforming conditions. The NRC concluded that the failure of licensee management to

[1] The staff notes that by letter dated July 21, 1998, the licensee informed the NRC of its decision to permanently shut down Millstone Unit 1. Upon the permanent shutdown of Millstone Unit 1, the staff determined that the requirement to perform an ICAVP at Millstone Unit 1 was no longer necessary.

establish standards to ensure that the plant was maintained and operated as designed, and to ensure that nonconforming conditions were promptly identified and corrected, constituted careless disregard of requirements. As such, the violations that resulted from that deficient safety culture, which fostered such disregard, were considered willful in accordance with the ''General Statement of Policy and Procedures for NRC Enforcement Actions NUREG–1600'' (Enforcement Policy).

In its May 25, 1999, letter, the NRC further stated that in consideration of (1) the undesirable consequences of performance of unanalyzed core offloads and the licensee's failure to ensure that SFP heat removal was conducted in accordance with approved procedures; (2) the significance of the licensee's providing incomplete and inaccurate information to the NRC; and (3) the significance that the NRC places on careless disregard of its requirements, the four violations had been classified, in the aggregate, as a Severity Level III violation in accordance with the NRC Enforcement Policy. For the reasons outlined in its letter of May 25, 1999, the staff exercised enforcement discretion and did not issue a civil penalty for the violations. In its letter, the NRC staff stated that discretion is appropriate because the licensee already implemented corrective actions to address the underlying performance problems at Millstone and further enforcement action is not necessary to achieve additional remedial actions.

In their Petition, the Petitioners requested that the NRC take enforcement action against the licensee pursuant to 10 CFR 50.5 and 50.9. Although not specifically for the reasons cited by the Petitioners (the Petitioners based their requests on their assertion that the licensee has knowingly, willingly, and flagrantly operated Millstone Unit 1 in violation of License Amendment Nos. 39 and 40 and that License Amendment Nos. 39 and 40 for Millstone Unit 1 are based on material false statements), the NRC did find that in two instances the licensee submitted incomplete and inaccurate information to the NRC related to the performance of fuel offloads that were actually being commenced before the delay times assumed in the analysis submitted to the NRC. Therefore, for the reasons previously given, the NRC's actions constitute a partial granting of the Petitioners' request regarding enforcement action pursuant to 10 CFR 50.5 and 50.9.

III. Conclusion

The staff has completed the investigations concerning the performance of fuel offloads at Millstone and has taken enforcement action as outlined in its letter and Notice of Violation to the licensee dated May 25, 1999. Therefore, to this extent, Petitioners' request for enforcement action against NNECO pursuant to 10 CFR 50.5 and 50.9 is partially granted.

As provided in 10 CFR 2.206(c), a copy of this Final Director's Decision will be filed with the Secretary of the Commission for the Commission's review. This Final Director's Decision will constitute the final action of the Commission (for Petitioners' Request 4) 25 days after its issuance, unless the Commission, on its own motion, institutes review of the Decision within that time.

Dated at Rockville, Maryland, this 27th day of July 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 99–19699 Filed 7–30–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Updated Statistical Definitions of Metropolitan Areas

AGENCY: Executive Office of the President, Office of Management and Budget, Office of Information and Regulatory Affairs.

ACTION: Notice.

SUMMARY: Pursuant to 44 U.S.C. 3504(e)(3) and 31 U.S.C. 1104(d) and Executive Order No. 10253 (June 11, 1951), the Office of Management and Budget (OMB) defines metropolitan areas (MAs) for use in Federal statistical activities in accordance with a set of standards published in the **Federal Register** on March 30, 1990 (55 FR 12154–12160).

On June 30, 1999, OMB updated the MA definitions in OMB Bulletin No. 99–04. Two new Metropolitan Statistical Areas (MSA) were defined based on the standards and the 1998 Bureau of the Census official population estimates:

(1) Auburn-Opelika, Alabama MSA (FIPS Code 0580) was defined effective June 30, 1999. The Auburn-Opelika, Alabama MSA comprises Lee County, Alabama. The MSA's central cities are Auburn, Alabama and Opelika, Alabama.

(2) Corvallis, Oregon MSA (FIPS Code 1890) was defined effective June 30, 1999. The Corvallis, Oregon MSA comprises Benton County, Oregon. The MSA's central city is Corvallis, Oregon.

OMB Bulletin No. 99–04 with the list of all MAs as of June 30, 1999, is available from the National Technical Information Service (NTIS), Document Sales, 5285 Port Royal Road, Springfield, VA 22161, telephone 703–605–6000 or 1–800–553–6847 (Accession Number PB99–132698). This list is also available through NTIS in electronic form (Accession Number PB99–501538). OMB Bulletin No. 99–04 and the current list of MAs are available electronically from the OMB home page at http://www.whitehouse.gov/OMB/bulletins/index.html.

For further information on MA standards and the statistical uses of MA definitions please call Suzann Evinger (202–395–7315). For information concerning the use of MA definitions in a particular Federal agency program, please contact the sponsoring agency directly.

John T. Spotila,

Administrator, Office of Information and Regulatory Affairs.

[FR Doc. 99–19701 Filed 7–30–99; 7:30 am]

BILLING CODE 3110–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23920; 812–11696]

Alliance Capital Management, L.P.; Notice of Application

July 27, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application for an order under sections 6(c) and 6(e) of the Investment Company Act of 1940 (the ''Act'') granting relief from all provisions of the Act, except sections 37 through 53 of the Act and the rules and regulations under those sections.

SUMMARY OF APPLICATION: Applicant, alliance Capital Management L.P. (''Alliance Holding''), requests an order under sections 6(c) and 6(e) of the Act exempting it from all provisions of the Act, except sections 37 through 53 of the Act and the rules and regulations under those sections.

FILING DATES: The application was filed on July 20, 1999.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a

hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 17, 1999, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549–0609. Applicant, Alliance Capital Management L.P., 1345 Avenue of the Americas, New York, NY 10105.

FOR FURTHER INFORMATION CONTACT: Susan K. Pascocello, Senior Counsel, at (202) 942–0674, or Nadya B. Roytblat, Assistant Director, 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 SEC's Public Reference Branch, 450 Fifth Street, N.W., Washington, DC 20549–0102 (tel. (202) 942–8090).

Applicant's Representations

1. Applicant is a limited partnership organized under the laws of Delaware, with its equity interests publicly traded in the form of units (''Units''). Applicant provides diversified investment management services to institutional clients and individual investors. Applicant's sole general partner and holder of a 1% general partnership interest is Alliance Capital Management Corporation (''ACMC''), a wholly owned indirect subsidiary of The Equitable Life Assurance Society of the United States (''Equitable Life''). Equitable Life also owns, directly and indirectly, approximately 57% of the applicant's outstanding Units. Applicant's remaining Units are public held. For tax and business purposes discussed below, applicant proposes to reorganize into a new partnership structure (the ''Reorganization'').

2. Alliance Capital Management L.P. II (''Alliance Capital'') was formed as a Delaware private limited partnership in order to effect the Reorganization. Applicant will transfer its business to Alliance Capital, in exchange for equity interests in Alliance Capital (''Alliance Capital Units''). Immediately following the Reorganization, applicant's business activities will consist of holding Alliance Capital Units and engaging in related activities.[1] Alliance Capital will not be an investment company under section 3(a) of the Act, nor will it rely on an exemption from the definition of investment company under section 3(c)(1) or 3(c)(7) of the Act. Alliance Capital Units will not be listed on an exchange and will be subject to significant transfer restrictions.

3. Applicant states that after the Reorganization Alliance Capital will continue the business conducted by applicant prior to the Reorganization. Applicant also states that Equitable Life will have the same degree of control over, and the same ability to manage the business of, Alliance Capital, as it currently has with respect to applicant. Applicant further states that the reorganization will not result in any material change in the rights and benefits of its Unitholders. As a limited partner of Alliance Capital, applicant will be required to allow its Unitholders to vote on certain matters affecting Alliance Capital. Therefore, Unitholders will be allowed to vote with respect to Alliance Capital on those matters on which they currently vote with respect to applicant. As a result, applicant asserts that the Unitholders will be in substantially the same position following the Reorganization as they were prior to it.

4. A majority of applicant's public Unitholders (excluding Equitable Life and its affiliates and applicant's management and employees) must approve the Reorganization. A proxy solicitation will be conducted for that purpose. If the Reorganization is approved, applicant will offer to all its Unitholders, pursuant to an exchange offer, a one-time election to exchange outstanding Units on a one-for-one basis for Alliance Capital Units. Following the exchange offer, Equitable Life and its affiliates, other than applicant, will own approximately 55% of the Alliance Capital Units, and the remainder will be owned by applicant and any public Unitholders who accept the exchange offer. Applicant expects that it will own approximately 45% of Alliance Capital Units.

5. Applicant states that the purpose of the Reorganization is to offer a choice to Unitholders who are willing to accept the transfer restrictions on the privately placed Alliance Capital Units so that they may receive higher distributions as Alliance Capital is a private partnership and will not be subject to an annual federal tax imposed on the gross business income of publicly traded partnerships. It also will give applicant greater flexibility to acquire businesses and raise capital in the future, since it will be able to offer the selling party or potential investor the choice of whether to receive publicly-traded Units, tax advantaged Alliance Capital Units or a combination of both.

Applicant's Legal Analysis

1. Section 3(a)(1)(C) of the Act defines ''investment company'' to include any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40% of the value of that issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis. Under section 3(a)(2), ''investment securities'' includes all securities except (i) Government securities and (ii) securities issued by (a) employees' securities companies or (b) certain majority-owned subsidiaries.

2. Applicant states that its primary asset will be Alliance Capital Units. Alliance Capital will not be a majority-owned subsidiary of applicant, and therefore the Alliance Capital Units owned by applicant may be ''investment securities'' as defined in section 3(a)(2) of the Act. As the Alliance Capital Units will constitute virtually all of the assets of applicant, applicant may be deemed to be an investment company under section 3(a)(1)(C) of the Act.

3. Section 6(c) of the Act provides, in part, that the SEC may exempt any person from any provision of the Act or any rule under the Act if and to the extent the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 6(e) permits the SEC to require companies exempted from the registration requirements of the Act to comply with certain specified provisions of the Act as though the company were a registered investment company. Applicant requests an order under sections 6(c) and 6(e) exempting it from all provisions of the Act, except section 37 through 53 of the Act and the

[1] Such activities will include filing periodic reports with the SEC pursuant to the Securities Exchange Act of 1934, maintaining its New York Stock Exchange listing, holding shareholder meetings, and holding certain assets for which consents for assignment or transfer to Alliance Capital must be obtained. These assets consist of contracts, such as leases and service contracts, licenses, including those obtained from governments and regulatory authorities, and regulatory and other approvals necessary for the conduct of Alliance Capital's business.

rules and regulations under those sections.

4. Applicant contends that there are legitimate business reasons for the Reorganization. Applicant also states that, following the Reorganization, applicant will function solely as a holding company for Alliance Capital Units. Alliance Capital Units will be subject to very significant transfer restrictions.[2] Applicant states that its activities will be limited to holding Alliance Capital Units and engaging in activities necessitated by its status as a publicly-held holding company. Accordingly, applicant asserts that its business following the Reorganization will not entail the types of risk to public investors that the Act was designed to mitigate.

Applicant's Conditions

Applicant agrees that the order granting the requested relief will be subject to the following conditions:

1. Applicant will not hold itself out as being engaged in the business of investing, reinvesting, or trading in securities.

2. Applicant will not require any investment securities, as that term is defined in section 3(a)(2) of the Act, except for: (a) Alliance Capital Units and (b) for cash management purposes, certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof, and shares of money market funds. Applicant will not acquire these short-term securities for speculative purposes but solely to obtain a reasonable return while preserving capital. Applicant may acquire other investment securities provided that (i) the acquisition is in connection with the purchase of any business, assets or property, (ii) applicant simultaneously with the purchase contributes the investment securities to Alliance Capital, (iii) applicant contributes any remaining portion of the purchased business, assets or property to Alliance Capital as soon as practicable, (iv) the value of the consideration received by applicant from Alliance Capital in connection with its contribution to Alliance Capital equals the fair value of the business, assets or property contributed to Alliance Capital and (v) any investment securities received by applicant from Alliance Capital in connection with applicant's contribution to Alliance Capital will be either Alliance Capital Units or investment securities of the type specified in clause (b) of the first sentence of this condition.

For the SEC, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19719 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

[2] In general, the amended partnership agreement of Alliance Capital will permit Alliance Capital Units, including those which will be held by applicant, to be transferred only with the written consent of Equitable Life and ACMC. A business entity, such as applicant, may transfer a block of units representing more than 2% of the outstanding Alliance Capital Units without the consent of ACMC, provided that it has received the written consent of Equitable Life and a written opinion of counsel to the effect that Alliance Capital will not be treated as a publicly-traded partnership for tax purposes as a result of the transfer. Either Equitable Life or ACMC may withhold its consent to transfer in its sole discretion.

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. IC–23922; International Series Rel. No. 1201; 812–11038]

Caisse des Depots et Consignations; Notice of Application

July 27, 1999.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under section 6(c) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(f) of the Act.

