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Rules and Regulations

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

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

DEPARTMENT OF AGRICULTURE

Office of the Secretary

7 CFR Part 11

National Appeals Division Rules of Procedure; Correction

AGENCY: Office of the Secretary, National Appeals Division, USDA.

ACTION: Final rule; correction.

SUMMARY: The Department of Agriculture (USDA) published in the **Federal Register** of June 23, 1999, a document promulgating a final rule for the National Appeals Division (NAD) rules of procedure. Inadvertently the rule revised all of 7 CFR part 11 instead of only 7 CFR part 11, subpart A.

DATES: Effective on July 23, 1999.

FOR FURTHER INFORMATION CONTACT: L. Benjamin Young, Jr., General Law Division, Office of the General Counsel, United States Department of Agriculture, STOP 1415, 1400 Independence Avenue SW, Washington, DC 20250–1415; 202/720–4076; e-mail: benjamin.young@usda.gov.

SUPPLEMENTARY INFORMATION: USDA published the final NAD rules of procedure on June 23, 1999, (64 FR 33367), inadvertently revising all of 7 CFR part 11 instead of only 7 CFR part 11, subpart A, which contained the interim final NAD rules of procedure. This correction revises the final rule for the NAD rules of procedure published on June 23, 1999 to revise only 7 CFR part 11, subpart A.

In the final rule for the NAD rules of procedure published on June 23, 1999, (64 FR 33367),make the following corrections. On page 33373, in the first column, revise the amendatory instructions to read as follows:

(1) 1. The heading of part 11 is revised to read ''NATIONAL APPEALS DIVISION''.

(2) 2. Subpart A of Part 11 is revised to read as follows:

On page 33373, in the first column, make the following editorial corrections:

(1) Add ''Subpart A—National Appeals Division Rules of Procedure'' following the heading of the part in the table of contents;

(2) Add ''Subpart A—National Appeals Division Rules of Procedure'' before the authority citation.

Done at Washington, DC, this 30th day of July, 1999.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–20290 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 101, 102, 105, 112, 113, 116, and 124

[Docket No. 97–117–1]

Viruses, Serums, Toxins, and Analogous Products and Patent Term Restoration; Nonsubstantive Technical Changes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations regarding veterinary biological products to reflect the transfer of the Animal and Plant Health Inspection Service's veterinary biologics functions to the Veterinary Services program area and to update the addresses provided for staffs within the Center for Veterinary Biologics. We are also making several nonsubstantive changes to the regulations to correct errors, omissions, or inconsistencies.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Dr. David A. Espeseth, Special Assistant to the Deputy Administrator, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; (301) 734–8245.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR parts 101 through 118 (referred to below as the regulations) contain provisions implementing the Virus-Serum-Toxin Act, as amended (21 U.S.C. 151–159). The regulations in 9 CFR part 124 contain procedural requirements for patent extensions for veterinary biologics under 35 U.S.C. 156. We have made several nonsubstantive technical changes to those regulations to update their provisions and correct errors, omissions, or inconsistencies. As part of this rule, we have made the following changes:

1. We have amended the addresses throughout the regulations to reflect the current organizational affiliation of the Center for Veterinary Biologics (CVB) staff within the Animal and Plant Health Inspection Service and the relocation of most of the CVB's Licensing and Policy Development staff to new offices in Ames, IA.

2. In part 101, we have amended the definition of *regulations* to reflect the 1987 addition of part 118 and the definition of *Virus-Serum-Toxin Act* to reflect the 1987 amendments to that act.

3. We have amended § 113.35(f) so that it refers to the labeling requirements that are set forth in § 112.7(g). That paragraph had incorrectly stated that those requirements were in § 112.7(h).

4. In §§ 113.327 and 113.452, information was missing from the tables found in each section. In the table in § 113.327, the words ''or less'' were not included after each of the numbers provided in the column titled ''Failures for satisfactory serials'' and the words ''or more'' were not included after each of the numbers provided in the column titled ''Failures for unsatisfactory serials.'' In § 113.452, the numbers indicating which stage of testing (i.e., 1 or 2) and the number of vaccinates in each stage (40) were missing from the table despite the presence of titled columns for each set of numbers. We have corrected both tables in this rule.

5. In §§ 113.331 and 113.332, we have removed the word ''log'' from where it appeared incorrectly before the numbers $10^{0.7}$ and $10^{0.2}$.

6. Paragraph (a) of § 113.451 referred to the National Bureau of Standards. We have updated the reference to reflect that agency's current name, the National Institute of Standards and Technology.

7. Paragraph (b) of § 124.1 refers to the Patent and Trademark Office (PTO) regulations concerning patent term extension. We have updated the citation provided for those PTO regulations to

reflect the 1995 addition of two sections to ''Subpart F—Extension of Patent Term'' (37 CFR 1.710 through 1.791).

8. In §§ 124.32 and 124.43, we have removed outdated references to the ''Assistant Secretary for Marketing and Inspection Services'' and have replaced them with the current title, ''Under Secretary for Marketing and Regulatory Programs.''

This rule relates to internal agency management and includes technical amendments. Therefore, pursuant to 5 U.S.C. 553, notice of proposed rulemaking and opportunity to comment thereon are not required, and this rule may be made effective less than 30 days after publication in the **Federal Register**. Further, since this rule relates to internal agency management and includes technical corrections, it is exempt from the provisions of Executive Order 12866 and Executive Order 12988. Finally, this subject is not a rule as defined by Public Law 96–354, the Regulatory Flexibility Act, and thus, is exempt from the provisions of that Act.

Paperwork Reduction Act

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

List of Subjects

9 CFR Part 101

Animal biologics.

9 CFR Part 102

Animal biologics, Reporting and recordkeeping requirements.

9 CFR Part 105

Animal biologics.

9 CFR Part 112

Animal biologics, Exports, Imports, Labeling, Packaging and containers, Reporting and recordkeeping requirements.

9 CFR Part 113

Animal biologics, Exports, Imports, Reporting and recordkeeping requirements.

9 CFR Part 116

Animal biologics, Reporting and recordkeeping requirements.

9 CFR Part 124

Animal biologics, Patents.

Accordingly, we are amending 9 CFR parts 101, 102, 105, 112, 113, 116, and 124 as follows:

PART 101—DEFINITIONS

1. The authority citation for part 101 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

2. In § 101.2, the definitions of *Regulations* and *Virus-Serum-Toxin Act* are revised to read as follows:

§ 101.2 Administrative Terminology.

* * * * *

Regulations. The provisions in parts 101 through 118 of this subchapter.

* * * * *

Virus-Serum-Toxin Act. The Act of March 4, 1913, 37 Stat. 832–833; as amended December 23, 1985, Public Law 99–198, 99 Stat. 1654–1655; and as further amended September 28, 1988, Public Law 100–449, 102 Stat. 1868; 21 U.S.C. 151–159.

* * * * *

PART 102—LICENSES FOR BIOLOGICAL PRODUCTS

3. The authority citation for part 102 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

§ 102.5 [Amended]

4. In § 102.5(e), in the second sentence, remove the words ''Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Veterinary Biologics, 4700 River Road Unit 148, Riverdale, Maryland 20737–1237'' and add, in their place, the words ''Director, Center for Veterinary Biologics, Licensing and Policy Development, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

PART 105—SUSPENSION, REVOCATION, OR TERMINATION OF BIOLOGICAL LICENSES OR PERMITS

5. The authority citation for part 105 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

§ 105.1 [Amended]

6. In § 105.1(a)(1), remove the number ''117'' and add, in its place, the number ''118''.

PART 112—PACKAGING AND LABELING

7. The authority citation for part 112 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

§ 112.5 [Amended]

8. In § 112.5(d)(2)(ii), in the first sentence, remove the words ''Two-or-three part'' and add, in their place, the words ''Two-or three-part''.

§ 112.6 [Amended]

9. In § 112.6(c), introductory text, in the fourth sentence, remove the words ''more then'' and add, in their place, the words ''more than''.

PART 113—STANDARD REQUIREMENTS

10. The authority citation for part 113 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

§ 113.35 [Amended]

11. In § 113.35(f), remove the citation ''§ 112.7(h)'' and add, in its place, the citation ''§ 112.7(g)''.

§ 113.70 [Amended]

12. Section 113.70 is amended as follows:

a. In the introductory text, at the end of the first sentence, remove the words ''Pasteurella Multocida'' and add, in their place, the words ''*Pasteurella multocida*''.

b. In paragraph (b)(1) remove the words ''Pasteurella Multocida'' and add, in their place, the words ''*Pasteurella multocida*''.

c. In paragraph (b)(3) remove the words ''Pasteurella multocida'' and add, in their place, the words ''*Pasteurella multocida*''.

§ 113.113 [Amended]

13. Section 113.113 is amended as follows:

a. In paragraph (a)(2), in the third sentence, remove the words ''the Deputy Director, VBFO, 223 South Walnut Avenue, Ames, Iowa 50010'' and add, in their place, the words ''Director, Center for Veterinary Biologics, Inspection and Compliance, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

b. In paragraph (a)(3), in the second sentence, remove the words ''the Deputy Director, VBFO, 223 South Walnut Avenue, Ames, Iowa 50010'' and add, in their place, the words ''Director, Center for Veterinary Biologics, Inspection and Compliance, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

c. In paragraph (c)(2)(iv)(A) in the second sentence, remove the words ''Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Veterinary Biologics, 4700 River Road Unit 148, Riverdale, Maryland 20737–1237'' and add, in their place, the words ''Director, Center for Veterinary Biologics,

Licensing and Policy Development, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

d. In paragraph (c)(2)(iv)(B), at the beginning of the first sentence, remove the words ''Bulk of'' and add, in their place, the words ''Bulk or''.