SUMMARY OF APPLICATION: The order would permit any registered investment company other than an investment company registered under section 7(d) of the Act (''U.S. Investment Company''), and its custodians or subcustodians to maintain foreign securities and other assets in France in the custody of applicant Caisse des Depots et Consignations (''CDC''), consistent with the requirements of rule 17f–5 under the Act.

FILING DATES: The application was filed on February 26, 1998. 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 SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 on August 23, 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 SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549–0609. Applicant, c/o Leonard B. Mackey, Jr. Esq., Rogers & Wells LLP, 200 Park Avenue, New York, New York 10166.

FOR FURTHER INFORMATION CONTACT: J. Amanda Machen, Senior Counsel, at (202) 942–7120, or Nadya B. Roytblat, Assistant Director at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The Complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 fifth Street, NW., Washington, DC 20549–0102 (tel. 202–942–8090).

Applicant's Representations

1. CDC is a quasi-governmental, public-sector financial institution created in 1816 under French law to safeguard deposits requiring a high degree of safety. CDC specifically is not designated as a bank, although CDC is permitted to conduct banking activities. CDC's traditional activities involve safeguarding and managing financial assets, particularly pension plan assets and assets collected by the French savings bank network. In addition, CDC is involved, directly and indirectly, in a broad range of financial activities, including life insurance, local development, banking, capital market activities, and third-party asset management. CDC is the leading securities custodian in France, with assets held in custody at 1998 year-end of approximately US$726.2 billion.

2. CDC's total assets as of December 31, 1998 were approximately US$171 billion, with reserves and retained earnings (the excess of CDC's assets over its liabilities) of approximately US$13 billion. CDC's debt securities are rated AAA by Standard & Poor's Ratings Group and Aaa by Moody's Investors Service, Inc. Although CDC is not subject to any net capital or compulsory reserve regulations, CDC complies on a voluntary basis with the solvency ratio regulations that apply to banks in France. CDC's financial statements are prepared in accordance with the French generally accepted accounting principles applicable to banking and financial institutions and they are audited by two independent accounting firms using the same accounting standards applicable to French banks.

3. Under French law, only specified institutions, including banks and CDC,

are permitted to provide custodial services. CDC is subject to the same laws and regulatory authorities governing its custodial activities as govern the custodial activities of banks in France. CDC's custodial services are overseen and inspected by the Financial Market Commission and the Commission des Operations de Bourse, the same agencies that oversee and inspect custodial services provided by French banks.

4. Applicant states that CDC is not immune from suit by its creditors, including customers of CDC's custodial services. While CDC as a public entity under French law is immune from forced execution (or attachment), CDC is not restricted in its ability to pay claims or judgments out of its assets. Applicant states that under French law, CDC must pay a money judgment rendered by any French court of law and, if CDC fails to pay the judgment within four months of being notified of the court decision, CDC must pay a penalty.

5. CDC requests an order to permit any U.S. Investment Company and any custodian or subcustodian for a U.S. Investment Company to maintain assets in the custody of CDC consistent with the requirements of rule 17f–5 under the Act discussed below.

Applicant's Legal Analysis

1. Section 17(f) of the Act requires every registered management investment company to place and maintain its securities and similar investments in the custody of certain enumerated entities, including a bank having at all times aggregate capital, surplus, and undivided profits of at least $500,000. A ''bank,'' as that term is defined in section 2(a)(5) of the Act, includes: (a) a banking institution organized under the laws of the United States; (b) a member bank of the Federal Reserve System; and (c) any other banking institution or trust company, whether incorporated or not, doing business under the laws of any state or of the United States, a substantial portion of which consists of receiving deposits or exercising fiduciary powers similar to those permitted to national banks, which is supervised or examined by state or federal authority having supervision over banks, and which is not operated for the purposes of evading the Act.

2. The only entities located outside the United States that section 17(f) authorizes to serve as custodians for U.S. Investment Companies are the overseas branches of qualified U.S. banks. Rule 17f–5 under the Act, however, expands the group of entities that are permitted to serve as foreign custodians. The rule defines the term ''Eligible Foreign Custodian'' to include, among others, an entity incorporated or organized under the laws of a foreign country that is a banking institution or trust company regulated as such by the foreign country's government or government agency. CDC states that it is not an Eligible Foreign Custodian under rule 17f–5 of the Act because it is a special entity under French law and is not regulated as a banking institution or trust company, nor is it a securities depository or clearing agency under rule 17f–5.

3. Section 6(c) of the Act provides that the SEC may, conditionally or unconditionally, exempt any person or class of persons from any provisions of the Act or from any rule under the Act if, and to the extent that, the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. CDC requests relief from section 17(f) to permit U.S. Investment Companies to treat CDC as an Eligible Foreign Custodian for purposes of rule 17f–5. In selecting CDC as a foreign custodian, a U.S. Investment Company would be required to comply with all of the requirements of rule 17f–5, as now in effect or as it may be amended.[1]

4. CDC states that it is the largest custodian of securities in France. CDC further states that it voluntarily complies with the regulations, such as the solvency ratio regulations, risk control, and accounting rules, that are applicable to French banks. CDC also states that its custodial services are subject to the same regulatory oversight as the custodial services provided by French banks. CDC thus asserts that assets of U.S. Investment Companies in the custody of CDC will have the same or greater protection as in the custody of a French bank. CDC states that it would be consistent with the protection of investors and the policies underlying the Act to treat CDC as a bank for purposes of rule 17f–5.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The foreign custody arrangements that involve CDC will comply with all provisions of rule 17f–5, as now in effect or as it may be amended, except paragraph (a)(1) to the extent CDC does not meet the definition of Eligible Foreign Custodian.

2. CDC will continue to comply voluntarily with French banking regulations concerning risk controls, solvency ratios, and accounting standards.

3. CDC's custodial activities will be subject to regulation by the same agencies that regulate the custodial activities of French banks.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19720 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

[1] Those requirements include, among others, procedures for selecting, contracting with, and monitoring a foreign custodian.

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (The Quaker Oats Company, Common Stock, $5.00 Par Value, and Attached Preferred Stock Purchase Rights) File No. 1–00012

July 26, 1999.

The Quaker Oats Company (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified securities (''Securities'') from listing and registration on the Pacific Exchange, Inc. (''PCX'' or ''Exchange'').

The reasons cited in the application for withdrawing the Securities from listing and registration include the following:

The Securities are currently listed for trading in the United States on the PCX, the Chicago Stock Exchange (''CHX''), and the New York Stock Exchange (''NYSE''). The Company has considered all the direct and indirect costs arising from maintaining these multiple listings and has determined, in light of the limited volume of trades in its Common Stock on the PCX, to withdrawn the Securities from listings on the PCX, maintaining their listing on the CHX and the NYSE.

The Company has compiled with the rules of the PCX by filing with the Exchange a certified copy of resolutions adopted by the Company's Board of Directors authorizing withdrawal of its Securities from listing on the PCX as well as correspondence setting forth in detail to the Exchange the reasons for such proposed withdrawal, and the facts in support thereof.

The Exchange has informed the Company that it has no objection to the withdrawal of the Company's Securities from listing on the PCX.

This application relates solely to the withdrawal by the Company of the Securities's listing on the PCX and shall have no effect upon the continued listing of such Securities on the CHX and the NYSE. By reason of Section 12(b) of the Act and the rules and regulations of the Commission thereunder, the Company shall continue to be obligated to file reports with the Commission, the CHX and the NYSE under Section 13 of the Act.

Any interested person may, on or before August 16, 1999, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 99–19669 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 23921; 812–11596]

Scudder New Europe Fund, Inc.; Notice of Application

July 27, 1999

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') for an exemption from section 17(a) of the Act.

SUMMARY OF APPLICATION: Scudder New Europe Fund, Inc. (the ''Fund'') seeks an order to permit in-kind redemptions of shares by certain affiliated shareholders of the Fund.

FILING DATES: The application was filed on April 29, 1999. Applicant has agreed to file an amendment to the application 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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on August 23, 1999, and should be accompanied by proof of service on the applicant, 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, N.W., Washington, D.C. 20549–0609. Applicant, c/o Yvette M. Garcia, Esq., Willkie Farr & Gallagher, 787 Seventh Avenue, New York 10019–6099.

FOR FURTHER INFORMATION CONTACT: George J. Zornada, Branch Chief, at (202) 942–0564 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the Commission's Public Reference Branch, 450 Fifth Street, N.W., Washington, D.C. 20549–0102 (telephone (202) 942–8090).

Applicant's Representations

1. The Fund, a Maryland corporation, is registered under the Act as a closed-end management investment company. On July 20, 1999, shareholders of the Fund approved a proposal to convert the Fund to an open-end management investment company (the ''Conversion''). The Conversion is expected to occur on or about September 1, 1999 (''Conversion Date''). Scudder Kemper Investments, Inc. (the ''Manager''), an investment adviser registered under the Investment Advisers Act of 1940, is investment adviser to the Fund.

2. In conjunction with the Conversion, the Fund intends to combine with Kemper Europe Fund (''KEF''), a registered open-end management investment company, and change the Fund's name to Scudder Europe Fund, Inc. (the ''Reorganization'').[1] The Fund's shareholders prior to the Conversion will have their shares redesignated as Class M shares of the Fund after the Conversion.

3. Applicant states that one shareholder currently owns 5% or more of the outstanding shares of the Fund, and is expected to own 5% or more of the Fund following the Conversion and the Reorganization. Applicant requests relief to permit the Fund to satisfy redemption requests made by any shareholder of the Fund who, at the time of such redemption request, is an ''affiliated person'' of the Fund solely by reason of owning, controlling, or holding with the power to vote, five percent or more of the Fund's shares (''Affiliated Shareholders'') by distributing portfolio securities in-kind.[2] The board of directors of the Fund (''Board''), including all of the directors who are not ''interested persons'' as defined in section 2(a)(19) of the Act (''Disinterested Directors''), has determined that it would be in the best interests of the Fund and its shareholders to pay to an Affiliated Shareholder the redemption price for its shares in-kind.[3]

Applicant's Legal Analysis

1. Section 17(a)(2) of the Act prohibits an affiliated person of a registered investment company, or an affiliated person of such person, acting as principal, from knowingly purchasing any security or other property (except securities of which the seller is the issuer) from the registered investment company. Section 2(a)(3)(A) of the Act defines an ''affiliated person'' to include any person owning 5% or more of the outstanding voting securities of the other person. Applicant states that to the extent that an in-kind redemption could be deemed to involve the purchase of portfolio securities (of which the Fund is not the issuer) by an Affiliated Shareholder, the proposed redemptions in-kind would be prohibited by section 17(a)(2).

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[1] The Reorganization is subject to approval by KEF's shareholders. The Conversion is not contingent on the approval of the Reorganization by KEF's shareholders.

[2] The relief sought would not extend to shareholders who are ''affiliated persons'' of the Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act (*e.g.* shareholders who are officers, directors or employees of the Fund, or shareholders who have a control relationship with the Fund).

[3] Upon Conversion, the Fund will elect to be governed by the provisions of rule 18f–1 under the Act. Election under rule 18f–1 commits the Fund, during any 90-day period with respect to one shareholder, to redeem its shares in cash up to the lesser of $250,000 or one percent of the Fund's net asset value. Applicant states that with respect to Class M shareholders of the Fund, all redemption requests in excess of $500,000 will be redeemed in-kind during any 90-day period within the one-year period following the Conversion. The Fund will impose a 2% redemption fee on redemptions by Class M shareholders during the one-year period following the Conversion.

2. Section 17(b) of the Act provides that, notwithstanding section 17(a) of the Act, the Commission shall exempt a proposed transaction from section 17(a) if evidence establishes that: (a) the terms of the proposed transaction are reasonable and fair and do not involve overreaching; (b) the proposed transaction is consistent with the policy of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act.

3. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from the provisions of the Act, to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

4. Applicant requests an order under sections 6(c) and 17(b) of the Act to permit Affiliated Shareholders to redeem their shares in-kind. The requested order would not apply to redemptions by shareholders who are affiliated persons of the Fund within the meaning of sections 2(a)(3)(B) through (F) of the Act.

5. Applicant submits that the terms of the proposed in-kind redemptions by Affiliated Shareholders meet the standards set forth in sections 6(c) and 17(b) of the Act. Applicant asserts that neither the Manager nor an Affiliated Shareholders will have any choice as to the type of consideration to be received in connection with a redemption request, and neither the Manager nor the Affiliated Shareholder will have any opportunity to select the specific portfolio securities to be distributed. Applicant further states that the portfolio securities to be distributed in the proposed in-kind redemptions will be valued according to an objective, verifiable standard and the in-kind redemptions are consistent with the investment policies of the Fund. Applicant also states that the proposed in-kind redemptions are consistent with the general purposes of the Act because the Affiliated Shareholders would not receive any advantage not available to other redeeming shareholders.

Applicant's Conditions

Applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The securities distributed to Affiliated Shareholders and non-Affiliated Shareholders pursuant to a redemption in-kind (the ''In-Kind Securities'') will be limited to securities that are traded on a public securities market or for which quoted bid and asked prices are available.

2. The In-Kind Securities will be distributed on a *pro rata* basis after excluding: (a) securities which, if distributed, would be required to be registered under the Securities Act of 1933; (b) securities issued by entities in countries which restrict or prohibit the holdings of securities by non-nationals other than through qualified investment vehicles; and (c) certain portfolio assets (such as forward foreign currency exchange contracts, futures and options contracts, and repurchase agreements) that, although they may be liquid and marketable, involve the assumption of contractual obligations, require special trading facilities or can only be traded with the counterparty to the transaction in order to effect a change in beneficial ownership. Cash will be paid for that portion of the Fund's assets represented by cash equivalents (such as certificates of deposits, commercial paper and repurchase agreements) and other assets which are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable). In addition, cash will be distributed in lieu of portfolio securities not amounting to round lots (e.g., 100 shares) (or which would not amount to round lots if included in the in-kind distribution), or fractional shares and accruals on such securities.

3. The Board, including a majority of the Disinterested Directors, will determine no less frequently than annually: (a) whether the In-Kind Securities, if any, have been distributed in accordance with conditions 1 and 2 above; (b) whether the In-Kind Securities, if any, have been valued in accordance with condition 5 below; and (c) whether the distribution of any In-Kind Securities is consistent with the policies of the Fund as reflected in its prospectus. In addition, the Board shall make and approve such changes as it deems necessary in its procedures for monitoring compliance by the applicant with the terms and conditions of the application.

4. The Fund will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any redemption in-kind to an Affiliated Shareholder occurred, the first two years in an easily accessible place, a written record of each such redemption setting forth the terms of the distribution and the information or materials upon which the valuation was made.

5. The In-Kind Securities will be valued in the same manner as they would be valued for the purposes of computing the Fund's net asset value per share, which, in the case of securities traded as a public securities market for which quotations are available, is their last reported sales price on the exchange on which the securities are primarily traded or at the last sales price on the national securities market, or, if the securities are not listed on an exchange or the national securities market or if there is no such reported price, the average of the most recent bid and asked price (or, if no such asked price is available, the last quoted bid price).

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19721 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41651]

Order Cancelling Registration of Certain Transfer Agents

July 26, 1999.

On May 21, 1999, notice was published in the **Federal Register** that the Securities and Exchange Commission (''Commission'') intended to issue an order, pursuant to Section 17a(c)(4)(B) of the Securities Exchange Act of 1934 (Exchange Act),[1] cancelling the registrations of the transfer agents whose names appear in the Appendix attached to this Order.[2] For the reasons discussed below, the Commission is cancelling the registration of each of the transfer agents identified in the attached Appendix.

FOR FURTHER INFORMATION CONTACT: Jerry W. Carpenter, Assistant Director, or Gregory J. Dumark, Staff Attorney, at 202/942–4187, Division of Market Regulation, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–1001.

Background and Discussion

Section 17A(c)(4)(B) of the Exchange Act provides that if the Commission finds that any transfer agent registered with the Commission is no longer in existence or has ceased to do business as a transfer agent, the Commission shall by order cancel that transfer agent's registration. On May 12, 1999, the Commission issued a Notice of

[1] 15 U.S.C. 78q–1(c)(4)(B).

[2] Securities Exchange Act Release No. 34–41391 (May 12, 1999), 64 FR 27840 (May 21, 1999).

Intention to Cancel Registrations of Certain Transfer Agents which identified 14 transfer agents that the Commission believed were no longer in existence or had ceased doing business as transfer agents. The Notice stated that at any time after June 20, 1999, which was 30 days after the Notice was published in the **Federal Register**, the Commission intended to issue an order cancelling the registrations of any or all of the identified transfer agents. None of the 14 identified transfer agents have contacted the Commission to object to the cancellation of its registration.

Accordingly, the Commission is cancelling the registration of each of the identified 14 transfer agents.

Order

On the basis of the foregoing, the Commission finds that each of the transfer agents whose name appears in the attached Appendix either is no longer in existence or has ceased doing business as a transfer agent.

It is therefore ordered, pursuant to section 17A(c)(4)(B) of the Exchange Act, that the registration of each of the transfer agents whose name appears in the attached Appendix be and hereby is canceled.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

APPENDIX

Registration No.	Name
84–1758 ...	Corporate Strategic Services, Inc.

APPENDIX—Continued

Registration No.	Name
84–1997 ...	DC Trading & Development Corp.
84–5406 ...	First Federal Savings Bank Bryan, Texas.
84–1945 ...	Hawthorne Shareholder Services, Inc.
84–5553 ...	The Herman Group, Inc.
84–5522 ...	Keller Financial Services, Inc.
84–1766 ...	Kinlaw Energy Partners Corp.
84–5615 ...	NRG Incorporated.
84–5560 ...	Partnership Services, Inc.
84–0047 ...	Penn Square Management Corporation.
84–5412 ...	Schuster, Jill Lauren.
84–998	Silver Crescent, Inc.
84–5614 ...	Wisconsin Real Estate Investment Trust.
84–1566 ...	Yreka United, Inc.

[FR Doc. 99–19715 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41650; File No. SR–CBOE–99–36]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

July 26, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and rule 19b–4 thereunder,[2] notice is hereby given that on July 2, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage*.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined as the places specified in Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 240, the Equity Floor Procedure Committee (''Committee'') approved the following fees for the following option classes:

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract)[4]
E*Trade Group (QGR)	$0.20	$0.00
Priceline.com Inc.	0.10	0.00

The fee for Priceline.com will be effective as of July 8, 1999, and the fee for E*Trade Group will be effective on July 1, 1999. All of the fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4)[5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[3] 17 CFR 200.30–3(a)(22).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999) (order approving CBOE Rule 240).

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from $0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

[5] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii)[6] of the Act and subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–36 and should be submitted by August 23, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19717 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41649; File No. SR–CBOE–99–33]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to the Market-Maker Surcharge Fee Schedule

July 26, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 24, 1999, the Chicago Board Options Exchange, Inc. (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the CBOE. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE is proposing to make changes to its fee schedule pursuant to CBOE Rule 2.40, *Market-Maker Surcharge for Brokerage.*[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the CBOE included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified Item IV below. The CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to CBOE Rule 2.40, the Equity Floor Procedure Committee (''Committee'') approved the following fees for the following option classes:

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract)[4]
USWeb Corporation (QWB)	$0.08	$0.00
Concentric Network Corporation (QXF)	0.08	0.00
Xoom.Com, Inc. (XQM)	0.08	0.00
Mindspring Enterprises, Inc. (MQD)	0.06	0.00
Software AG Systems, Inc. (AGS)	0.11	0.00
Casella Waste Systems, Inc. (KWQ)	0.11	0.00
Metacreations Corporation (MQZ)	0.25	0.00
Cadiz Land Company, Inc. (QAZ)	0.04	0.00
Quadramed Corporation (QCD)	0.20	0.00
SFX Entertainment, Inc. (QSX)	0.08	0.00
Qwest Communication, Inc. (QWA)	0.13	0.00
Ryan's Family Steak Houses, Inc. (URA)	0.07	0.00
Invision Technologies, Inc. (VYQ)	0.23	0.00
MTI Technology Corporation (QTX)	0.12	0.00
Barnes and Noble, Inc. (BKS)	0.15	0.00
Friede Goldman International, Inc. (FGI)	0.10	0.00
Northwest Airlines Corporation (NAQ)	0.09	0.00

[6] 15 U.S.C. 78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 41121 (February 26, 1999), 64 FR 11523 (March 9, 1999)(order approving CBOE Rule 2.40).

Option class	Market-maker surcharge (per contract)	Order book official brokerage rate (per contract) [4]
Open Market, Inc. (OQM)	0.12	0.00
Orbital Sciences Corp. (ORB)	0.06	0.00
OnSale, Inc. (QOL)	0.07	0.00
Prime Medical Services, Inc. (QSI)	0.09	0.00
Synovous Financial Corp. (SNV)	0.07	0.00
Wackenhut Corrections Corp. (WHC)	0.08	0.00
Zebra Technologies, Corp. (ZBQ)	0.10	0.00
AboveNet Communications (UBV)	0.15	0.00

[4] The surcharge will be used to reimburse the Exchange for the reduction in the Order Book Official brokerage rate from $0.20 in the relevant option classes. Any remaining funds will be paid to Stationary Floor Brokers as provided in Exchange Rule 2.40.

These fees will be effective as of July 1, 1999. All of the fees will remain in effect until such time as the Committee or the Board determines to change these fees and files the appropriate rule change with the Commission.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) [5] of the Act because it is designed to provide for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change establishes or changes a due, fee, or other charge imposed by the Exchange and, therefore, has become effective pursuant to Section 19(b)(3)(A)(ii) [6] of the Act and Subparagraph (f)(2) of Rule 19b–4 thereunder.[7] At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.[8]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission all subsequent amendments, all written statements with respect tot he proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–99–33 and should be submitted by August 23, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19718 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

[5] 15 U.S.C. 78f(b)(4).

[6] 15 U.S.C .78s(b)(3)(A)(ii).

[7] 17 CFR 240.19b–4(f)(2).

[8] In reviewing this proposal, the Commission has considered the proposal's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41648; File No. SR–NYSE–99–29]

Self-Regulatory Organizations; Filing and Order Granting Partial Accelerated Approval of Proposed Rule Change by the New York Stock Exchange, Inc. Instituting a Pilot Program Relating to Continued Listing Standards

July 26, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 22, 1999, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change has described in Items, I, II, and III below, which items have been prepared by the Exchange. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant partial accelerated approval to the portion of the proposal instituting a pilot program relating to continued listing standards.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Section 8 of its *Listed Company Manual* (''Manual''), and to make corresponding changes to NYSE Rule 499, regarding its criteria governing the continued listing of securities. The Exchange proposes to implement these changes immediately pursuant to a Pilot program (''Pilot'') that would expire on November 1, 1999, or such earlier time as the Commission approves the Exchange's request for permanent approval of the program.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Heather Traeger, Attorney, Division of Market Regulation (''Division''), SEC, on July 9, 1999.

The text of the proposed rule change follows.[4] New text is italicized and deleted text is bracketed.[5]

NYSE Listed Company Mutual

* * * * *

Section 8

Suspension and Delisting

801.00 Policy

* * * * *

802.00 Continued Listing

802.01 Continued Listing Criteria

* * * * *

The Exchange would normally give consideration to delisting a security of *either a domestic of non-U.S. issuer* [a company] when:

802.01A. *Distribution Criteria for* Capital or Common Stock—

* * * * *

[• Aggregate market value of publicly-held shares, (A) subject to adjustment depending on market conditions, as described below (C) is less than—$8,000,000]

[(C) Calculation of Adjustment

On January 15 and July 15 of each year, the NYSE Composite Index at the close of business for that date, or on the next succeeding business day if the Exchange is closed, is divided by the base value of 55.06 (the NYSE Composite Index for July 15, 1971, the date upon which the $5,000,000 standard was adopted). The $5,000,000 standard is multiplied by the adjustment factor as so calculated (after rounding to the nearest thousandth). The resulting product is rounded to the nearest $100,000.

The adjustment is made only when the NYSE Composite Index is lower than that of the base value, and is limited to a maximum reduction of 50% to a $2,500,000 standard which will be in effect for the succeeding six months following the calculation.

Since the NYSE Composite Index has remained above 55.06 in recent years, no adjustment has been necessary and the standard has remained at $5,000,000.]

* * * * *

[Earnings—

• Aggregate market value of shares outstanding (excluding treasury stock) is less than—$12,000,000 and average net income (D) after taxes for past 3 years is less than—$600,000

• Net tangible assets available to common stock are less than—$12,000,000 and average net income (D) after taxes for past 3 years in less than—$600,000

(D) For a company that included in its original listing application adjustments to historical financial data, during the first three years following the date of its original listing, the Exchange will calculate the company's average net income after taxes for any year considered in assessing its qualification for listing taking into consideration those specific adjustments made to the company's historical financial data for that year in the original listing application.]

* * * * *

[Adjusted Net Income—

• For companies that, on listing, demonstrated earning power by meeting the listing standards requiring minimum levels of adjusted net income, and for companies that are currently valued on a ''cash flow'' basis, as described in Para. 102.01 of this Listed Company Manual: Aggregate market value of shares outstanding (excluding treasury stock) is less than—$25,000,000 and average adjusted net income for past 3 years is less than—$6,500,000

Bonds—

• The aggregate market value or principal amount of publicly-held bonds is less than—$1,000,000

The issuer is not able to meet its obligations on the listed debt securities.

Preferred Stock, Guaranteed Railroad Stock and Similar Issues

• Aggregate market value of publicly-held shares is less than—$2,000,000

• Publicly-held shares is less than—100,000]

802.01B. Numerical Criteria for Capital or Common Stock—

If a company falls below any of the following criteria, it is subject to the procedures outlined in Paras. 802.02 and 802.03:

• *Total global market capitalization is less than $50,000,000 and total stockholders' equity (or net assets for Funds) is less than $50,000,000 (C); or*

• *Average global market capitalization over a consecutive 30 trading-day period is less than $15,000,000; or*

For companies that qualify under the ''global market capitalization'' standard:

• *Total global market capitalization is less than $500,000,000 and total revenues are less than $50,000,000 over the last 12 months (unless the resultant entity qualifies as an original listing under one of the other standards) (C) OR*

• *Average global market capitalization over a consecutive 30 trading-day period is less than $100,000,000.*

Funds—Until a fund has operated for three years, it shall be held to a continued listing standard of $30,000,000 in both total market capitalization and net assets. Regardless of the length of time a fund has been operating at the time of its initial listing, once it has operated for three years, it shall be held to the financial criteria outlined at the beginning of this Para. 802.01B. At all times, all funds must (1) maintain their closed-end status and (2) maintain a minimum market capitalization of $15,000,000.