14. In § 113.327(d)(2)(ii), the table is revised to read as follows:

§ 113.327 Bronchitis Vaccine.

* * * * *

(d) * * *

(2) * * *

(ii) * * *

CUMULATIVE TOTALS

Stage	Number of chickens	Failures for satisfactory serials	Failures for unsatisfactory serials
1	25	2 or less	4 or more.
2	50	5 or less	6 or more.

* * * * *

§ 113.331 [Amended]

15. In § 113.331(d)(3), in the second sentence, remove the word ''log'' both times it appears, and add the word ''times'' after the number ''$10^{0.7}$''.

§ 113.332 [Amended]

16. In § 113.332(d)(3), in the second sentence, add the word ''times'' after the number ''$10^{0.7}$ '' and remove the word ''log'' before the number ''$10^{2.0}$''.

§ 113.451 [Amended]

17. In § 113.451, in the introductory text of paragraph (a), remove the words ''Bureau of Standards'' and add the words ''Institute of Standards and Technology'' in their place.

18. In § 113.452(b)(4), the table is revised to read as follows:

§ 113.452 Erysipelothrix Rhusiopathiae Antibody.

* * * * *

(b) * * *

(4) * * *

Stage	Number of vaccinates	Cumulative number of vaccinates	Cumulative total number of deaths for a satisfactory test	Cumulative total number of deaths for an unsatisfactory test
1	40	40	6 or less	11 or more.
2	40	80	12 or less	13 or more.

PART 116—RECORDS AND REPORTS

19. The authority citation for part 116 continues to read as follows:

Authority: 21 U.S.C. 151–159; 7 CFR 2.22, 2.80, and 371.2(d).

20. In § 116.5, paragraph (b) is revised to read as follows:

§ 116.5 Reports.

* * * * *

(b) If, at any time, there are indications that raise questions regarding the purity, safety, potency, or efficacy of a product, or if it appears that there may be a problem regarding the preparation, testing, or distribution of a product, the licensee, permittee, or foreign manufacturer must immediately notify the Animal and Plant Health Inspection Service concerning the circumstances and the action taken, if any. Notification may be made by mail to Director, Center for Veterinary Biologics, Inspection and Compliance, 510 South 17th Street, Suite 104, Ames, IA 50010–8197; by electronic mail to cvb@usda.gov; by fax to (515) 232–7120; or by telephone to (515) 232–5785.

* * * * *

PART 124—PATENT TERM RESTORATION

21. The authority citation for part 124 continues to read as follows:

Authority: 35 U.S.C. 156; 7 CFR 2.22, 2.80, and 371.2(m).

§ 124.1 [Amended]

22. In § 124.1(b), remove the number ''1.785'' and add the number ''1.791'' in its place.

§ 124.22 [Amended]

23. In § 124.22, in the introductory text of paragraph (a), remove the words ''the Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Veterinary Biologics, 4700 River Road Unit 148, Riverdale, Maryland 20737–1237'' and add, in their place, the words ''Director, Center for Veterinary Biologics, Licensing and Policy Development, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

§ 124.32 [Amended]

24. In § 124.32(a), in the first sentence, remove the words ''Assistant Secretary for Marketing and Inspection Services'' and add, in their place, the words ''Under Secretary for Marketing and Regulatory Programs''.

§ 124.40 [Amended]

25. In § 124.40(b)(3), remove the words ''Animal and Plant Health Inspection Service, Biotechnology, Biologics, and Environmental Protection, Veterinary Biologics, 4700 River Road Unit 148, Riverdale, Maryland 20737–1237'' and add, in their place, the words ''Director, Center for Veterinary Biologics, Licensing and Policy Development, 510 South 17th Street, Suite 104, Ames, IA 50010–8197''.

§ 124.43 [Amended]

26. In § 124.43, in the first sentence, remove the words ''Assistant Secretary for Marketing and Inspection Services'' and add, in their place, the words ''Under Secretary for Marketing and Regulatory Programs''.

Done in Washington, DC, this 4th day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–20444 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–34–U

FARM CREDIT ADMINISTRATION

12 CFR Parts 612, 614 and 618

RIN 3052–AB85

Standards of Conduct; Loan Policies and Operations; General Provisions; Regulatory Burden

AGENCY: Farm Credit Administration (FCA).

ACTION: Direct final rule with opportunity to comment.

SUMMARY: This direct final rule reduces regulatory burden on the Farm Credit System (FCS or System) by repealing or amending 16 regulations. These revisions provide System banks and associations with greater flexibility concerning loan sales, agricultural secondary market activities, loans to insiders, letters of credit, information programs, travel expenses, and disclosing borrower information during litigation.

DATES: Unless we receive significant adverse comment by September 8, 1999, these regulations will be effective 30 days after publication in the **Federal Register** during which either or both Houses of Congress are in session. We will publish notice of the effective date in the **Federal Register**. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed separately from the remainder of the rule, we will withdrawal that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant adverse comment. In such a case, we would then tell you how we expect to continue with further rulemaking on the provisions that were the subject of significant adverse comment.

ADDDRESSES: You may send comments by electronic mail to ''*reg-comm@fca.gov*'' or through the Pending Regulations section of our website at ''*www.fca.gov*.'' You may also mail or deliver written comments to Patricia W. DiMuzio, Director, Regulation and Policy Division, Office of Policy and Analysis, Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102–5090 or fax them to (703) 734–5784. You may review copies of all communications that we receive in the Office of Policy and Analysis, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Eric Howard, Senior Policy Analyst, or Dale Aultman, Policy Analyst, Office of Policy and Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498, TDD (703) 883–4444,

or

Richard A. Katz, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

SUPPLEMENTARY INFORMATION:

I. Background

On August 18, 1998, we published a notice in the **Federal Register** that invited you to identify existing regulations and policies that impose unnecessary burdens on the FCS. *See* 63 FR 44176 (Aug. 18, 1998).[1] We specifically asked you to focus on those regulations and policies that are ineffective, duplicate other governmental requirements, or impose burdens that are greater than the benefits received. We took this action in our continuing effort to improve the regulatory environment so the System can better serve farmers and ranchers.

We received 30 responses. Of this total, 20 comment letters came from Farm Credit associations. Six Farm Credit banks sent us seven comment letters. The Farm Credit Council (FCC) commented on behalf of its membership. We also received responses from the Federal Farm Credit Banks Funding Corporation and the Federal Agricultural Mortgage Corporation (Farmer Mac).

In this first phase of our effort to reduce regulatory burden on the FCS, we are repealing or revising 16 regulations. These regulations govern:

- Loan sales by agricultural credit banks (ACBs);
- Subordinated participation interests in Farmer Mac loan pools;
- Loans to institution-affiliated parties;
- Letters of credit that finance international trade;
- Informational programs at FCS institutions;
- Purchases and sales of personal property;
- Travel and subsistence expenses for directors, officers, and employees; and
- Disclosure of confidential information in litigation.

We plan to respond to your other concerns in future phases of this project, and currently, we are analyzing all the issues that you raised.

[1] On November 18, 1998, we extended the comment period to January 19, 1999. *See* 63 FR 64013 (Nov. 18, 1998).

II. Analysis of Changes and Comments by Section

A. Sale of Interests in Loans by ACBs

We are correcting § 614.4010(f)(1) so it accurately reflects the statutory authority of ACBs to sell interests in loans. The amended regulations confirm that ACBs may sell interests in the type of long-term real estate mortgages that they can make under section 1.7(a) of the Farm Credit Act of 1971, as amended (Act), to:

- System banks and associations that have authority to purchase such interests;
- Non-System lenders; and
- Certified agricultural mortgage marketing facilities for Farmer Mac.

We emphasize that revised § 614.4010(f)(1) also permits ACBs to sell interests in long-term mortgages that they purchase from other System lenders. Section 3.1(13)(B) of the Act and amended § 614.4010(f)(1) allow ACBs to sell interests in cooperative, rural utility, and international loans only to other Farm Credit banks and associations that have authority to purchase such loan interests.

B. Subordinated Participation Interests in Farmer Mac Pools

We are repealing five separate regulatory provisions (§§ 614.4000(e)(4), 614.4010(f)(4), 614.4030(c)(4), 614.4040(c)(4), and 614.4050(d)(4)) that authorize Farm Credit banks and associations to purchase subordinated participation interests in pools of loans that are sold into the Farmer Mac secondary market. The existing regulations carry out provisions of title VIII of the Act that Congress repealed in 1996.[2] Prior to 1996, title VIII of the Act required Farm Credit banks and associations to pledge cash reserves or hold subordinated participation interests in loans that they pooled and securitized for Farmer Mac. As amended, title VIII of the Act now permits, but no longer requires, Farm Credit banks and associations to retain subordinated participation interests in Farmer Mac pools. With the removal of these regulations, we will continue to review policy as well as safety and soundness issues related to subordinated participation interests in Farmer Mac loan pools.

C. Loan Approvals

We received 11 comments about §§ 614.4460 and 614.4470, which govern loans to insiders. Although the Agricultural Credit Technical

[2] Farm Credit System Reform Act of 1996; Pub. L. No. 104–105, 110 Stat. 162 (Feb. 10, 1996).

Corrections Act of 1988[3] abolished the district boards, § 614.4460 refers to the defunct boards. Under this regulation, district boards were required to approve loans that System banks make to:

- Their directors and employees; and
- FCA Board members and staff.