REITs—Until a REIT has operated for three years, it shall be held to a continued listing standard of $30,000,000 in both total market capitalization and stockholders' equity. Regardless of the length of time a REIT has been operating at the time of its initial listing, once it has operated for three years, it shall be held to the financial criteria outlined at the beginning of this Para. 802.01B. At all times, all REITs must (1) maintain their REIT status (unless the resultant entity qualifies as an original listing as a corporation), and (2) maintain a minimum market capitalization of $15,000,000.

Bonds—

• *The aggregate market value or principal amount of publicly-held bonds is less than—$1,000,000*

• *The issuer is not able to meet its obligations on the listed debt securities.*

Preferred Stock, Guaranteed Railroad Stock and Similar Issues—

• *Aggregate market value of publicly-held shares is less than—$2,000,000 Publicly-held shares is less than—100,000*

(C) A company that is determined to be below this continued listing criteria must re-establish both its market capitalization and its stockholders' equity (or net assets for Funds) or revenues, as applicable, to be considered in conformity with continued listing standards pursuant to Paras. 802.02 and 802.03.

802.01C. Price Criteria

Average closing price of a security is less than $1.00 over a consecutive 30-trading-day period (D).

(D) Once notified, the company must bring its average share price back above $1.00 within the six months following

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[4] The Exchange notes that it recently received approval from the Commission to amend many aspects of the NYSE's listing and continued listing programs. The proposed rule language set forth here shows changes against the new text approved by the Commission, but not yet incorporated into the Manual. *See* Securities Exchange Act Release No. 41502 (June 9, 1999), 64 FR 32588 (June 17, 1999) (order approving File No. SR–NYSE–99–13) (''Release No. 41502'').

[5] Several minor technical changes were made to the proposed rule text pursuant to a telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Heather Traeger, Attorney, Division, SEC, on July 9, 1999.

receipt of the notification. If this is the only criteria that makes the company below the Exchange's continued listing standards, the procedures outlined in Paras. 802.02 and 802.03 do not apply. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency or be subject to suspension and delisting procedures. In the event that at the expiration of the six-month cure period, a $1.00 average share price over the preceding 30 trading days is not attained, the Exchange will commence suspension and delisting procedures.

802.01D. Other Criteria—

If any of the following factors apply to a listed company, the Exchange may in its sole discretion subject the company to the procedures outlined in Paras. 802.02 and 802.03:

* * * * *

Bankruptcy and/or Liquidation—

An intent to file under any of the sections of the bankruptcy law has been announced or a filing has been made or liquidation has been authorized and the company is committed to proceed. *If a company files or announces an intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law), the Exchange may exercise its discretion to continue the listing and trading of the securities of the company. However, if a company that is below any continued listing standard enumerated in Para. 802.01B above (which may be determined on the basis of price indications) files or announces an intent to file for relief under any provisions of any bankruptcy laws, it is subject to immediate suspension and delisting. Similarly, if a company that files or announces an intent to file for relief under any provisions of any bankruptcy laws subsequently falls below any continued listing standard enumerated in Para. 802.01B above (which may be determined on the basis of price indications), it is subject to immediate suspension and delisting.*

* * * * *

The Exchange is not limited by the criteria set forth above. Rather, it may make an appraisal of, and determine on an individual basis, the suitability for continued listing of an issue in the light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet any enumerated criteria. Other factors which may lead to a company's delisting include:

* * * * *

- Unsatisfactory financial conditions and/or operating results.
- *Most recent independent public accountant's opinion on the financial statements contains a:*
- *Qualified opinion;*
- *Adverse opinion;*
- *Disclaimer opinion; or*
- *Unqualified opinion with a ''going concern'' emphasis.*

* * * * *

802.02 Continued Listing Evaluation and Follow-Up Procedures for Domestic Companies

* * * * *

If the Exchange accepts the Plan, the Exchange will review the company on a quarterly basis for compliance with the Plan. If the company fails to meet the material aspects of the Plan or any of the quarterly milestones, the Exchange will review the circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension and delisting procedures, it may do so regardless of the company's continued listing status at that time. In any event, if the company does not meet continued listing standards at the end of the 18-month period, the Exchange promptly will initiate suspension and delisting procedures.

If the company did meet continued listing standards at the end of the 18-month Plan period but, within twelve months of the end of the 18-month period, it is again determined to be below continued listing standards, the Exchange will examine the relationship between the two incidents of falling below continued listing standards and re-evaluate the company's method of financial recovery from the first incident. It will then take appropriate action, which, depending upon the circumstances, may include truncating the procedures described above or immediately initiating suspension and delisting procedures.

* * * * *

802.03 Continued Listing Evaluation and Follow-up Procedures for Non-U.S. Companies

* * * * *

If the Exchange accepts the Plan, the Exchange will review the company on a semi-annual basis for compliance with the Plan. If the company fails to meet the material aspects of the Plan or any of the semi-annual milestones, the Exchange will review the circumstances and variance, and determine whether such variance warrants commencement of suspension and delisting procedures. Should the Exchange determine to proceed with suspension and delisting procedures, it may do so regardless of the company's continued listing status at that time. In any event, if the company does not meet continued listing standards at the end of the 18-month period, the Exchange will promptly initiate suspension and delisting procedures.

* * * * *

If the company did meet continued listing standards at the end of the 18-month Plan period but, within twelve months of the end of the 18-month period, it is again determined to be below continued listing standards, the Exchange will examine the relationship between the two incidents of falling below continued listing standards and re-evaluate the company's method of financial recovery from the first incident. It will then take appropriate action, which, depending upon the circumstances, may include truncating the procedures described above or immediately initiating suspension and delisting procedures.

NYSE Rules

Delisting of Securities, Suspension From Dealings or Removal From List by Action of the Exchange

The aim of the New York Stock Exchange is to provide the foremost auction market for securities of well-established companies in which there is a broad public interest and ownership.

Rule 499.

* * * * *

.10 General.

* * * * *

The Exchange is *not* limited by what is set forth under the heading ''Numerical and Other Criteria.'' Rather, it may make an appraisal of, and determine on an individual basis, the suitability for continued listing of an issue in the light of all pertinent facts whenever it deems such action appropriate, even though a security meets or fails to meet any enumerated criteria. Many factors might be considered in this connection, *e.g.*, the failure of a company to make timely, adequate, and accurate disclosures of information to its shareholders and the investing public or to observe good accounting practices in reporting earnings and financial position; other conduct not in keeping with sound public policy; unsatisfactory financial conditions and/or operating results; *most recent independent accountant's opinion on the financial statements contains a (a) qualified opinion, (b) adverse opinion, (c) disclaimer opinion, or (d) unqualified opinion with a ''going concern'' emphasis;*

* * * * *

.20 NUMERICAL AND OTHER CRITERIA.—WHEN A COMPANY FALLS BELOW ANY OF THESE CRITERIA, THE EXCHANGE MAY GIVE CONSIDERATION TO ANY DEFINITIVE ACTION THAT A COMPANY WOULD PROPOSE TO TAKE THAT WOULD BRING IT ABOVE CONTINUED LISTING STANDARDS.

[Furthermore, w] *W*here a listed company which falls below any of these criteria proposes to effect a combination with an unlisted company in a manner in which, in the opinion of the Exchange, would result in the acquisition of the listed company by the unlisted company, regardless of which company is the survivor in the combination, the Exchange will normally not approve the listing of the additional shares arising out of the combination unless the company resulting from the combination meets the original listing standards of the Exchange in all respects.

* * * * *

The Exchange would normally give consideration to suspending or removing from the list a security of a company, *whether it be a domestic or non-U.S. issuer, when:*

* * * * *

[3. Aggregate market value of publicly-held shares, * subject to adjustment ** depending on market conditions, is less than $8,000,000.

* Shares held by officers, directors, or their immediate families and other concentrated holding of 10% or more are excluded in calculating the number of publicly-held shares.

** Value subject to adjustment as described below:

Calculation of Adjustment

On January 15 and July 15 of each year the New York Stock Exchange Composite Index at the close of business for that date, or on the next succeeding business day if the Exchange is closed, would be divided by the base value of 55.06, the NYSE Composite Index for July 15, 1971 and also the date on which the $5,000,000 criterion was adopted, and then multiplied by the $5,000,000 criterion, and then rounded to the nearest $100,000.

Example:

NYSE Composite Index July 15, 1975 51.24

=93.1% × $5,000,000=$4,700,000

NYSE Composite Index Base Year 55.06

The adjustment is made only when the Composite Index is lower than that of the base value, and is limited to a maximum reduction of 50% to a $2,500,000 criterion, and will be in effect for the succeeding six months following the calculation.

4. Aggregate market value of shares outstanding (excluding treasury stock) is less than—$12,000,000 and

Average net income after taxes for past 3 years is less than—$600,000

5. Net tangible assets available to common stock are less than—$12,000,000 and

Average net income after taxes for past 3 years is less than—$600,000]

[6.] *3.*

4. Total global market capitalization is less than $50,000,000 and total stockholders' equity (or net assets for Funds) is less than $50,000,000. A company that is determined to be below this continued listing criteria must re-establish both its market capitalization and its stockholders' equity (or net assets for Funds) to be considered in conformity with continued listing standards pursuant to Paras. 802.02 and 802.03.

5. Average global market capitalization over a consecutive three-month period is less than $15,000,000.

6. For companies that qualify under the ''global market capitalization'' standard:

- *Total global market capitalization is less than $500,000,000 and total revenues are less than $50,000,000 over the past 12 months. A company that is determined to be below this continued listing criteria must re-establish both its market capitalization and its revenues to be considered in conformity with continued listing standards pursuant to Paras. 802.02 and 802.03. OR*
- *Average global market capitalization over a consecutive 30 trading-day period is less than $100,000,000*

7. Funds—Until a fund has operated for three years, it shall be held to a continued listing standard of $30,000,000 in both total market capitalization and net assets. Regardless of the length of time a fund has been operating at the time of its initial listing, once it has operated for three years, it shall be held to the financial criteria outlined in sections 4–6 above. At all times, all funds must (1) maintain their closed-end status, and (2) maintain a minimum market capitalization of $15,000,000.

8. REITs—Until a REIT has operated for three years, it shall be held to a continued listing standard of $30,000,000 in both total market capitalization and stockholders' equity. Regardless of the length of time a REIT has been operating at the time of its initial listing, once it has operated for three years, it shall be held to the financial criteria outlined in sections 4–6 above. At all times, all REITs must (1) maintain their REIT status (unless the resultant entity qualifies as an original listing as a corporation), and (2) maintain a minimum market capitalization of $15,000,000.

9. Average closing price of a security is less than $1.00 over a consecutive 30 trading-day period. Once notified, the company must bring its average share price back above $1.00 within the six months following receipt of the notification. If this is the only criteria that makes the company below the Exchange's continued listing standards, the procedures outlined in Paras. .50 and .60 of this Rule 499 do not apply. The company must, however, notify the Exchange, within 10 business days of receipt of the notification, of its intent to cure this deficiency. In the event that at the expiration of the six-month cure period, a $1.00 average share price over the preceding 30 trading days is not attained, the Exchange will commence suspension and delisting procedures.

* * * * *

[11.]*14.* Bankruptcy and/or Liquidation.—An intent to file under any of the sections of the bankruptcy law has been announced or a filing has been made of that liquidation has been authorized and the company is committed to proceed. *If a company files or announces an intent to file for reorganization relief under the bankruptcy laws (or an equivalent foreign law), the Exchange may exercise its discretion to continue the listing and trading of the securities of the company. However, if a company that is below any continued listing standard enumerated in sections 4–6 above (which may be determined on the basis of price indications) files or announces an intent to file for relief under any provisions of any bankruptcy laws, it is subject to immediate suspension and delisting. Similarly, if a company that files or announces an intent to file for relief under any provisions of any bankruptcy laws subsequently falls below any continued listing standard enumerated in sections 4–6 above (which may be determined on the basis of price indications), it is subject to immediate suspension and delisting.*

{Renumber current paragraphs 7 through 20 of Rule 499.20 as paragraphs 10 through 23, respectively, of Rule 499.20.}

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for,

the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify several of its existing continued listing criteria, to codify certain Exchange policies regarding its continued listing criteria, to replace certain of the current criteria with new continued listing criteria, and to create subsections in the continued listing section.

The Exchange's current numerical continued listing criteria include requirements regarding size, earnings, and share distribution.[6] The Exchange believes that, in contrast to the current standards' focus on earnings and net tangible assets, a company's market capitalization, the breadth of its shareholder base and the size of its stockholders' equity are better gauges for evaluating the continued listing status of a company.

Specifically, the Exchange proposes to replace its current criteria with a financial standard subjecting a company to suspension and delisting if: (i) its global market capitalization and its stockholders' equity (or net assets for closed-end investment companies registered under the Investment Company Act of 1940 (''Funds'')) each fall below $50 million, or (ii) its average global market capitalization is below $15 million over 30 consecutive trading days. In the context of delisting, the Exchange believes the more appropriate focus is on the size and the amount of stockholders' equity in a company, rather than on what may be transitory earning trends. These two standards would apply to every company, whether domestic or non-U.S., and whether it listed under the ''adjusted earnings'' or ''cash flow'' standard.

The Exchange is also proposing a new continued listing standard for those companies that qualify for initial listing under the ''global market capitalization'' standard.[7] Such a company would be subject to delisting if: (i) its total global market capitalization is below $500 million and its total revenues are below $50 million over the past 12 months,[8] or (ii) its average global market capitalization is below $100 million over 30 consecutive trading days. In the event that such a company can qualify under one of the other original listing criteria, however, it would not be subject to delisting.

Finally, the Exchange is also proposing to adopt a price criteria applicable to all issuers. Specifically, the Exchange proposes to add a new minimum continued listing standard that would be triggered when a security's average closing price over a 30-trading-day period falls below $1.00. Once this standard is triggered, companies would have six months to cure the deficiency.

With respect to the $50 million market capitalization and $50 million stockholders' equity standard, a company that falls below this continued listing criteria would be permitted 18 months to re-establish both its market capitalization and its stockholders' equity to be considered in conformity with continued listing standards. (*See* Paras. 802.02 and 802.03 of the Manual). With respect to the $15 million minimum for average global market capitalization, upon notification, the company would be required to restore its market capitalization to at least $15 million within 18 months.

With respect to the closing price minimum of $1.00, once notified, a company would have six moths to return its average stock price to above $1.00. As an alert mechanism for issuers, the Exchange intends to notify a company whose average price falls below $5.00 over a 30-trading-day period of the consequences of a further decline in its share price to below $1.00. Each company so identified and notified would then be tracked by the Exchange and its price monitored. If this is the only criteria that causes a company to fall below the Exchange's continued listing standards, the Exchange generally would not commence suspension and delisting procedures for six months. However, the company must notify the Exchange within 10 business days of receipt of its notification of its intent to cure this deficiency or be subject to immediate suspension and delisting. In the event that, at the expiration of the six-month cure period, at $1.00 share price is not attained, the Exchange will commence suspension and delisting procedures.

The Commission recently approved a codification of the Exchange's initial listing standard for Funds with less than three years of operating history.[9] This standard requires a minimum net asset value of $60 million. The Exchange now proposes to codify a specific delisting criteria for these newly-formed Funds of $30 million in both market capitalization and net assets. The Exchange is proposing a lower continued listing standard for newly-formed Funds that recognizes that they qualify originally at a lower amount (50% of the original qualification threshold). In addition, the Exchange proposes to incorporate into the Funds section its general standard of a minimum of $15 million in market capitalization. Finally, the Exchange is proposing to codify its existing policy that Funds are immediately delistable upon conversion to open-ended status. The Exchange notes that, upon attainment of three years of operating history, the Funds would be subject to the numerical criteria generally applicable to capital or common stock proposed above.

The Commission recently approved an original listing standard for REITs with less than three years of operating history.[10] The Exchange now proposes to codify a specific delisting criteria for these newly-formed REITs of $30 million in both market capitalization and stockholders' equity. Similar to Funds, the Exchange is proposing a lower continued listing standard for newly-formed REITs that recognizes that they qualify at a lower amount (50% of the original qualification threshold). In addition, the Exchange proposes to incorporate into the REIT section the

[6] Currently, the Exchange's financial criteria subject a company to delisting if it has: an aggregate market value of its policy-held common stock of less than $8 million; or net tangible assets or an aggregate market value of its common stock of less than $12 million *and* average net income of less than $600 thousand for the past three years; *or* for ''cash flow companies,'' an aggregate market value of shares outstanding (excluding treasury stock) of less than $25 million and average ''adjusted net income'' for the past three years of less than $6.5 million. In addition, there are requirements related to the number of total stockholders and number of publicly held shares.

[7] The standard is currently effective on a three-month pilot period that commenced on May 27, 1999. The Exchange expects to seek permanent approval of this listing standard prior to September 3, 1999, the date the pilot is scheduled to expire. *See* Securities Exchange Act Release No. 41459 (May 27, 1999), 64 FR 30088 (June 4, 1999) (notice and order granting partial accelerated approval to File No. SR–NYSE–99–17).

[8] The review is based on the unaudited Quarterly Reports. Consequently, if a company were to restate its financials, the NYSE would re-evaluate the company's eligibility for continued listing on the Exchange. Telephone conversation between N. Amy Bilbija, Counsel, NYSE, and Deborah Flynn, Special Counsel, Division, SEC, on July 12, 1999.

[9] The Exchange has specifically tailored listing standards for IPOs, Funds and real estate investment trusts (''REITs'') that address the nature of these listings and their operations. *See* Securities Exchange Act Release No. 41346 (April 29, 1999), 64 FR 24435 (May 6, 1999).

[10] *See* Release No. 41502.

minimum standard of $15 million of market capitalization. Finally, the Exchange is proposing a new policy that a REIT is immediately delistable upon the loss of its REIT status if the resultant entity is unable to qualify as an original listing as a corporation (or other operating company) at that time. The Exchange notes that upon attainment of three years of operating history, the REIT would be subject to the numerical criteria generally applicable to capital or common stock proposed above.

The Exchange proposes to clarify and codify its policy whereby a company that files or announces an intent to file for reorganization under the bankruptcy laws is not subject to automatic delisting. In such a situation, the Exchange could exercise discretion to continue the listing and trading of the securities of the company. Once such a company is identified, the Exchange monitors its performance against the remaining continued listing standards, the compliance with which may be determined on the basis of price indications, as opposed to a 30-trading-day average. If a company that is below any continued listing standard enumerated in proposed Para. 802.01B of the Manual (''Numerical Criteria for Capital or Common Stock'') files or announces an intent to file for such relief (or if a company having filed for bankruptcy becomes below another continued listing standard), it would be subject to immediate suspension and delisting. Notwithstanding the preceding, the Exchange may at any time exercise its discretion to proceed with suspension and delisting procedures based solely upon a bankruptcy filing.

The Exchange proposes an additional delisting criteria to address non-numerical indications in financial statements of unsatisfactory financial performance. These additional criteria could lead to the delisting of a company that may otherwise continue to meet the specifically-enumerated numerical criteria in Section 802.01 of the Manual. The Exchange views the disclosure contained in the independent accountant's opinion that the company receives on its financial statements as providing one such indication. Independent public accountant's opinions that might indicate unsatisfactory financial performance include: (i) a qualified opinion, (ii) an adverse opinion, (iii) a disclaimer opinion, or (iv) an unqualified opinion with a ''going concern'' emphasis.

In addition, if a company that emerges from being below continued listing standards again falls below continued listing standards within 12 months, the Exchange will scrutinize the original methods of financial recovery taken by the company. In this regard, the Exchange would also examine the relationship of the two incidents of falling below continued listing standards. Exchange staff would then take the requisite action, which may include truncating the procedures described in Paras. 802.02 and 802.03, or immediately initiating suspension and delisting procedures.

The Exchange proposes to codify and provide more specificity to its current policy of requesting companies that trigger one or more of the factors outlined in ''Other Criteria'' to comply with the procedures outlined in Paras. 802.02 and 802.03 of the Manual when it determines it is appropriate to do so. For instance, the Exchange has historically requested additional information from companies it has identified as having a significant reduction in operating assets. Such information has often taken the form of a ''plan'' as defined in Paras. 802.02 and 802.03 of the Manual.

Upon the Commission's approval of this Pilot, all listed companies will immediately become subject to these new continued listing standards, and the 30-day clock for computing the various averages in the proposed standards will begin. The Exchange anticipates that there will be a number of listed companies that are mid-stream through an approved financial plan due to having fallen below the current continued listing standards, which will also be below the new proposed continued listing standards. With regard to these companies, the Exchange notified them of the new standards at the time it filed with the Commission to prepare them for the transition and to give them an opportunity to prepare new plans with new goals. These companies will be notified upon Commission approval and given 45 days from receipt of the notice to submit a plan (unless the current plan is already financially sufficient) to the Exchange delineating how they intend to come into compliance with the new standards within 12 months. However, if the company is solely below the proposed $1.00 threshold, it would only have the six-month period discussed above to cure its deficiency.

The Exchange also notes that there are companies currently identified as below continued listing standards that will not be below continued listing standards under the new proposed standards. While this proposal is pending Commission action, the Exchange intends to stay the plan submission process for these companies. In doing so, the Exchange intends to avoid placing an unfair burden on these issuers by forcing them to expend capital and personnel resources to develop a six-quarter plan, the goals of which will become obsolete in the immediate future. Finally, with regard to all listed companies that are currently in good financial standing, the Exchange intends to afford those companies that are identified as below the new continued criteria at the time of Commission approval 18 months from the effective date of this Pilot to return to good standing pursuant to the procedures detailed in Paras. 802.02 and 802.03 of the Manual.

2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[11] that an Exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested that the Commission find good cause, pursuant

[11] 15 U.S.C. 78f(b)(5).

to Section 19(b)(2) of the Act,[12] for approving the establishment of the Pilot which would expire on November 1, 1999 (or until such earlier time as the Commission grants the Exchange's request for permanent approval of the program), prior to the thirtieth day after publication in the **Federal Register**.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–NYSE–99–29 and should be submitted by August 23, 1999.

V. Commission's Findings and Order Granting Partial Accelerated Approval of Proposed Rule Change

The Commission finds that the portion of the proposed rule change relating to the establishment of the Pilot is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[13] Specifically, the Commission believes the proposal is consistent with the Section 6(b)(5)[14] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, to protect investors and the public.

The Commission finds that the revisions and codification of the continued listing criteria set forth in the proposed Pilot, which should ensure that companies that final to satisfy the continued listing criteria are identified, reviewed, and then subjected to specified delisting procedures, are consistent with the Act and should enhance investor protection. Moreover, the Pilot should ensure that those companies falling below the NYSE's continued listing criteria are provided with transparent, detailed procedures for addressing their status. The Commission further believes that the proposed Pilot is consistent with the Exchange's obligation to perfect the mechanism of a free and open market by codifying its continued listing criteria, thereby encouraging the NYSE to apply uniformly its criteria in listing and, if necessary, delisting securities on the Exchange. Lastly, the Commission believes that the proposed continued listing criteria, established in the Pilot, should help to ensure the stability of the marketplace, as well as protect investors, by enabling the NYSE to identify listed companies that may not have sufficient trading depth and liquidity to warrant continued listing.

The Commission finds good cause for approving the Pilot prior to the thirtieth day after the date of publication of notice thereof in the **Federal Register**. The Commission believes that accelerated approval of the Pilot will enable the Exchange to minimize the interruption in its continued listing and delisting of these securities and allow for an orderly transition for its issuers, while providing the Commission adequate time to carefully consider the Exchange's proposal seeking permanent approval of the proposed changes to its continued listing criteria.[15]

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[16] that the Pilot program proposed by the Exchange (File No. SR–NYSE–99–29) is approved until November 1, 1999, or until the Commission approves the proposal permanently.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–19716 Filed 7–30–99; 8:45 am]

BILLING CODE 8010–01–M

[12] 15 U.S.C. 78s(b)(2).

[13] In approving this Pilot, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] The Commission's approval of the Pilot should not be interpreted as suggesting that the Commission is predisposed to approving the proposal on a permanent basis.

[16] 15 U.S.C. 78s(b)(2).

[17] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF STATE

[Public Notice 3099]

Registration for the Diversity Immigrant (DV–2001) Visa Program

ACTION: Notice of registration for the seventh year of the Diversity Immigrant Visa Program.

This public notice provides information on the procedures for obtaining an opportunity to apply for one of the 55,000 (maximum) immigrant visas to be made available in the Diversity Immigrant Visa (DV) category during Fiscal Year 2001. This notice is issued pursuant to 22 CFR 42.33(b)(2) which implements sections 201(a)(3), 201(e), 203(c) and 204(a)(1)(G) of the Immigration and Nationality Act, as amended, (8 U.S.C. 1151, 1153, and 1154(a)(1)(G)).

Entry Procedures for Immigrant Visas To Be Made Available in the DV Category During Fiscal Year 2001

ENTRIES FOR THE DV–2001 MAIL-IN PERIOD MUST BE *RECEIVED* BETWEEN NOON (EASTERN TIME) ON MONDAY, OCTOBER 4, 1999 AND NOON (EASTERN TIME) ON WEDNESDAY, NOVEMBER 3, 1999. Entries received before or after these dates will be disqualified regardless of when they are postmarked. Entries sent to an incorrect address will also be disqualified.