Currently, § 614.4470 requires Farm Credit banks to approve loans that their affiliated associations make to:

- The association's own directors and employees;
- Directors and employees of a jointly managed association; or
- Bank employees.

System banks and associations asked us to update § 614.4460 and repeal the bank approval requirement in § 614.4470. These commenters believe that our regulations should only apply to large insider loans.

We respond by replacing §§ 614.4460 and 614.4470 with a single regulation. Final § 614.4460 requires your board to approve all loans to:

- Certain FCA and Farm Credit System Insurance Corporation (FCSIC) employees who are permitted to borrow from your institution under our Supplemental Standards of Ethical Conduct regulations at 5 CFR parts 4101 and 4001, respectively;[4]
- Your directors and employees;
- The directors and employees of another System bank or association that is under a joint management agreement with your institution;
- The directors and employees of your association's funding bank; and
- A cooperative or other legal entity if any of its directors, partners, or employees are also members of your board of directors.

Your board must also approve loans to other borrowers if any of these parties has a substantial beneficial interest in the proceeds or collateral of the loan.

When you extend credit to insiders you must comply with the Standards of Conduct regulations in part 612, the Disclosure regulations in part 621, and your board's policies. We also require your institution to document all material facts about your credit relationships with any of these parties and make it available, on request, to the FCA's Office of Examination and to the appropriate officials of your funding bank.

The final regulation repeals the requirement that bank boards approve loans that their affiliated associations make to insiders. Our new approach retains adequate controls on loans that Farm Credit banks and associations make to their directors and employees. Currently, the boards of Farm Credit banks approve loans to insiders. Under the new regulation, boards of associations are similarly responsible for approving loans to their insiders.

The commenters suggested that our regulation should require System boards to approve only insider loans that are above a minimum amount established by the institution's policy. We did not adopt this approach because board approval of all insider loans provides the most independent and objective approval process for such loans at each bank or association. Board approval also avoids the appearance of misconduct and impropriety. Board approval of even small insider loans is appropriate and reassures customers, shareholders, and investors that the System boards exercise diligence and independent judgment when they carry out their duties and obligations. Another regulation, § 612.2140(a), requires directors of Farm Credit banks and associations to recuse themselves from board deliberations on their own loans.

We are repealing § 614.4450 on our own initiative. This regulation originally carried out provisions of the Act that authorized the FCA to supervise and approve the lending activities of all System banks and associations.[5] After the Farm Credit Act of 1985[6] repealed this authority and converted the FCA into an arms-length regulator, we amended § 614.4450 to state that ''authority for loan approval is vested in the Farm Credit banks and associations.'' This rule is no longer needed because it neither implements the Act nor promotes the System's safety and soundness.

D. Letters of Credit

Existing § 614.4720 allows banks for cooperatives (BCs) and ACBs to issue and confirm letters of credit that finance international trade in agricultural commodities and farm supplies. The final provision of this regulation, § 614.4720(g), requires BCs and ACBs to charge fees for issuing letters of credit. We repeal it because we believe that this should be a business decision of BCs and ACBs. We retain all other provisions of this regulation because we believe they continue to promote safe and sound international banking practices at BCs and ACBs.

E. Conducting Information Programs

The FCC, one association, and two Farm Credit Banks asked us to repeal § 618.8210, which requires FCS institutions to maintain programs that inform farmers and other members of the public about FCS organization, functions, and services. The commenters believe that our regulations should not tell System institutions to conduct informational programs. Instead, they suggested that each System bank or association address this issue in its operational program. We agree that business goals provide an effective incentive for System banks and associations to market their services to potential customers. We repeal § 618.8210 because it is no longer needed.

F. Purchases and Sales of Personal Property

The FCC, two System banks, and an association want us to repeal § 618.8250. The commenters remarked that operational programs of System lenders, not FCA regulations, should govern the purchases and sales of personal property.

We respond by adjusting the regulatory requirements that apply to the purchases and sales of personal property by your banks and associations. One provision of § 618.8250 is obsolete because it contains a reference to the defunct district boards. Moreover, we agree that your policies and operational programs, rather than FCA regulations, should cover all purchases and most sales of personal property by your bank or association. However, we believe that our Standards of Conduct regulations in part 612 should continue to govern the sale of personal property to your directors, officers, or other employees. Our regulatory requirements in part 612 help your institution avoid allegations of favoritism or fraud when you sell personal property to insiders. We rewrote the final sentence of § 618.8250 in plain language and transferred it to § 612.2165(b)(7) in the Standards of Conduct section of the regulations. This provision requires your institution to sell surplus personal property above a stated value to your employees through open competitive bidding.

G. Travel, Subsistence, and Other Related Expenses

Four commenters suggested that we repeal § 618.8270. This regulation requires the boards of FCS banks and associations to develop written policies,

[3] Pub. L. 100–399, 102 Stat. 1003 (Aug. 17, 1988).

[4] The new regulation explicitly refers to the Supplemental Standards of Ethical Conduct regulations that the FCA and FCSIC Boards enacted in 1995. *See* 60 FR 30781 (June 12, 1995). Those regulations specifically prohibit most FCA and FCSIC employees from borrowing from System institutions. For example, FCA and FCSIC Board members, examiners, procurement personnel, and all employees over a certain civil service grade level cannot legally borrow from Farm Credit banks and associations.

[5] *See* 38 FR 27837 (Oct. 9, 1973).

[6] Pub. L. No. 99–205, 99 Stat. 1678 (Dec. 23, 1985).

keep records, and audit the travel, subsistence, and other related expenses of their directors, officers, and employees. The commenters assert that this regulation imposes unnecessary burdens on FCS institutions. They point out that System banks and associations already address this issue in their operational plans.

We have decided to repeal § 618.8270 because other regulations already cover the travel and subsistence expenses of directors, officers, and employees of your institutions. For example, § 618.8430 requires your bank or association to establish effective internal controls over their operations. Additionally, § 611.400 implements section 4.21 of the Act, which governs compensation for the FCS bank directors. Our examiners will continue to review the travel, subsistence, and related expenses of System bank directors in the normal examination process.

H. Production of Documents and Testimony

One Farm Credit bank asked us to amend § 618.8320(b)(7), and two Farm Credit banks and two associations wanted us to repeal § 618.8330. These regulations govern the disclosure of documents and testimony in litigation. Some commenters objected to the cost of hiring an attorney to contest orders to produce documents or testimony. All commenters believe that our regulations should not limit their options on how best to respond to court orders.

We continue to believe that regulations governing the production of confidential information during litigation are necessary. However, we revised our regulations to better balance your borrowers' rights to confidentiality with your need for greater flexibility in disclosing information during litigation. We combined both provisions into a single regulation, § 618.8330, and rewrote it in plain language.

Final § 618.8330(a) allows your bank or association to disclose confidential information about a borrower (or a successor in interest) if your institution is in litigation with that borrower or his or her successor. Without this provision, your institution would have no authority to produce confidential information about a borrower who is in litigation with you.

Final § 618.8330(b) allows your bank or association to disclose confidential information under the lawful order of a court if the Government or your institution is not a party to the litigation. As a result, you do not automatically have to contest every order to produce documents or testimony. You may release confidential borrower information as defined by § 618.8320(a) only if a judge issues the order. We believe that this requirement is important because the judge is impartial and can fairly decide whether the litigant needs the confidential information in your possession.

III. Direct Final Rule

We are revising or repealing these regulations by a direct final rulemaking. The Administrative Procedure Act, 5 U.S.C. 551–59, *et seq.* (APA), supports direct final rulemaking, which is a streamlined technique for Federal agencies to enact noncontroversial regulations more quickly, without the usual notice and comment period. This process enables us to reduce the time and resources we need to develop, review, clear, and publish a final rule while still affording the public an opportunity to comment on or object to the rule.

In a direct final rulemaking, we notify you the rule will become final on a specified future date unless we receive significant adverse comment during the comment period. If we receive significant adverse comment on an amendment, paragraph, or section of this rule, and that provision may be addressed from the remainder of the rule, we will withdraw that amendment, paragraph, or section and adopt as final those provisions of the rule that are not the subject of a significant adverse comment. In such a case, we would then tell you how we expect to continue with further rulemaking on the provisions that were the subject of significant adverse comment.

A significant adverse comment is one where a commenter explains why the rule would be inappropriate (including challenges to its underlying premise or approach), ineffective, or unacceptable without a change. In general, a significant adverse comment would raise an issue serious enough to warrant a substantive response from the agency in a notice-and-comment rulemaking.

Direct final rulemaking is justified under section 553(b)(B) of the APA. Section 553(b)(B) is the APA's ''good cause'' exemption that allows an agency to omit notice and comment on a rule when it finds ''that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.'' In direct final rulemaking, the agency finds the rule is straightforward and noncontroversial to make normal notice and comment unnecessary under the APA. However, rather than eliminating public comment altogether, which is permissible under section 553(b)(B), the agency gives the public an opportunity to rebut the agency's conclusion that public input on the rule is unnecessary.

We believe that a direct final rulemaking is the proper method for repealing or revising these regulations that place unnecessary regulatory burden on FCS institutions. For these reasons, we do not anticipate significant adverse comment on this rule. If we receive no significant adverse comment, we will publish our regular notice of the effective date of the rule following the required Congressional waiting period under section 5.17(c)(1) of the Act.

List of Subjects

12 CFR Part 612

Agriculture, Banks, banking, Conflict of interests, Rural areas.

12 CFR Part 614

Agriculture, Banks, banking, Flood insurance, Foreign trade, Reporting and recordkeeping requirements, Rural areas.

12 CFR Part 618

Agriculture, Archives and records, Banks, banking, Insurance, Reporting and recordkeeping requirements, Rural areas, Technical assistance.