How Visas Are Apportioned

Visas are apportioned among six geographic regions with a greater number of visas going to regions with lower rates of immigration, and no visas going to countries sending more than 50,000 immigrants to the U.S. in the past five years. No one country can receive more than 7 percent of the diversity visas issued in any one year. For DV–2001, natives of the following are NOT ELIGIBLE to apply:

CANADA
CHINA (mainland and Taiwan, except Hong Kong S.A.R.)
COLOMBIA
DOMINICAN REPUBLIC
EL SALVADOR
HAITI
INDIA
JAMAICA
MEXICO
PHILIPPINES
POLAND
SOUTH KOREA
UNITED KINGDOM (except Northern Ireland) and its dependent territories
VIETNAM

Requirements

To enter, an applicant must be able to claim nativity in an eligible country, AND must meet either the education or training requirement of the DV program. Nativity in most cases is determined by the applicant's place of birth. However, if a person was born in an ineligible country but his/her spouse was born in an eligible country, such person can claim the spouse's country of birth rather than his/her own. Also, if a person was born in an ineligible country, but neither of his/her parents was born there or resided there at the time of the birth, such person may be able to claim nativity in one of the parents' country of birth. Education or Training: To enter, an applicant MUST have EITHER a high school education or its equivalent, defined in the U.S. as successful completion of a 12-year course of elementary and secondary education; OR two years of work experience within the past five years in an occupation requiring at least two years of training or experience to perform. U.S. Department of Labor definitions will apply. If a person does not meet these requirements, he/she SHOULD NOT submit an entry to the DV program.

Procedures for Submitting an Entry Form

Only ONE entry form may be submitted by or for each applicant during the registration period. Submission of more than one entry will disqualify the person. The applicant must personally sign the entry, preferably in his/her native alphabet. Failure of the applicant to personally sign his/her own entry will result in disqualification.

Completing the Entry Form

There is no specific format for the entry. Simply use a plain sheet of paper and type or clearly print in the English alphabet (preferably in the following order): (Failure to provide ALL of this information will disqualify the applicant.)

1. FULL NAME, with the last (surname/family) name underlined
   EXAMPLES: *Public*, Sara Jane (or) *Lopez*, Juan Antonio
2. DATE AND PLACE OF BIRTH
   Date: Day, Month, Year EXAMPLE: 15 November 1961
   Place: City/Town, District/County/Province, Country EXAMPLE: Munich, Bavaria, Germany
   The name of the country should be that which is currently in use for the place where the applicant was born (Slovenia, rather than Yugoslavia; Kazakstan rather than Soviet Union, for example).
3. THE APPLICANT'S NATIVE COUNTRY IF DIFFERENT FROM COUNTRY OF BIRTH
   If the applicant is claiming nativity in a country other than his/her place of birth, this must be clearly indicated on the entry. This information must match with what is put on the upper left corner of the entry envelope. (See ''MAILING THE ENTRY'' below.) If an applicant is claiming nativity through spouse or parent, please indicate this on the entry. (See ''Requirements'' section for more information on this item.
4. NAME, DATE AND PLACE OF BIRTH OF THE APPLICANT'S SPOUSE AND CHILDREN (IF ANY) (Failure to provide all of this information will disqualify the applicant.)
5. FULL MAILING ADDRESS This must be clear and complete, as any communications will be sent there. A telephone number is optional, but useful.
6. PHOTOGRAPH. Attach a recent, preferably less than 6 months old, photograph of the applicant, 1.5 inches (37 mm) square in size, with the applicant's name printed on the back. The photograph (not a photocopy) should be attached to the entry with clear tape—DO NOT use staples or paperclips, which can jam the mail processing equipment.
7. SIGNATURE: Failure to personally sign the entry will disqualify the applicant.

Mailing the Entry

Submit the entry by regular or air mail to the address matching the region of the applicant's country of nativity. Entries sent by express or priority mail, fax, hand, messenger, or any means requiring receipts or special handling will not be processed.

The envelope must between 6 and 10 inches (15 to 25 cm) long and 3½ and 4½ inches (9 to 11 cm) wide. Postcards are NOT acceptable, nor are envelopes inside express or oversized mail packets. In the upper left hand corner of the envelope the applicant must show his/her country of nativity, followed by the applicant's name and full return address. The applicant must provide both the country of nativity and the country of the address, even if both are the same. Failure to provide this information will disqualify the entry. The mailing address for all entries is the same EXCEPT for the ZIP (POSTAL) CODE. The address is: DV–2001 Program, National Visa Center, Portsmouth NH (ZIP CODE as appropriate. See below.), U.S.A.

The Zip Codes are:

ASIA—00210
SOUTH AMERICA/CENTRAL AMERICA/CARIBBEAN—00211
EUROPE—00212
AFRICA—00213
OCEANIA—00214
NORTH AMERICA—00215

For the DV Program, the regions are divided as follows:

(1) ASIA: *ZIP CODE: 00210* (extends from Israel to the northern Pacific islands, and includes Indonesia):

AFGHANISTAN
BAHRAIN
BANGLADESH
BHUTAN
BRUNEI
BURMA
CAMBODIA
HONG KONG S.A.R.
INDONESIA
IRAN
IRAQ
ISRAEL
JAPAN
JORDAN
NORTH KOREA
KUWAIT
LAOS
LEBANON
MALAYSIA
MALDIVES
MONGOLIA
NEPAL
OMAN
PAKISTAN
QATAR
SAUDI ARABIA
SINGAPORE
SRI LANKA
SYRIA
THAILAND
UNITED ARAB EMIRATES
YEMEN

NB: In Asia CHINA—mainland born and Taiwan born, INDIA, PHILIPPINES, SOUTH KOREA, and VIETNAM DO NOT QUALIFY for this year's diversity program. HONG KONG S.A.R. DOES QUALIFY. Applicants born in MACAU MAY APPLY for this year's DV Program, however, they will become ineligible on December 20, 1999 when control of Macau reverts to China, unless legislation is enacted which would allow Macau's continued eligibility for the DV Program.

(2) SOUTH AMERICA/CENTRAL AMERICA/CARIBBEAN: *ZIP CODE: 00211* (extends from Central America (Guatemala) and the Caribbean nations to Chile.)

ANTIGUA & BARBUDA
ARGENTINA
BARBADOS

BELIZE
BOLIVIA
BRAZIL
CHILE
COSTA RICA
CUBA
DOMINICA
ECUADOR
GRENADA
GUATEMALA
GUYANA
HONDURAS
NICARAGUA
PANAMA
PARAGUAY
PERU
ST. KITTS & NEVIS
ST. LUCIA
ST. VINCENT & THE GRENADINES
SURINAME
TRINIDAD & TOBAGO
URUGUAY
VENEZUELA

NB: In South America COLOMBIA, DOMINICAN REPUBLIC, EL SALVADOR, HAITI, JAMAICA, and MEXICO DO NOT QUALIFY for this year's Diversity Program.

(3) EUROPE : ZIP CODE: 00212 (Extends from Greenland to Russia, and includes all countries of the former USSR).

ALBANIA
ANDORRA
ARMENIA
AUSTRIA
AZERBAIJAN
BELARUS
BELGIUM
BOSNIA & HERZEGOVINA
BULGARIA
CROATIA
CYPRUS
CZECH REPUBLIC
DENMARK *
ESTONIA
FINLAND
FRANCE *
GEORGIA
GERMANY
GREECE
HUNGARY
ICELAND
IRELAND
ITALY
KAZAKSTAN
KYRGYZSTAN
LATVIA
LICHTENSTEIN
LITHUANIA
LUXEMBOURG
MACEDONIA, THE FORMER YUGOSLAV REPUBLIC OF
MALTA
MOLDOVA
MONACO
MONTENEGRO
NETHERLANDS *
NORTHERN IRELAND
NORWAY
PORTUGAL *
ROMANIA
RUSSIA
SAN MARINO
SERBIA
SLOVAKIA
SLOVENIA
SPAIN
SWEDEN
SWITZERLAND
TAJIKISTAN
TURKEY
TURKMENISTAN
UKRAINE
UZBEKISTAN
VATICAN CITY

NB: In Europe GREAT BRITAIN and POLAND DO NOT QUALIFY for this year's diversity program. GREAT BRITAIN (UNITED KINGDOM) includes the following dependent areas: ANGUILLA, BERMUDA, BRITISH VIRGIN ISLANDS, CAYMAN ISLANDS, FAULKLAND ISLANDS, GIBRALTAR, MONTSERRAT, PITCAIRN, ST. HELENA, TURKS AND CAICOS ISLANDS. Note that for purposes of the Diversity Program only, Northern Ireland is treated separately; *NORTHERN IRELAND DOES QUALIFY* and is listed among the qualifying areas.

* Includes components and dependent areas overseas.

(4) *AFRICA: ZIP CODE: 00213* (includes all countries on the African continent and adjacent islands):

ALGERIA
ANGOLA
BENIN
BOTSWANA
BURKINA FASO
BURUNDI
CAMEROON
CAPE VERDE
CENTRAL AFRICAN REPUBLIC
CHAD
COMOROS
CONGO
CONGO, DEMOCRATIC REPUBLIC OF THE
COTE D'IVOIRE (IVORY COAST)
DJIBOUTI
EGYPT
EQUATORIAL GUINEA
ERITREA
ETHIOPIA
GABON
GAMBIA, THE
GHANA
GUINEA
GUINEA-BISSAU
KENYA
LESOTHO
LIBERIA
LIBYA
MADAGASCAR
MALAWI
MALI
MAURITANIA
MAURITIUS
MOROCCO
MOZAMBIQUE
NAMIBIA
NIGER
NIGERIA
RWANDA
SAO TOME & PRINCIPE
SENEGAL
SEYCHELLES
SIERRA LEONE
SOMALIA
SOUTH AFRICA
SUDAN
SWAZILAND
TANZANIA
TOGO
TUNISIA
UGANDA
ZAMBIA
ZIMBABWE

(5) OCEANIA: ZIP CODE: 00214 (includes Australia, New Zealand, Papua New Guinea and all countries and islands of the South Pacific):

AUSTRALIA *
FIJI
KIRIBATI
MARSHALL ISLANDS
MICRONESIA, FEDERATED STATES OF
NAURU
NEW ZEALAND *
PALAU
PAPUA NEW GUINEA
SOLOMON ISLANDS
TONGA
TUVALU
VANUATU
WESTERN SAMOA

* Includes components and dependent areas overseas.

(6) NORTH AMERICA: ZIP CODE: 00215 (includes the Bahamas):

BAHAMAS, THE

NB: In North America, CANADA DOES NOT QUALIFY for this year's Diversity Program.

Important Notice: Applicants must meet ALL eligibility requirements under the U.S. law in order to be issued visas. Processing of applications and issuance of diversity visas to successful applicants and their eligible family members MUST occur by September 30, 2001. Family members may not obtain diversity visas to follow to join the applicant in the U.S. after this date. There is NO initial fee, other than postage required to enter the DV–2001 program. The use of an outside intermediary or assistance to prepare a DV–2001 entry is entirely at the applicant's discretion. Qualified entries received directly from applicants or through intermediaries have equal chances of being selected by computer. There is no advantage to mailing

early, or mailing from any particular locale. Every application received during the mail-in period will have an equal random chance of being selected within its region. However, more than one application per person will disqualify the person from registration.

Selection of Winners

The selection of winners is made at random and no outside service can legitimately improve an applicant's chances of being chosen or guarantee that an entry will win. Any service that claims it can improve an applicant's odds is promising something it cannot lawfully deliver.

Notifying Winners

Only successful entrants will be notified. They will be notified by mail between April and July of 2000 at the address listed on their entry. Winners will also be sent instructions on how to apply for an immigrant visa, including information on the fee for immigrant visas and a separate visa lottery surcharge. Successful entrants must complete the immigrant visa application process and meet all eligibility requirements under U.S. law to be issued a visa.

Being selected as a winner in the DV Lottery does not automatically guarantee being issued a visa even if the applicant is qualified, because the number of entries selected and registered is greater than the number of immigrant visas available. Those selected will, therefore, need to complete and file their immigrant visa applications quickly. Once all the diversity visas have been issued or on September 30, 2001, whichever is sooner, the DV Program for Fiscal Year 2001 will end.

Obtaining Instructions on Entering the DV Lottery

Interested persons may call (202) 331–7199, which describes the various means to obtain further details on entering the DV–2001 program. Applicants overseas may contact the nearest U.S. embassy or consulate for instructions on the DV lottery. DV information is also available in the Visa Bulletin on the Internet at http://travel.state.gov or via the Consular Affairs automated fax at (202) 647–3000 (code 1103). Calls to the automated fax service must be made from a fax machine using the receiver or voice option of the caller's fax equipment.

Dated: July 27, 1999.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 99–19736 Filed 7–30–99; 8:45 am]

BILLING CODE 4710–06–U

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending July 23, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6000

Date Filed: July 19, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC23 ME–TC3 0069 dated 20 July 1999

Mail Vote 025—Resolution 010y

TC23/TC123 Middle East-Japan/Korea Special Passenger Amending Resolution from Bahrain, Oman, Qatar, United Arab Emirates to Japan/Korea

Intended effective date: 1 August 1999.

Docket Number: OST–99–6007

Date Filed: July 21, 1999

Parties: Members of the International Air Transport Association

Subject:

CTC COMP 0204 dated 23 July 1999 (adoption including all amendments to resolutions and rate tables)

Mail Vote 017—Resolution 010pp

Special Cargo Amending Resolution—Libya Except to/from USA/US Territories

Intended effective date: 1 October 1999.

Docket Number: OST–99–6020

Date Filed: July 23, 1999

Parties: Members of the International Air Transport Association

Subject:

PTC COMP 0484 dated 27 July 1999 (adoption including all amendments to resolutions and fares tables)

Mail Vote 018—Resolution 010t

Special Passenger Amending Resolution from Libya (Except to USA/US Territories)

Intended effective date: 15 August 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–19694 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–99–23]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before August 23, 1999.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–cmts@faa.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Cherie Jack, (202) 267–7271 or Terry Stubblefield, (202) 267–7624, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 27, 1999.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 29499

Petitioner: Alaska's Enchanted Lake Lodge, Inc.

Section of the FAR Affected: 14 CFR 43.3(a) and (g)

Description of Relief Sought: To permit pilots employed by AELL to perform the preventative maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

Docket No.: 29505

Petitioner: Rough and Ready Guide Services, Inc. dba Nordic Flying Service

Section of the FAR Affected: 14 CFR 43.3(a) and (g)

Description of Relief Sought: To permit pilots employed by NFS to perform the preventative maintenance functions listed in paragraph (c) of appendix A to part 43 on an aircraft operated under 14 CFR part 135.

Docket No.: 29598

Petitioner: The Boeing Company

Section of the FAR Affected: 14 CFR 25.571(b) and 25.671(c)(1)

Description of Relief Sought: To allow the McDonnell Douglas Corporation time to substantiate, including redesign and retrofit, as necessary, that the flap system on the Model 717–200 meets the damage-tolerance and fail-safe criteria of the subject regulations.

Dispositions of Petitions

Docket No.: 29514

Petitioner: Decatur Aero Club

Section of the FAR Affected: 14 CFR 135.251, 135.255, and 135.353

Description of Relief Sought: To permit Decatur Aero Club to conduct sightseeing rides at an airport in the vicinity of Decatur, Illinois for their pancake breakfast on June 13, 1999, for compensation or hire, without complying with the drug and alcohol testing requirements in part 135.

GRANT, 6/11/99, Exemption No. 6899

[FR Doc. 99–19693 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA Special Committee 188; Minimum Aviation System Performance Standards for High Frequency Data Link

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 188 meeting to be held August 24–27, 1999, starting at 9:00 a.m. each day. The meeting will be held at RTCA, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036.

The agenda will include: August 24–25, (1) Working Group 2, Minimum Operational Performance Standards; May 25–26, (2) WG–1, Minimum Aviation System Performance Standards (starting at 1:00 p.m. on May 25); May 27, Plenary Session: (3) Review summary of Previous Meeting; (4) Review of WG–1 status; (5) Review of WG–2 status; (6) Review activities of other Standards Groups; (7) Open Discussion; (8) Confirm dates for future meetings; (9) Closing.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW., Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on July 26, 1999.

Janice L. Peters,

Designated Official.

[FR Doc. 99–19691 Filed 7–30–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 26, 1999.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

DATES: Written comments should be received on or before September 1, 1999 to be assured of consideration.

Bureau of Alcohol, Tobacco and Firearms (BATF)

OMB Number: 1512–0034.

Form Number: ATF F 5000.9.

Type of Review: Extension.

Title: Personnel Questionnaire Alcohol and Tobacco Products.

Description: The information listed on ATF F 5000.9, Personnel Questionnaire, enables ATF to determine whether or not an applicant for an alcohol or tobacco permit meets the minimum qualifications. The form identifies the individual, residence, business background, financial sources for the business and criminal record. If the applicant is found not to be qualified, the permit may be denied.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 5,000.

Estimated Burden Hours Per Respondent: 2 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 10,000 hours.

OMB Number: 1512–0057.

Form Number: ATF F 487–B (5170.7).

Type of Review: Extension.

Title: Application and Permit to Ship Liquors and Articles of Puerto Rican Manufacture Taxpaid.

Description: ATF F 487–B is used is to document the shipment of taxpaid Puerto Rican articles into the U.S. The form is verified by Puerto Rican and U.S. Treasury Officials to certify that products are either taxpaid or deferred under appropriate bond. Serves as a method of protection of the revenue.

Respondent: Business or other for-profit.

Estimated Number of Respondents: 20.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 100 hours.

OMB Number: 1512–0171.

Form Number: ATF F 5220.3.

Type of Review: Extension.

Title: Inventory—Export Warehouse Proprietor.

Description: ATF F 5220.3 is used by export warehouse proprietors to record inventories that are required by law and regulations.

Respondent: Business or other for-profit.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondent: 5 hours.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 50 hours.

OMB Number: 1512–0493.

Form Number: ATF F 5300.3.

Type of Review: Extension.

Title: Letterhead Request for Information in Regard to Federal Firearms Dealer's Records (Dealer's Records of Acquisition, Disposition & Supporting Data).

Description: This letter gives the user a simplified format to list the required information ATF needs to perform its functions in regard to the law. The respondent saves time because the questions are simple and a return address is supplied. The form is used to maintain a current status of firearms licensees.

Respondent: Business or other for-profit.

Estimated Number of Respondents: 28,000.

Estimated Burden Hours Per Respondent: 5 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 2,380 hours.

OMB Number: 1512–0503.

Recordkeeping Requirement ID Number: ATF REC 5120/3.

Type of Review: Extension.

Title: Marks on Wine Containers.

Description: ATF requires that wine on wine premises be identified by statements of information on labels or contained in marks. ATF uses this information to validate the receipts of excise tax revenue by the Federal government. Consumers are provided with adequate identifying information.

Respondents: Business or other for-profit.

Estimated Number of Recordkeepers: 1,560.

Estimated Burden Hours Per Recordkeeper: 1 hour.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1 hour.

Clearance Officer: Robert N. Hogarth (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, Room 3200, 650 Massachusetts Avenue, N.W., Washington, DC 20226.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,

Departmental Reports Management Officer.

[FR Doc. 99–19652 Filed 7–30–99; 8:45 am].

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8621

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 8621, Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

DATES: Written comments should be received on or before October 1, 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 and instructions should be directed to Faye Bruce, (202) 622–6665, Internal Revenue Service, room 5244, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.

OMB Number: 1545–1002.

Form Number: 8621.

Abstract: Form 8621 is filed by a U.S shareholder who owns stock in a foreign investment company. The form is used to report income, make an election to extend the time for payment of tax, and to pay an additional tax and interest amount. The IRS uses Form 8621 to determine if these shareholders have correctly reported amounts of income, made the election correctly, and have correctly computed the additional tax and interest amount.

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 and individuals.

Estimated Number of Respondents: 2,000.

Estimated Time Per Respondent: 27 hrs., 2 min.

Estimated Total Annual Burden Hours: 54,080.

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 22, 1999.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 99–19767 Filed 7–30–99; 8:45 am]

BILLING CODE 4830–01–U

Reader Aids

Federal Register

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Monday, August 2, 1999

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FEDERAL REGISTER PAGES AND DATES, AUGUST

41765–41998..... 2

CFR PARTS AFFECTED DURING AUGUST

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

RULES GOING INTO EFFECT AUGUST 2, 1999

COMMODITY FUTURES TRADING COMMISSION

Contract markets:
- Contract market designation applications—
  - Economic and public interests requirements; guideline reorganization; published 6-1-99

DEFENSE DEPARTMENT

Defense Logistics Agency

Acquisition regulations:
- Types of contracts; published 8-2-99

ENVIRONMENTAL PROTECTION AGENCY

Air programs; approval and promulgation; State plans for designated facilities and pollutants:
- South Dakota; published 6-3-99

Air quality implementation plans; approval and promulgation; various States:
- California; published 6-3-99
- California; correction; published 6-30-99
- Louisiana; published 7-2-99
- Massachusetts and Rhode Island; published 6-2-99
- New Mexico; published 6-1-99
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- Rhode Island; published 6-2-99
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Hazardous waste program authorizations:
- New Jersey; published 8-2-99

Pesticides; tolerances in food, animal feeds, and raw agricultural commodities:
- Imidacloprid; published 8-2-99
- Propiconazole; published 8-2-99
- Pyriproxyfen; published 8-2-99

FEDERAL COMMUNICATIONS COMMISSION

Radio broadcasting:
- Broadcast licensees; main studio and public inspection file requirements; published 7-2-99

Radio stations; table of assignments:
- Louisiana; published 8-2-99
- Oregon; published 6-29-99
- Texas; published 6-29-99

FEDERAL EMERGENCY MANAGEMENT AGENCY

Flood insurance program:
- Insurance coverage and rates—
  - Buildings damaged by or under imminent threat of damage from continuous lake flooding from closed basin lakes; procedures for honoring claims; published 8-2-99

HEALTH AND HUMAN SERVICES DEPARTMENT

Health Care Financing Administration

Medicare and Medicaid:
- Hospital participation conditions; patients' rights; published 7-2-99

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

HUD-owned properties:
- HUD-acquired single family property disposition—
  - Officer Next Door Sales Program; published 7-2-99

INTERIOR DEPARTMENT

Fish and Wildlife Service

Endangered and threatened species:
- Chinook salmon etc.; published 8-2-99

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  - Federally recognized Indian tribal governments; participation eligibility; published 6-1-99

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Ports and waterways safety:
- Vessels and marine facilities; Year 2000 (Y2K) reporting requirements
  - Enforcement date change; published 8-2-99

TRANSPORTATION DEPARTMENT

Payment procedures:
- Surface transportation projects; credit assistance; published 6-2-99

TRANSPORTATION DEPARTMENT

Federal Aviation Administration

Airworthiness directives:
- Bell; published 6-28-99
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TRANSPORTATION DEPARTMENT

Federal Highway Administration

Payment procedures:
- Surface transportation projects; credit assistance; published 6-2-99

TRANSPORTATION DEPARTMENT

Federal Railroad Administration

Payment procedures:
- Surface transportation projects; credit assistance; published 6-2-99

TRANSPORTATION DEPARTMENT

Federal Transit Administration

Payment procedures:
- Surface transportation projects; credit assistance; published 6-2-99

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Agricultural Marketing Service

Egg, poultry, and rabbit products; inspection and grading:
- Fees and charges increase; comments due by 8-13-99; published 7-14-99

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- Texas; comments due by 8-9-99; published 7-19-99

Organic certifying agencies; assessments by Livestock and Seed Program; comments due by 8-9-99; published 6-9-99

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- Colorado; comments due by 8-13-99; published 7-14-99

Prunes (fresh) grown in—
- Washington and Oregon; comments due by 8-13-99; published 7-14-99

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Animal and Plant Health Inspection Service

Plant-related quarantine, domestic:
- Mexican fruit fly; comments due by 8-10-99; published 7-26-99
- Mexican fruit fly, etc.; high-temperature forced-air treatments for citrus fruits; comments due by 8-12-99; published 7-13-99

Plant-related quarantine, foreign:
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  - Mexico; comments due by 8-10-99; published 6-11-99

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Export Administration Bureau

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National Oceanic and Atmospheric Administration

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Energy Efficiency and Renewable Energy Office

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- Electric refrigerator; definition; comments due by 8-12-99; published 7-13-99

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Air quality implementation plans; approval and promulgation; various States:
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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 4/P.L. 106–38

National Missile Defense Act of 1999 (July 22, 1999; 113 Stat. 205)

H.R. 2035/P.L. 106–39

To correct errors in the authorizations of certain programs administered by the National Highway Traffic Safety Administration. (July 28, 1999; 113 Stat. 206)

Last List July 22, 1999

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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Title	Stock Number	Price	Revision Date
1, 2 (2 Reserved)	(869–034–00001–1)	5.00	[5] Jan. 1, 1999
3 (1997 Compilation and Parts 100 and 101)	(869–038–00002–4)	20.00	[1] Jan. 1, 1999
4	(869–034–00003–7)	7.00	[5] Jan. 1, 1999
5 Parts:			
1–699	(869–038–00004–1)	37.00	Jan. 1, 1999
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1200–End, 6 (6 Reserved)	(869–038–00006–7)	44.00	Jan. 1, 1999
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20 Parts:			
1–399	(869–038–00056–3)	30.00	Apr. 1, 1999
400–499	(869–038–00057–1)	51.00	Apr. 1, 1999
500–End	(869–038–00058–0)	44.00	[7] Apr. 1, 1999
21 Parts:			
*1–99	(869–038–00059–8)	24.00	Apr. 1, 1999
100–169	(869–038–00060–1)	28.00	Apr. 1, 1999
170–199	(869–038–00061–0)	29.00	Apr. 1, 1999
*200–299	(869–038–00062–8)	11.00	Apr. 1, 1999
300–499	(869–038–00063–6)	50.00	Apr. 1, 1999
500–599	(869–034–00064–9)	28.00	Apr. 1, 1998
600–799	(869–038–00065–2)	9.00	Apr. 1, 1999
*800–1299	(869–038–00066–8)	35.00	Apr. 1, 1999
1300–End	(869–038–00067–9)	14.00	Apr. 1, 1999
22 Parts:			
1–299	(869–038–00068–7)	44.00	Apr. 1, 1999
300–End	(869–038–00069–5)	32.00	Apr. 1, 1999
23	(869–038–00070–9)	27.00	Apr. 1, 1999
24 Parts:			
0–199	(869–038–00071–7)	34.00	Apr. 1, 1999
200–499	(869–034–00072–0)	28.00	Apr. 1, 1998
500–699	(869–038–00073–3)	18.00	Apr. 1, 1999
700–1699	(869–038–00074–1)	40.00	Apr. 1, 1999
1700–End	(869–038–00075–0)	18.00	Apr. 1, 1999
25	(869–038–00076–8)	47.00	Apr. 1, 1999
26 Parts:			
§§ 1.0-1–1.60	(869–038–00077–6)	27.00	Apr. 1, 1999
§§ 1.61–1.169	(869–038–00078–4)	50.00	Apr. 1, 1999
§§ 1.170–1.300	(869–038–00079–2)	34.00	Apr. 1, 1999
*§§ 1.301–1.400	(869–038–00080–6)	25.00	Apr. 1, 1999
§§ 1.401–1.440	(869–038–00081–4)	43.00	Apr. 1, 1999
§§ 1.441-1.500	(869-038-00082-2)	30.00	Apr. 1, 1999
§§ 1.501–1.640	(869–038–00083–1)	27.00	[7] Apr. 1, 1999
§§ 1.641–1.850	(869–038–00084–9)	35.00	Apr. 1, 1999
§§ 1.851–1.907	(869–038–00085–7)	40.00	Apr. 1, 1999
§§ 1.908–1.1000	(869–038–00086–5)	38.00	Apr. 1, 1999
§§ 1.1001–1.1400	(869–038–00087–3)	40.00	Apr. 1, 1999
§§ 1.1401–End	(869–038–00088–1)	55.00	Apr. 1, 1999
2–29	(869–038–00089–0)	39.00	Apr. 1, 1999
30–39	(869–038–00090–3)	28.00	Apr. 1, 1999
40–49	(869–038–00091–1)	17.00	Apr. 1, 1999
50–299	(869–038–00092–0)	21.00	Apr. 1, 1999
300–499	(869–038–00093–8)	37.00	Apr. 1, 1999
*500–599	(869–038–00094–6)	11.00	Apr. 1, 1999
600–End	(869–038–00095–4)	11.00	Apr. 1, 1999
27 Parts:			
1–199	(869–034–00096–7)	49.00	Apr. 1, 1998