For the reasons stated in the preamble, the Farm Credit Administration amends parts 612, 614, and 618 of chapter VI, title 12 of the Code of Federal Regulations as follows:

PART 612—STANDARDS OF CONDUCT

1. The authority citation for part 612 continues to read as follows:

Authority: Secs. 5.9, 5.17, 5.19 of the Farm Credit Act (12 U.S.C. 2243, 2252, 2254).

2. Amend § 612.2165 by adding the following sentence to the end of paragraph (b)(7):

§ 612.2165 Policies and procedures.

* * * * *

(b) * * *

(7) * * * Farm Credit institutions must use open competitive bidding whenever they sell surplus property above a stated value (as established by the board) to their employees.

* * * * *

PART 614—LOAN POLICIES AND OPERATIONS

3. The authority citation for part 614 continues to read as follows:

Authority: 42 U.S.C. 4012a, 4104a, 4104b, 4106, and 4128; secs. 1.3, 1.5, 1.6, 1.7, 1.9, 1.10, 1.11, 2.0, 2.2, 2.3, 2.4, 2.10, 2.12, 2.13, 2.15, 3.0, 3.1, 3.3, 3.7, 3.8, 3.10, 3.20, 3.28, 4.12, 4.12A, 4.13, 4.13B, 4.14, 4.14A, 4.14C,

4.14D, 4.14E, 4.18, 4.18A, 4.19, 4.25, 4.26, 4.27, 4.28, 4.36, 4.37, 5.9, 5.10, 5.17, 7.0, 7.2, 7.6, 7.8, 7.12, 7.13, 8.0, 8.5 of the Farm Credit Act (12 U.S.C. 2011, 2013, 2014, 2015, 2017, 2018, 2019, 2071, 2073, 2074, 2075, 2091, 2093, 2094, 2097, 2121, 2122, 2124, 2128, 2129, 2131, 2141, 2149, 2183, 2184, 2199, 2201, 2202, 2202a, 2202c, 2202d, 2202e, 2206, 2206a, 2207, 2211, 2212, 2213, 2214, 2219a, 2219b, 2243, 2244, 2252, 2279a, 2279a–2, 2279b, 2279c–1, 2279f, 2279f–1, 2279aa, 2279aa–5); sec. 413 of Pub. L. 100–233, 101 Stat. 1568, 1639.

Subpart A—Lending Authorities

§ 614.4000 [Amended]

4. Remove § 614.4000(e)(4).

5. Amend § 614.4010 by removing paragraph (f)(4) and revising paragraph (f)(1) to read as follows:

§ 614.4010 Agricultural credit banks.

* * * * * *

(f) * * *

(1) Subject to subpart H of this part, agricultural credit banks may sell interests in real estate mortgage loans identified in paragraph (a) of this section to Farm Credit System institutions authorized to purchase such interests, other lenders, and certified agricultural mortgage marketing facilities for the Federal Agricultural Mortgage Corporation. Agricultural credit banks may also sell interests in the types of loans listed in paragraph (d) of this section to other Farm Credit System institutions that are authorized to purchase such interests.

* * * * *

§ 614.4030 [Amended]

6. Remove § 614.4030(c)(4).

§ 614.4040 [Amended]

7. Remove § 614.4040(c)(4).

§ 614.4050 [Amended]

8. Remove § 614.4050(d)(4).

9. Revise subpart M to read as follows:

Subpart M—Loan Approval Requirements

§ 614.4460 Approval of loans to affiliated parties.

(a) With approval of your board, your bank or association may lend to the following parties in accordance with part 612 of this chapter and the policies of your board of directors:

(1) Farm Credit Administration employees permitted to borrow from your institution under 5 CFR 4101.104;

(2) Farm Credit System Insurance Corporation employees permitted to borrow from your institution under 5 CFR 4001.104;

(3) Your directors and employees;

(4) The directors or employees of another bank or association under a joint management agreement with your institution;

(5) The directors or employees of your funding bank if you are an association;

(6) A cooperative or other legal entity if any of its directors, partners, or employees are also members of your board of directors; and

(7) Other borrowers if any of the parties identified in this section are:

(i) Recipients of the loan proceeds;

(ii) Stockholders or other equity owners of the borrower and they have a significant interest in the loan funds or collateral; or

(iii) Endorsers, guarantors or comakers on the credit.

(b) Your bank or association must document all material facts about the credit relationship with any of these parties and make the documentation available, on request, to our Office of Examination and to the funding bank.

Subpart Q—Banks for Cooperatives and Agricultural Credit Banks Financing International Trade

§ 614.4720 [Amended]

10. Remove § 614.4720(g).

PART 618—GENERAL PROVISIONS

11. The authority citation for part 618 continues to read as follows:

Authority: Secs. 1.5, 1.11, 1.12, 2.2, 2.4, 2.5, 2.12, 3.1, 3.7, 4.12, 4.13A, 4.25, 4.29, 5.9, 5.10, 5.17 of the Farm Credit Act (12 U.S.C. 2013, 2019, 2020, 2073, 2075, 2076, 2093, 2122, 2128, 2183, 2200, 2211, 2218, 2243, 2244, 2252).

Subpart F—Miscellaneous Provisions

§§ 618.8210–618.8270 [Removed and Reserved]

12. Remove and reserve subpart F, consisting of §§ 618.8210 through 618.8270.

Subpart G—Releasing Information

§ 618.8320 [Amended]

13. Amend § 618.8320 as follows:

a. Remove paragraph (b)(7); and

b. Redesignate paragraphs (b)(8), (b)(9) and (b)(10) as paragraphs (b)(7), (b)(8), and (b)(9).

14. Revise § 618.8330 to read as follows:

§ 618.8330 Production of documents and testimony during litigation.

(a) If your bank or association is a party to litigation with a borrower or a successor in interest, you or your directors, officers, or employees may disclose confidential information about that borrower or the successor in interest during the litigation.

(b) If the Government or your bank or association is not a party to litigation, you or your directors, officers, or employees may produce confidential documents or testimony only if a court of competent jurisdiction issues a lawful order signed by a judge.

Dated: August 2, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–20323 Filed 8–6–99; 8:45 am]

BILLING CODE 6705–01–P

FARM CREDIT ADMINISTRATION

12 CFR Parts 614, 616, 618 and 621

RIN 3052–AB63

Loan Policies and Operations; Leasing; General Provisions; Accounting and Reporting Requirements; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under parts 614, 616, 618 and 621 on June 28, 1999 (64 FR 34514). This final rule clarifies existing regulations and provides Farm Credit System institutions with more regulatory guidance about leasing activities. The rule reflects comments received from two public comment periods. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is August 6, 1999.

EFFECTIVE DATE: The regulation amending 12 CFR parts 614, 616, 618 and 621 published on June 28, 1999 (64 FR 34514) is effective August 6, 1999.

FOR FURTHER INFORMATION CONTACT:

John J. Hays, Policy Analyst, Office of Policy Analysis, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;

or

James M. Morris, Senior Counsel, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a)(9) and (10))

Dated: August 3, 1999.

Vivian L. Portis,

Secretary, Farm Credit Administration Board.

[FR Doc. 99–20427 Filed 8–6–99; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–17–AD; Amendment 39–11242; AD 99–16–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A310 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A310 series airplanes, that requires repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, and replacement of any discrepant support brackets with new brackets. This amendment also requires replacement of the fairing seals with new, improved seals; modification of the fairing panels; and installation of new bulkheads; which constitutes terminating action for the repetitive inspections. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent reduced structural integrity of the fairing support brackets, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane.

DATES: Effective September 13, 1999.

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

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A310 series airplanes was published in the **Federal Register** on April 28, 1999 (64 FR 22816). That action proposed to require repetitive inspections to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, and replacement of any discrepant support brackets with new brackets. That action also proposed to require replacement of the fairing seals with new, improved seals; modification of the fairing panels; and installation of new bulkheads; which would constitute terminating action for the repetitive inspections.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. 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

The FAA estimates that 47 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspection required by this AD on U.S. operators is estimated to be $5,640, or $120 per airplane, per inspection cycle.

It will take approximately 6 work hours per airplane to accomplish the required replacement, modification, and installation, at an average labor rate of $60 per work hour. Required parts will cost approximately $1,690 per airplane. Based on these figures, the cost impact of the replacement, modification and installation required by this AD on U.S. operators is estimated to be $96,350, or $2,050 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–16–07 Airbus Industrie: Amendment 39–11242. Docket 99–NM–17–AD.

Applicability: Model A310–200 series airplanes, on which Airbus Modification 4800 or 4906 has been accomplished; and Model A310–300 series airplanes on which Airbus Modification 11758 has not been accomplished; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD.

The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent reduced structural integrity of the support brackets of the upper wing-to-fuselage fairing, which could result in loss of the wing-to-fuselage fairings during flight, and consequent structural damage to the airplane, accomplish the following:

Initial/Repetitive Inspections

(a) Prior to the accumulation of 5,000 total flight hours or within 1,200 flight hours after the effective date of this AD, whichever occurs later: Perform a detailed visual inspection to detect cracked or broken support brackets of the upper wing-to-fuselage fairings, in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the detailed visual inspection thereafter at intervals not to exceed 2,500 flight hours.

Corrective Action

(b) If any discrepancy is detected during any inspection required by paragraph (a) of this AD, prior to further flight, replace the discrepant support bracket with a new bracket in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997. Repeat the inspection required by paragraph (a) of this AD thereafter at intervals not to exceed 2,500 flight hours.