Title	Stock Number	Price	Revision Date
200–End	(869–034–00097–5)	17.00	[6] Apr. 1, 1998
28 Parts:			
0-42	(869–034–00098–3)	36.00	July 1, 1998
43-end	(869-034-00099-1)	30.00	July 1, 1998
29 Parts:			
0–99	(869–034–00100–9)	26.00	July 1, 1998
100–499	(869–034–00101–7)	12.00	July 1, 1998
500–899	(869–034–00102–5)	40.00	July 1, 1998
900–1899	(869–034–00103–3)	20.00	July 1, 1998
1900–1910 (§§ 1900 to 1910.999)	(869–034–00104–1)	44.00	July 1, 1998
1910 (§§ 1910.1000 to end)	(869–034–00105–0)	27.00	July 1, 1998
1911–1925	(869–034–00106–8)	17.00	July 1, 1998
1926	(869–034–00107–6)	30.00	July 1, 1998
1927–End	(869–034–00108–4)	41.00	July 1, 1998
30 Parts:			
1–199	(869–034–00109–2)	33.00	July 1, 1998
200–699	(869–034–00110–6)	29.00	July 1, 1998
700–End	(869–034–00111–4)	33.00	July 1, 1998
31 Parts:			
0–199	(869–034–00112–2)	20.00	July 1, 1998
200–End	(869–034–00113–1)	46.00	July 1, 1998
32 Parts:			
1–39, Vol. I		15.00	[2] July 1, 1984
1–39, Vol. II		19.00	[2] July 1, 1984
1–39, Vol. III		18.00	[2] July 1, 1984
1–190	(869–034–00114–9)	47.00	July 1, 1998
191–399	(869–034–00115–7)	51.00	July 1, 1998
400–629	(869–034–00116–5)	33.00	July 1, 1998
630–699	(869–034–00117–3)	22.00	[4] July 1, 1998
700–799	(869–034–00118–1)	26.00	July 1, 1998
800–End	(869–034–00119–0)	27.00	July 1, 1998
33 Parts:			
1–124	(869–034–00120–3)	29.00	July 1, 1998
125–199	(869–034–00121–1)	38.00	July 1, 1998
200–End	(869–034–00122–0)	30.00	July 1, 1998
34 Parts:			
1–299	(869–034–00123–8)	27.00	July 1, 1998
300–399	(869–034–00124–6)	25.00	July 1, 1998
400–End	(869–034–00125–4)	44.00	July 1, 1998
35	(869–034–00126–2)	14.00	July 1, 1998
36 Parts			
1–199	(869–034–00127–1)	20.00	July 1, 1998
200–299	(869–034–00128–9)	21.00	July 1, 1998
300–End	(869–034–00129–7)	35.00	July 1, 1998
37	(869–034–00130–1)	27.00	July 1, 1998
38 Parts:			
0–17	(869–034–00131–9)	34.00	July 1, 1998
18–End	(869–034–00132–7)	39.00	July 1, 1998
39	(869–034–00133–5)	23.00	July 1, 1998
40 Parts:			
1–49	(869–034–00134–3)	31.00	July 1, 1998
50–51	(869–034–00135–1)	24.00	July 1, 1998
52 (52.01–52.1018)	(869–034–00136–0)	28.00	July 1, 1998
52 (52.1019–End)	(869–034–00137–8)	33.00	July 1, 1998
53–59	(869–034–00138–6)	17.00	July 1, 1998
60	(869–034–00139–4)	53.00	July 1, 1998
61–62	(869–034–00140–8)	18.00	July 1, 1998
63	(869–034–00141–6)	57.00	July 1, 1998
64–71	(869–034–00142–4)	11.00	July 1, 1998
72–80	(869–034–00143–2)	36.00	July 1, 1998
81–85	(869–034–00144–1)	31.00	July 1, 1998
86	(869–034–00144–9)	53.00	July 1, 1998
87-135	(869–034–00146–7)	47.00	July 1, 1998
136–149	(869–034–00147–5)	37.00	July 1, 1998
150–189	(869–034–00148–3)	34.00	July 1, 1998
190–259	(869–034–00149–1)	23.00	July 1, 1998
260–265	(869–034–00150–9)	29.00	July 1, 1998
266–299	(869–034–00151–3)	33.00	July 1, 1998
300–399	(869–034–00152–1)	26.00	July 1, 1998
400–424	(869–034–00153–0)	33.00	July 1, 1998
425–699	(869–034–00154–8)	42.00	July 1, 1998
700–789	(869–034–00155–6)	41.00	July 1, 1998
790–End	(869–034–00156–4)	22.00	July 1, 1998
41 Chapters:			
1, 1–1 to 1–10		13.00	[3] July 1, 1984
1, 1–11 to Appendix, 2 (2 Reserved)		13.00	[3] July 1, 1984
3–6		14.00	[3] July 1, 1984
7		6.00	[3] July 1, 1984
8		4.50	[3] July 1, 1984
9		13.00	[3] July 1, 1984
10–17		9.50	[3] July 1, 1984
18, Vol. I, Parts 1–5		13.00	[3] July 1, 1984
18, Vol. II, Parts 6–19		13.00	[3] July 1, 1984
18, Vol. III, Parts 20–52		13.00	[3] July 1, 1984
19–100		13.00	[3] July 1, 1984
1–100	(869–034–00157–2)	13.00	July 1, 1998
101	(869–034–00158–1)	37.00	July 1, 1998
102–200	(869–034–00158–9)	15.00	July 1, 1998
201–End	(869–034–00160–2)	13.00	July 1, 1998
42 Parts:			
1–399	(869–034–00161–1)	34.00	Oct. 1, 1998
400–429	(869–034–00162–9)	41.00	Oct. 1, 1998
430–End	(869–034–00163–7)	51.00	Oct. 1, 1998
43 Parts:			
1–999	(869–034–00164–5)	30.00	Oct. 1, 1998
1000–end	(869–034–00165–3)	48.00	Oct. 1, 1998
44	(869–034–00166–1)	48.00	Oct. 1, 1998
45 Parts:			
1–199	(869–034–00167–0)	30.00	Oct. 1, 1998
200–499	(869–034–00168–8)	18.00	Oct. 1, 1998
500–1199	(869–034–00169–6)	29.00	Oct. 1, 1998
1200–End	(869–034–00170–0)	39.00	Oct. 1, 1998
46 Parts:			
1–40	(869–034–00171–8)	26.00	Oct. 1, 1998
41–69	(869–034–00172–6)	21.00	Oct. 1, 1998
70–89	(869–034–00173–4)	8.00	Oct. 1, 1998
90–139	(869–034–00174–2)	26.00	Oct. 1, 1998
140–155	(869–034–00175–1)	14.00	Oct. 1, 1998
156–165	(869–034–00176–9)	19.00	Oct. 1, 1998
166–199	(869–034–00177–7)	25.00	Oct. 1, 1998
200–499	(869–034–00178–5)	22.00	Oct. 1, 1998
500–End	(869–034–00179–3)	16.00	Oct. 1, 1998
47 Parts:			
0–19	(869–034–00180–7)	36.00	Oct. 1, 1998
20–39	(869–034–00181–5)	27.00	Oct. 1, 1998
40–69	(869–034–00182–3)	24.00	Oct. 1, 1998
70–79	(869–034–00183–1)	37.00	Oct. 1, 1998
80–End	(869–034–00184–0)	40.00	Oct. 1, 1998
48 Chapters:			
1 (Parts 1–51)	(869–034–00185–8)	51.00	Oct. 1, 1998
1 (Parts 52–99)	(869–034–00186–6)	29.00	Oct. 1, 1998
2 (Parts 201–299)	(869–034–00187–4)	34.00	Oct. 1, 1998
3–6	(869–034–00188–2)	29.00	Oct. 1, 1998
7–14	(869–034–00189–1)	32.00	Oct. 1, 1998
15–28	(869–034–00190–4)	33.00	Oct. 1, 1998
29–End	(869–034–00191–2)	24.00	Oct. 1, 1998
49 Parts:			
1–99	(869–034–00192–1)	31.00	Oct. 1, 1998
100–185	(869–034–00193–9)	50.00	Oct. 1, 1998
186–199	(869–034–00194–7)	11.00	Oct. 1, 1998
200–399	(869–034–00195–5)	46.00	Oct. 1, 1998
400–999	(869–034–00196–3)	54.00	Oct. 1, 1998
1000–1199	(869–034–00197–1)	17.00	Oct. 1, 1998
1200–End	(869–034–00198–0)	13.00	Oct. 1, 1998
50 Parts:			
1–199	(869–034–00199–8)	42.00	Oct. 1, 1998
200–599	(869–034–00200–5)	22.00	Oct. 1, 1998
600–End	(869–034–00201–3)	33.00	Oct. 1, 1998

Title	Stock Number	Price	Revision Date
CFR Index and Findings Aids	(869–038–00047–4)	48.00	Jan. 1, 1999
Complete 1998 CFR set		951.00	1998
Microfiche CFR Edition:			
Subscription (mailed as issued)		247.00	1998
Individual copies		1.00	1998
Complete set (one-time mailing)		247.00	1997
Complete set (one-time mailing)		264.00	1996

[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period July 1, 1997 to June 30, 1998. The volume issued July 1, 1997, should be retained.

[5] No amendments to this volume were promulgated during the period January 1, 1998 through December 31, 1998. The CFR volume issued as of January 1, 1997 should be retained.

[6] No amendments to this volume were promulgated during the period April 1, 1997, through April 1, 1998. The CFR volume issued as of April 1, 1997, should be retained.

[7] No amendments to this volume were promulgated during the period April 1, 1998, through April 1, 1999. The CFR volume issued as of April 1, 1998, should be retained.

TABLE OF EFFECTIVE DATES AND TIME PERIODS—AUGUST 1999

This table is used by the Office of the Federal Register to compute certain dates, such as effective dates and comment deadlines, which appear in agency documents. In computing these dates, the day after publication is counted as the first day.

When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

DATE OF FR PUBLICATION	15 DAYS AFTER PUBLICATION	30 DAYS AFTER PUBLICATION	45 DAYS AFTER PUBLICATION	60 DAYS AFTER PUBLICATION	90 DAYS AFTER PUBLICATION
August 2	August 17	September 1	September 16	October 1	November 1
August 3	August 18	September 2	September 17	October 4	November 1
August 4	August 19	September 3	September 20	October 4	November 2
August 5	August 20	September 7	September 20	October 4	November 3
August 6	August 23	September 7	September 20	October 5	November 4
August 9	August 24	September 8	September 23	October 8	November 8
August 10	August 25	September 9	September 24	October 12	November 8
August 11	August 26	September 10	September 27	October 12	November 9
August 12	August 27	September 13	September 27	October 12	November 10
August 13	August 30	September 13	September 27	October 12	November 12
August 16	August 31	September 15	September 30	October 15	November 15
August 17	September 1	September 16	October 1	October 18	November 15
August 18	September 2	September 17	October 4	October 18	November 16
August 19	September 3	September 20	October 4	October 18	November 17
August 20	September 7	September 20	October 4	October 19	November 18
August 23	September 7	September 22	October 7	October 22	November 22
August 24	September 8	September 23	October 8	October 25	November 22
August 25	September 9	September 24	October 12	October 25	November 23
August 26	September 10	September 27	October 12	October 25	November 24
August 27	September 13	September 27	October 12	October 26	November 26
August 30	September 14	September 29	October 14	October 29	November 29
August 31	September 15	September 30	October 15	November 1	November 29