Terminating Action

(c) Within 2 years after the effective date of this AD, accomplish the requirements of paragraphs (c)(1) and (c)(2) of this AD.

(1) Perform the initial inspection required by paragraph (a) of this AD in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997.

(2) Replace the fairing seals with new, improved seals; modify the fairing panels; and install new bulkheads; in accordance with Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 1998. Accomplishment of these actions constitutes terminating action for the repetitive inspection requirements of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(f) The actions shall be done in accordance with Airbus Service Bulletin A310–53–2078, Revision 1, dated March 24, 1997, and Airbus Service Bulletin A310–53–2083, Revision 02, dated May 5, 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 Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in French airworthiness directives 97–175–228(B) R1 and 98–450–261(B), both dated November 18, 1998.

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

Issued in Renton, Washington, on July 28, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20061 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–180–AD; Amendment 39–11243; AD 99–16–08]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 747–400 series airplanes. This action requires repetitive inspections of the doubler on the upper rudder pedal cover to determine whether it is securely bonded to the upper rudder pedal cover, and corrective action, if necessary. For airplanes on which the doubler is securely attached to the upper rudder pedal cover, this AD also provides for installation of two rivets to retain the doubler, as an optional terminating action for the repetitive inspections. This amendment is prompted by reports that a disbonded doubler interfered with rudder pedal movement. The actions specified in this AD are intended to detect and correct disbonding of the doubler on the upper rudder pedal cover, which could result in restricted rudder pedal movement and reduced controllability of the airplane.

DATES: Effective August 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–180–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: R.C. Jones, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1118; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that a disbonded doubler on the upper rudder pedal cover interfered with the rudder pedal arm. The loose doubler restricted rudder pedal travel to about one-third of the normal limits. The doubler disbonding may have been caused by a manufacturing problem. This condition, if not corrected, could result in restricted rudder pedal movement and reduced controllability of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999, which describes procedures for repetitive inspections of the doubler on the upper rudder pedal cover to determine

whether it is securely bonded to the upper rudder pedal cover. If the doubler is securely attached to the upper rudder pedal cover, the alert service bulletin recommends performing repetitive inspections every 500 flight hours until 2 rivets are installed in the doubler, which provides secondary retention for the doubler and eliminates the need for the repetitive inspections. For airplanes where the doubler is not securely attached to the upper rudder pedal cover, the alert service bulletin recommends removal of the doubler from the upper rudder pedal cover, and corrective action within 10 operating days. One method of corrective action is to repair by bonding a new or serviceable doubler to the upper rudder pedal cover, and installing 2 rivets in the doubler, which eliminates the need for the recommended actions of the alert service bulletin. Another method of corrective action is to replace the upper rudder cover assembly with a modified upper rudder cover assembly that has 2 rivets installed in the doubler on the upper rudder pedal cover. Installation of the modified upper rudder cover assembly eliminates the need for the recommended actions of the alert service bulletin. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct disbonding of the doubler on the upper rudder pedal cover, which could result in restricted rudder pedal movement and reduced controllability of the airplane. This AD requires repetitive inspections of the doubler on the upper rudder pedal cover to determine whether it is securely bonded to the upper rudder pedal cover, and corrective action, if necessary. For airplanes on which the doubler is securely attached to the upper rudder pedal cover, this AD also provides for installation of two rivets to retain the doubler as an optional terminating action for the repetitive inspections. The actions are required to be accomplished in accordance with the alert service bulletin described previously, except as discussed below.

Differences Between This AD and Alert Service Bulletin

Operators should note that the alert service bulletin recommends installation of rivets in the doubler on the upper rudder pedal cover within 5,000 flight hours; however, that action is considered optional in this AD. The FAA is considering further rulemaking action to require installation of rivets in the doubler on the upper rudder pedal cover. However, the planned compliance time to require installation of the rivets is sufficiently long so that prior notice and time for public comment will be practicable.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–180–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–16–08 Boeing: Amendment 39–11243. Docket 99–NM–180–AD.

Applicability: Model 747–400 series airplanes, as listed in Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or

repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To detect and correct disbonding of the doubler on the upper rudder pedal cover, which could result in restricted rudder pedal movement and reduced controllability of the airplane, accomplish the following:

Inspection

(a) Within 500 flight hours after the effective date of this AD, perform an inspection of the doubler on the upper rudder pedal cover to determine whether the doubler is securely attached to the upper rudder pedal cover, in accordance with Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999. If the doubler is securely attached to the upper rudder pedal cover, repeat the inspection at intervals not to exceed 500 flight hours.

Corrective Action

(b) If the doubler is not securely attached to the upper rudder pedal cover during the inspections specified by paragraph (a) of this AD, prior to further flight, remove the doubler from the upper rudder pedal cover in accordance with Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999. Within 10 operating days after removal of the doubler, accomplish the requirements of paragraph (b)(1) or (b)(2) of this AD, in accordance with the alert service bulletin.

Note 2: Operation of the airplane is allowed for a period of 10 operating days with the doubler removed from the upper rudder pedal cover.

(1) Repair by bonding the doubler to the upper rudder pedal cover and installing 2 rivets in the doubler. This constitutes terminating action for the requirements of this AD.

(2) Replace the upper rudder pedal cover assembly with a modified upper rudder pedal cover assembly having part number 253U3401–15 through -18, as applicable. Such replacement constitutes terminating action for the requirements of this AD.

Spares

(c) As of the effective date of this AD, no person shall install an upper rudder pedal cover assembly having part number 253U3401–7, 253U3401–10, 253U3401–11 or 253U3401–13.

Optional Terminating Action

(d) Installation of 2 rivets in the doubler on the upper rudder pedal cover in accordance with Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999, constitutes terminating action for the repetitive inspections of paragraph (a) of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Incorporation by Reference

(g) The inspections and repairs shall be done in accordance with Boeing Alert Service Bulletin 747–27A2378, dated July 15, 1999. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

(h) This amendment becomes effective on August 24, 1999.

Issued in Renton, Washington, on July 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20060 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–61–AD; Amendment 39–11245; AD 99–16–10]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747–400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747–400 series airplanes. This action requires repetitive inspections of the E–42 satellite communications (SATCOM) rack and fuselage (supporting) structure to detect fatigue cracking of the area surrounding the fastener holes, and to detect broken or missing fasteners; and corrective actions, if necessary. This amendment is prompted by reports indicating that fatigue cracking and broken and/or missing fasteners were found on the E–42 SATCOM equipment rack structure that attaches to the fuselage structure. The actions specified in this AD are intended to detect and repair fatigue cracking of the E–42 SATCOM rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane.

DATES: Effective August 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–61–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Flight Structures Inc., 4407 172nd Street NE, Arlington, Washington 98223. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Jon Mowery, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5322; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION: The FAA has received reports indicating that cracking and broken and/or missing fasteners were found on the E–42 SATCOM equipment rack structure that attaches to the fuselage structure on several Boeing Model 747–300 and –400 series airplanes. Investigation revealed that one of the four stanchions (i.e., a

supporting prop or brace) was found completely broken on two airplanes (one that had accumulated 23,693 total flight hours and the other with 24,752 total flight hours). Further investigation revealed that the rigid joints of the supporting structure of the E–42 SATCOM rack, coupled with environmental vibration of the airplane, may have caused the cracking to initiate in the area surrounding the fastener holes (located at the rigid joints) of the supporting structure of the E–42 SATCOM rack. The FAA also has received a report indicating that cracking has been detected on four freighter airplanes; one of the airplanes had accumulated less than 1,500 total flight hours.

On all airplanes, the E–42 SATCOM rack hangs above the main deck ceiling. On freighter airplanes and ''combi'' airplanes (i.e., configurations with provisions for passenger seating and cargo on the main deck), the E–42 SATCOM rack is located near rudder and elevator control cables, and the SATCOM wires run above the rudder and elevator control cables.

On all airplanes, failure of the rack and its supporting structure could result in loss of support for the E–42 SATCOM equipment, which could lead to chafing and arcing of the electrical wires and loss of SATCOM capabilities. Such failure also could result in the following unsafe conditions:

- On passenger-only airplanes, the E–42 SATCOM equipment could break through the ceiling, which could result in injury to passengers.
- On freighter and ''combi'' airplanes, the E–42 SATCOM equipment could fall and cause the SATCOM wires to pull and possibly break the rudder and/or elevator control cables, which could result in reduced controllability of the airplane. Failure of the SATCOM rack on ''combi'' airplanes carrying passengers also could result in injury to the passengers.

Related Rulemaking

On June 22, 1999, the FAA issued AD 99–14–04, amendment 39–11212 (64 FR 34707, June 29, 1999), applicable to certain Boeing Model 747–300 and –400 series airplanes, that requires repetitive inspections of the E–42 SATCOM rack and fuselage (supporting) structure to detect cracking in the area surrounding the fastener holes, and to detect broken and missing fasteners; and corrective actions, if necessary.

Explanation of Relevant Service Information

The FAA has reviewed and approved Flight Structures Alert Service Bulletins 92FS024–53–A1, 92FS082–53–A1, and 94FS409–53–A2, all dated March 2, 1999, and 94FS448–53–A1, dated February 12, 1999. These alert service bulletins describe, among other things, procedures for a one-time close visual inspection of the E–42 SATCOM rack and fuselage (supporting) structure to detect fatigue cracking of the area surrounding the fastener holes, and to detect broken or missing fasteners.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and repair fatigue cracking of the E–42 SATCOM rack and its supporting structure due to environmental vibration of the airplane. Such fatigue cracking could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane. This AD requires repetitive inspections of the E–42 SATCOM rack and fuselage (supporting) structure to detect fatigue cracking of the area surrounding the fastener holes, and to detect broken or missing fasteners; and corrective actions, if necessary. The actions are required to be accomplished in accordance with the applicable alert service bulletin described previously, except as discussed below. This AD also would require reporting the findings of the initial inspection to the FAA.

Differences Between AD and Service Information

While the alert service bulletins do not specify that the inspection of the E–42 SATCOM rack and fuselage (supporting) structure be repeated, this AD would require repetitive inspections of the E–42 SATCOM rack and fuselage (supporting) structure, even if fatigue cracking has been detected and repaired. As stated previously, the rigid joints of the SATCOM rack coupled with environmental vibration of the airplane could cause fatigue cracking to initiate in the area surrounding fastener holes. Furthermore, an isolated repair of an area and/or replacement of any fastener does not remove the unsafe condition for the entire E–42 SATCOM rack and fuselage (supporting) structure. In light of these factors, the FAA has determined that repetitive inspection at intervals not exceeding 3,000 flight hours, is warranted, and that it represents an appropriate means of addressing the unsafe condition while allowing affected airplanes to continue to operate without comprising safety.

Operators should note that, although the alert service bulletins specify repair instructions for certain conditions and recommend that the manufacturer of the SATCOM rack be contacted for disposition of certain other conditions, this AD will require the repair of those conditions to be accomplished in accordance with a method approved by the FAA.

Explanation of Compliance Time

This AD would require compliance in terms of the number of days after the effective date of this AD, whereas the alert service bulletins (previously described) recommend compliance based on the number of flight hours, as specified below:

- For airplanes identified in the alert service bulletin as Group 1: Within 500 flight hours from receipt of alert service bulletin, or 12,000 flight hours since the E–42 SATCOM rack was installed and populated with equipment.
- For airplanes identified in the alert service bulletin as Group 2: Within 1,000 flight hours from receipt of alert service bulletin, or 20,000 flight hours since the E–42 SATCOM rack was installed and populated with equipment.

This AD would require that the initial inspection be performed at the applicable time, as specified below:

- For airplanes identified in the alert service bulletin as Group 1: Within 30 days after the effective date of this AD.
- For airplanes identified in the alert service bulletin as Group 2: Within 90 days after the effective date of this AD.

The FAA finds that, in view of a recent report indicating that cracking has been detected on an airplane that had accumulated less than 1,500 total flight hours, and because of the safety implications and consequences associated with such cracking, the initial compliance time specified in this AD is appropriate.

Interim Action

This is considered to be interim action. The manufacturer has advised that it currently is developing a modification that will positively address the unsafe condition addressed by this AD. Once this modification is developed, approved, and available, the FAA may consider additional rulemaking.

Cost Impact

None of the Model 747–400 series airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they

are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 3 work hours to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $180 per airplane, per inspection cycle.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register.**

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–61–AD.'' The postcard will be date stamped and returned to the commenter.

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:

99–16–10 Boeing: Amendment 39–11245. Docket 99–NM–61–AD.

Applicability: Model 747–400 series airplanes as listed in Flight Structures Alert Service Bulletins 92FS082–53–A1, 92FS024–53–A1, and 94FS409–53–A2, all dated March 2, 1999, and 94FS448–53–A1, dated February 12, 1999; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and repair fatigue cracking of the E–42 satellite communications (SATCOM) rack and its supporting structure, which could result in the SATCOM equipment falling from the rack, loss of SATCOM capabilities, injury to passengers, and reduced controllability of the airplane, accomplish the following:

Initial and Repetitive Inspections

(a) Perform a detailed visual inspection of the E–42 SATCOM rack and fuselage (supporting) structure to detect fatigue cracking of the area surrounding the fastener holes, and to detect broken or missing fasteners, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable; in accordance with Flight Structures Alert Service Bulletin 92FS082–53–A1, 92FS024–53–A1, or 94FS409–53–A2, all dated March 2, 1999; or 94FS448–53–A1, dated February 12, 1999, as applicable. Thereafter, repeat the inspection at intervals not to exceed 3,000 flight hours.

(1) For all airplanes identified as Group 1 in the applicable alert service bulletin: Inspect within 30 days after the effective date of this AD.

(2) For all airplanes identified as Group 2 in the applicable alert service bulletin: Inspect within 90 days after the effective date of this AD.

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 Actions

(b) If any fatigue cracking is found, or if any fastener is broken or missing during any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Thereafter, repeat the inspection required by paragraph (a) of this AD, at intervals not to exceed 3,000 flight hours.

Reporting Requirements

(c) Submit a report of the initial inspection findings (positive and negative) to the

Manager, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5322; fax (562) 627–5210; at the applicable time specified in paragraph (c)(1) or (c)(2) of the AD, as applicable. The report must include the initial inspection results, a description of any discrepancy found, the airplane serial number, number of landings, and flight hours on the airplane, and, when possible, sketches and photographs of the inspected area. Information collection requirements contained in this regulation have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2120–0056.

(1) For airplanes on which the initial inspection is accomplished after the effective date of this AD: Submit the report within 10 days after performing the inspection required by paragraph (a) of this AD.

(2) For airplanes on which the initial inspection has been accomplished prior to the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

Alternative Methods of Compliance

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

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

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished, provided that all the equipment is removed from the E–42 SATCOM rack.

Incorporation by Reference

(f) The inspections shall be done in accordance with Flight Structures Alert Service Bulletin 92FS082–53–A1, dated March 2, 1999; Flight Structures Alert Service Bulletin 92FS024–53–A1, dated March 2, 1999; Flight Structures Alert Service Bulletin 94FS409–53–A2, dated March 2, 1999; or Flight Structures Alert Service Bulletin 94FS448–53–A1, dated February 12, 1999, 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 Flight Structures Inc., 4407 172nd Street NE, Arlington, Washington 98223. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, California 90712–4137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on August 24, 1999.

Issued in Renton, Washington, on July 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20059 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–188–AD; Amendment 39–11246; AD 99–16–11]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–600, –700, and –800 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Boeing Model 737–600, –700, and –800 series airplanes. This action requires a test of the squib circuit ground studs of the engine fire extinguisher bottles to measure the resistance, and repair or replacement of the ground stud with a new ground stud, if necessary. This amendment is prompted by reports of improper grounding of the squib circuit. Such a condition would prevent the engine fire extinguisher bottle from discharging when commanded, which could result in the inability to extinguish an engine fire.

DATES: Effective August 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–188–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Bernie Gonzalez, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2682; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: The FAA has received a report indicating that the flight crew of a Boeing Model 737–800 series airplane pulled the engine fire handle in response to an elevated exhaust gas temperature indication on the right engine. Maintenance personnel found the fire handle turned to the right, indicating that the flight crew had attempted to discharge the right engine fire extinguisher bottle. Flight crew reports state that the pilot did not intend to discharge the bottle. It is not known if the fire handle was held in position long enough to discharge the bottle; however, ground resistance measurements revealed an open circuit from the right bottle squib and the ground stud to structure. Subsequent investigation determined that the open circuit was caused by an improperly installed ground stud during production. The engine fire extinguisher bottle installations on certain Model 737–600 and –700 series airplanes are identical to those installed on the affected Model 737–800 series airplanes. Since the initial event, the FAA has received reports indicating that approximately 25 percent of the squib ground studs installed on these Model 737–600, –700, and –800 series airplanes have improper grounding of the squib circuit. Such a condition would prevent the engine fire extinguisher bottle from discharging when commanded, which could result in the inability to extinguish an engine fire.

Explanation of Relevant Service Information

The FAA has reviewed Boeing Telex M–7200–99–01098, dated February 5, 1999, which describes procedures for a test of the squib circuit ground studs of the engine fire extinguisher bottles to measure the resistance, and repair or replacement of the ground stud with a new ground stud, if necessary. Accomplishment of the actions specified in the telex is intended to adequately address the identified unsafe condition.

Explanation of the Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design, this AD is being issued to detect and correct improper grounding of the squib circuit. Such a condition would prevent the engine fire extinguisher bottle from discharging when commanded, which could result in inability to extinguish an engine fire. This AD requires accomplishment of the actions specified in the telex described previously, except as discussed below.

Differences Between This AD and the Telex

The telex recommends accomplishing the test at the earliest opportunity where manpower and facilities are available, not to exceed two weeks from February 5, 1999, and specifies that operators should report the findings of the test to the airplane manufacturer. In developing an appropriate compliance time for this AD, the FAA considered not only the manufacturer's recommendation, but the degree of urgency associated with addressing the subject unsafe condition, the extent of the problem in the fleet based on findings from operators' reports, and the time necessary to perform the test (less than one hour). In light of all of these factors, the FAA finds a 90-day compliance time for initiating the required actions to be warranted, in that it represents an appropriate interval of time allowable for affected airplanes to continue to operate without compromising safety. Operators should also note that this AD does not require reporting of test findings.

Operators should note that, although the telex only describes procedures for replacement of the squib circuit ground stud with a new squib circuit ground stud, the airplane manufacturer has advised the FAA that replacement with a standard built-up ground stud (nut and bolt type) is an acceptable alternative to replacement with a squib circuit ground stud. Therefore, the FAA has included the option of replacing the squib circuit ground stud with a standard built-up ground stud as an acceptable method of compliance with the requirements of this AD.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–188–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–16–11 Boeing: Amendment 39–11246. Docket 99–NM–188–AD.

Applicability: Model 737–600, –700, and –800 series airplanes; line numbers 1 through 110 inclusive, 112 through 183 inclusive, 185, 186, 188, 189, 191, 193, and 195; 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 improper grounding of the squib circuit, which would prevent the engine fire extinguisher bottle from discharging when commanded and could result in inability to extinguish an engine fire, accomplish the following:

Test

(a) Within 90 days after the effective date of this AD, perform a test of the squib circuit ground studs of the engine fire extinguisher bottles to measure the resistance, in accordance with Boeing Telex M–7200–99–01098, dated February 5, 1999.

Repair/Replacement

(b) If the resistance is greater than 0.5 milliohms, prior to further flight, repair in accordance with Boeing Telex M–7200–99–01098, dated February 5, 1999; or replace the ground stud with a new ground stud, in accordance with either paragraph (b)(1) or (b)(2) of this AD.

(1) Install a ground stud having Boeing part number BACS53B, in accordance with Boeing Telex M–7200–99–01098, dated February 5, 1999; or

(2) Install a standard built-up ground stud (nut and bolt type), in accordance with Subject 20–20–00 of Boeing Document No. D6–54446, ''Standard Wiring Practices Manual.''

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, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

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

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

Special Flight Permits

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

Incorporation by Reference

(e) Except as provided by paragraph (b)(2) of this AD, the actions shall be done in accordance with Boeing Telex M–7200–99–01098, dated February 5, 1999. 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. 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.

(f) This amendment becomes effective on August 24, 1999.

Issued in Renton, Washington, on July 29, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20058 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–52–AD; Amendment 39–11244; AD 99–16–09]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada Model 230 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Bell Helicopter Textron Canada (BHTC) Model 230 helicopters. This action requires verifying the torque on the vertical fin attachment bolts (bolts); inspecting the vertical fin and tailboom fittings for cracks, elongation of bolt holes, distortion and corrosion; and re-verifying the torque on the bolts after inspecting the fittings. This amendment is prompted by a report of a loose vertical fin, which was discovered during a post-flight inspection. The actions specified in this AD are intended to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and loss of control of the helicopter.

DATES: Effective August 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the **Federal Register** as of August 24, 1999.

Comments for inclusion in the Rules Docket must be received on or before October 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Regional Counsel, Southwest Region, Attention: Rules Docket No. 98–SW–52–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD 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, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5158, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: Transport Canada, which is the airworthiness authority for Canada, recently notified the FAA that an unsafe condition may exist on BHTC Model 230 helicopters. Transport Canada advises that, in one instance, loss of torque on the bolts resulted in the fracture of four of the eight bolts and a loose vertical fin on a Model 230 helicopter.

BHTC has issued Bell Helicopter Textron Alert Service Bulletin No. 230–98–14, Revision A, dated June 9, 1998 (ASB), which specifies a bolt torque check within 25 hours after receipt of the ASB; removal, inspection, and installation of the vertical fin at the next scheduled 150-hour inspection after receipt of the ASB; and verifying the bolt torque within 5 to 10 hours after each fin removal and installation, and at every 150 hours of operation. BHTC also issued Bell Helicopter Textron Technical Bulletin No. 230–98–23, Revision A, dated July 1, 1998, which specifies a modification of the vertical fin attachment fitting and tail boom fitting to permit installation of increased diameter fin attachment hardware. Transport Canada classified these service bulletins as mandatory and issued AD CF–98–22, dated August 7, 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 section 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 the 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 230 helicopters of the same type design registered in the United States, this AD is being issued to prevent loss of torque of the bolts, which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter. This AD requires verifying the torque on the bolts; inspecting the vertical fin and tail boom fittings for cracks, elongation of bolt holes, distortion and corrosion; and re-verifying the torque on the bolts after inspecting the fittings. The bolt torque must also be verified at specified intervals after accomplishing the initial inspections. The actions are required to be accomplished in accordance with the bulletins described previously. The short compliance time involved is required because the previously described critical unsafe condition can adversely affect the structural integrity of the helicopter. Therefore, verifying the torque is required within 25 hours time-in-service, and this AD must be issued immediately.

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

Cost Impact

The FAA estimates that 17 helicopters will be affected by this AD, that it will take approximately 8 work hours to accomplish the initial torque verifications and vertical fin inspection, 1 work hour to accomplish repetitive torque verification and that the average labor rate is $60 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators for the initial inspection and 1 recurring inspection is estimated to be $9,180, assuming no helicopters require modification due to elongated bolt holes.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 98–SW–52–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

AD 99–16–09 Bell Helicopter Textron Canada: Amendment 39–11244. Docket No. 98–SW–52–AD.

Applicability: Model 230 helicopters, serial numbers 23001 through 23038, 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 (e) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of torque of the vertical fin attachment bolts (bolts), which could lead to fracture of the bolts, separation of the vertical fin from the helicopter, and subsequent loss of control of the helicopter accomplish the following:

(a) Within 25 hours time-in-service (TIS), verify the torque on the bolts in accordance with Part I of the Accomplishment Instructions of Bell Helicopter Textron Alert Service Bulletin No. 230–98–14, Revision A, dated June 9, 1998 (ASB).

(b) On or before the next 150 hour TIS inspection, inspect the vertical fin fitting and tail boom fitting for cracks, elongated bolt holes, distortion, and corrosion in accordance with Part II of the Accomplishment Instructions in the ASB. If elongation of a bolt hole is detected, incorporate the modifications specified in Bell Helicopter Textron Technical Bulletin No. 230–98–23, Revision A, dated July 1, 1998.

(c) After the inspection required by paragraph (b) and after at least 5 hours TIS but within 10 hours TIS, re-verify the torque on the bolts in accordance with Part III, Special Inspections, Step 1 of the Accomplishment Instructions in the ASB.

(d) Thereafter, at intervals not to exceed 150 hours TIS, verify the torque of the vertical fin attachment bolts in accordance with the 150 flight hour scheduled inspections, Part III, of the Accomplishment Instructions in the ASB.

(e) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an 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.

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

(g) The inspections shall be done in accordance with Bell Helicopter Textron Alert Service Bulletin No. 230–98–14, Revision A, dated June 9, 1998 and Bell Helicopter Textron Technical Bulletin No. 230–98–23, Revision A, dated July 1, 1998. These incorporations by reference were 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 Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the **Federal Register**, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment becomes effective on August 24, 1999.

Note 3: The subject of this AD is addressed in Transport Canada (Canada) AD CF–98–22, dated August 7, 1998.

Issued in Fort Worth, Texas, on July 28, 1999.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–20057 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–CE–123–AD; Amendment 39–11247; AD 99–16–12]

RIN 2120–AA64

Airworthiness Directives; Raytheon Aircraft Company Model Beech 1900D Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to certain Raytheon Aircraft Company (Raytheon) Model Beech 1900D airplanes that are equipped with the electric elevator trim option. This AD requires installing electric elevator trim servo covers. This AD is the result of reports of the affected airplanes leaving the factory without electric elevator trim servo covers installed. If the covers are not installed, moisture could freeze on parts of the electric actuator. The actions specified by this AD are intended to prevent failure of the electric elevator trim and difficulty operating the manual elevator trim caused by moisture freezing on parts of the electric actuator installation, which would result in the pilot having to apply constant pressure to the control wheel during flight.

DATES: Effective September 27, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 27, 1999.

ADDRESSES: Service information that applies to this AD may be obtained from the Raytheon Aircraft Company, PO Box 85, Wichita, Kansas 67201–0085; telephone: (800) 625–7043 or (316) 676–4556. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 98–CE–123–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Todd Dixon, Aerospace Engineer, Wichita Aircraft Certification Office, FAA, 1801 Airport Road, Mid-Continent Airport, Wichita, Kansas 67209; telephone: (316) 946–4152; facsimile: (316) 946–4407.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to certain Raytheon Model Beech 1900D airplanes that are equipped with the electric elevator trim option was published in the **Federal Register** as a notice of proposed rulemaking (NPRM) on March 3, 1999 (64 FR 10237). The NPRM proposed to require installing electric elevator trim servo covers. Accomplishment of the proposed action as specified in the NPRM would be required in accordance with the instructions to Raytheon Kit No. 129–5035–1, as referenced in Raytheon Mandatory Service Bulletin SB 27–3080, Issued: October, 1998, and Raytheon Mandatory Service Bulletin SB 27–3080, Revision 1, Issued: December, 1998.

The NPRM was the result of reports of the affected airplanes leaving the factory without electric elevator trim servo covers installed. If the covers are not installed, moisture could freeze on parts of the electric actuator.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

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

Cost Impact

The FAA estimates that 205 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 5 workhours per airplane to accomplish the installation, and that the average labor rate is approximately $60 an hour. Raytheon will provide parts free of charge under warranty credit. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to $61,500.

Raytheon will also give warranty credit for labor until October 31, 1999.

Regulatory Impact

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or

on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, 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 a new airworthiness directive (AD) to read as follows:

99–16–12 Raytheon Aircraft Company (Type Certificate No. A24CE formerly held by the Beech Aircraft Corporation): Amendment 39–11247; Docket No. 98–CE–123–AD.

Applicability: Model Beech 1900D airplanes, serial numbers UE–1 through UE–246, certificated in any category, that incorporate the electric elevator trim option.

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 within the next 600 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent failure of the electric elevator trim and difficulty operating the manual elevator trim caused by moisture freezing on parts of the electric actuator installation, which would result in the pilot having to apply constant pressure to the control wheel during flight, accomplish the following:

(a) Install electric elevator trim servo covers in accordance with the instructions in Kit No. 129–5035–1, as referenced in Raytheon Mandatory Service Bulletin SB 27–3080, Issued: October, 1998, and Raytheon Mandatory Service Bulletin SB 27–3080, Revision 1, Issued: December, 1998.

Note 2: The compliance time of this AD takes precedence over the compliance time specified in Raytheon Mandatory Service Bulletin SB 27–3080, Revision 1, Issued: December, 1998.

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

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Wichita Aircraft Certification Office (ACO), 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209. The request shall be forwarded through an appropriate FAA 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.

(d) The installation required by this AD shall be done in accordance with the instructions in Kit No. 129–5035–1, as referenced in Raytheon Mandatory Service Bulletin SB 27–3080, Issued: October, 1998, and Raytheon Mandatory Service Bulletin SB 27–3080, Revision 1, Issued: December, 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 the Raytheon Aircraft Corporation, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW, suite 700, Washington, DC.

(e) This amendment becomes effective on September 27, 1999.

Issued in Kansas City, Missouri, on July 29, 1999.

Marvin R. Nuss,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20056 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–189–AD, Amendment 39–11249, AD 99–16–14]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300, A310, and A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to all Airbus Model A300, A310, and A300–600 series airplanes. This action requires a one-time inspection of the autopilot systems for proper engagement to determine if the main electro valve electrical connectors of the yaw, roll, and pitch autopilot actuators are correctly installed; and corrective actions, if necessary. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified in this AD are intended to prevent erratic movements of the ailerons, elevator, and/or rudder that are commanded by discrepant autopilot actuators, which could result in reduced controllability of the airplane.

DATES: Effective August 24, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of August 24, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 8, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–189–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in this AD may be obtained from Airbus Industrie, Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

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

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on all Airbus Model A300, A310, and A300–600 series airplanes. One operator of an Airbus Model A300–600 reported high rudder forces and uncommanded rudder inputs during final approach. The uncommanded rudder inputs caused deflections of the rudder control surface resulting in yawing of the airplane. Investigation of the incident is ongoing, but preliminary results indicate that failure of both the main valve and the clutch valve of the autopilot yaw actuator can lead to the actuator generating uncommanded rudder deflections. The DGAC advises that the same autopilot actuator is used for roll and pitch control during autopilot operation, and this failure scenario can result in uncommanded deflections of the aileron and elevator control surfaces.

Preliminary results of the investigation of the incident airplane's autopilot yaw actuator indicate that the electrical connectors between the actuator's two main valves and the airplane's two flight control computers (FCC) were crossed between side 1 and side 2. This hidden failure in combination with a failure of the clutch valve resulted in the autopilot yaw actuator remaining engaged when the crew disconnected the autopilot, allowing the actuator to remain hydraulically pressurized and provide inputs to the rudder and the rudder pedals.

This condition, if not corrected, could result in uncommanded deflections of the ailerons, elevator, and/or rudder, which could result in reduced controllability of the airplane.

Explanation of Relevant Service Information

Airbus Industrie has issued All Operator Telexes (AOT) A300–22A0114 (for Model A300 series airplanes), A310–22A2050 (for Model A310 series airplanes), and A300–600–22A6039 (for Model A300–600 series airplanes); each dated May 27, 1999. These AOT's describe procedures for a one-time inspection of the autopilot systems for proper engagement to determine if the main electro valve electrical connectors of the yaw, roll, and pitch autopilot actuators are correctly installed. If autopilot systems 1 and 2 cannot be engaged, then the AOT's describe a visual inspection of the main electro valve electrical connectors of all autopilot actuators to determine whether any electrical connection is incorrectly installed; and corrective action by restoring the correct installation, if necessary. The DGAC classified these AOT's as mandatory and issued French airworthiness directive 1999–268–292(B), dated June 30, 1999; in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

These airplane models are manufactured in France and are type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent erratic movements of the ailerons, elevator, and/or rudder commanded by discrepant autopilot actuators, which could result in reduced controllability of the airplane. This AD requires accomplishment of the actions specified in the AOT's described previously.

Determination of Rule's Effective Date

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–189–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and that it is not a ''significant

regulatory action'' under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

99–16–14 **Airbus Industrie:** Amendment 39–11249. Docket 99–NM–189–AD.

Applicability: All Model A300, A310, and A300–600 series airplanes; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent erratic movements of the ailerons, elevator, and/or rudder that are commanded by discrepant autopilot actuators, which could result in reduced controllability of the airplane, accomplish the following:

Inspection

(a) Within 10 days after the effective date of this AD, perform a one-time inspection of the auto pilot systems for proper engagement to determine if the main electro valve electrical connectors of the yaw, roll, and pitch autopilot actuators are correctly installed, in accordance with the procedure specified in paragraph 4.2 of Airbus Industrie All Operators Telex (AOT) A300–22A0114 (for Model A300 series airplanes), A310–22A2050 (for Model A310 series airplanes), or A300–600–22A6039 (for Model A300–600 series airplanes); each dated May 27, 1999; as applicable. If autopilot systems 1 and 2 cannot be engaged: Prior to further flight, perform a detailed inspection of the main electro valve electrical connectors of the yaw, roll, and pitch autopilot actuators for proper installation, and correct any discrepancy; in accordance with paragraph 4.2 of the applicable AOT.

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.''

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

Note 3: 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

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

Incorporation by Reference

(d) The actions shall be done in accordance with Airbus All Operators Telex A300–22A0114, dated May 27, 1999; Airbus All Operators Telex A310–22A2050, dated May 27, 1999; and Airbus All Operators Telex A300–600–22A6039, dated May 27, 1999; 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 Airbus Industrie, Customer Services Directorate, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 4: The subject of this AD is addressed in French airworthiness directive 1999–288–292(B) dated June 30, 1999.

(e) This amendment becomes effective on August 24, 1999.

Issued in Renton, Washington, on July 30, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20325 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–27]

Amendment to Class E Airspace; Hebron, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Hebron Municipal Airport, Hebron, NE. The FAA has developed Global Positioning System (GPS) Runway (RWY) 12 and GPS RWY 30 Standard Instrument Approach Procedures (SIAPs) to serve Hebron Municipal Airport, NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 12 and GPS RWY 30 SIAPs in controlled airspace.

In addition a minor revision to the Airport Reference Point (ARP) is included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing the GPS RWY 12 and GPS RWY 30 SIAPs, amend the ARP, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation

Administration, Docket Number 99–ACE–27, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 12 and GPS RWY 30 SIAPs to serve the Hebron Municipal Airport, Hebron, NE. The amendment to Class E airspace at Hebron, NE, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. An amendment to the ARP is included in this document. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the adddress specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–27.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 varous levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1958–1963 Comp., p. 389.

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Hebron, NE [Revised]

Hebron Municipal Airport, NE
(Lat. 40°09′08″ N., long. 97°35′13″ W.)
Hebron NDB
(Lat. 40°09′01″ N., long. 97°35′16″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Hebron Municipal Airport and within 2.6 miles each side of the 315° bearing from the Hebron NDB extending from the 6.3-mile radius to 7.4 miles northwest of the airport.

* * * * *

Issued in Kansas City, MO, on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20421 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–29]

Amendment to Class E Airspace; Wayne, NE

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Wayne Municipal Airport, Wayne, NE. The FAA has developed Global Positioning System (GPS) Runway (RWY) 17 and GPS RWY 35 Standard Instrument Approach Procedures (SIAPs) to serve Wayne Municipal Airport, NE. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 17 and GPS RWY 35 SIAPs in controlled airspace.

In addition, a minor revision to the Airport Reference Point (ARP) and revised coordinates for the Wayne Nondirectional Radio Beacon (NDB) are included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 17 and GPS RWY 35 SIAPs, revise the ARP and NDB coordinates, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 15, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–29, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 17 and GPS RWY 35 SIAPs to serve the Wayne Municipal Airport, Wayne, NE. The amendment to Class E airspace at Wayne, NE, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules.

The amendment at Wayne Municipal Airport, NE, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–29.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and

unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE NE E5 Wayne, NE [Revised]

Wayne Municipal Airport, NE
(Lat. 42°14′31″N., long 96°58′53″W.)
Wayne NDB
(Lat. 42°14′10″N., long 96°59′09″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Wayne Municipal Airport and within 2.6 miles each side of the 047° bearing from the Wayne NDB extending from the 6.5-mile radius to 7.4 miles northeast of the airport.

* * * * *

Issued in Kansas City, MO, on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20420 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–17]

Amendment to Class E Airspace; Clarinda, IA

AGENCY: Federal Aviation Administration, DOT.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: This document confirms the effective date of a direct final rule which revises Class E at Clarinda, IA.

DATES: The direct final rule published at 64 FR 19266 was effective on 0901 UTC, July 15, 1999.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA published this direct final rule with a request for comments in the **Federal Register** on April 20, 1999 (64 FR 19266). Due to an administrative error the Direct final rule; confirmation of effective date was not published in the **Federal Register** prior to the effective date of July 15, 1999. The FAA uses the direct final rulemaking procedure for a non-controversial rule where the FAA believes that there will be no adverse public comment. This direct final rule advised the public that no adverse comments were anticipated, and that unless a written adverse comment, or a written notice of intent to submit such an adverse comment, were received within the comment period, the regulation would become effective on July 15, 1999. No adverse comments were received, and thus this notice confirms that this direct final rule became effective on that date.

Issued in Kansas City, MO on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20419 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–31]

Amendment to Class E Airspace; Jefferson, IA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Jefferson Municipal Airport, Jefferson, IA. The FAA has developed Global Positioning System (GPS) Runway (RWY) 14, GPS RWY 32 and Nondirectional Radio Beacon (NDB) RWY 32, Standard Instrument Approach Procedures (SIAPs) to serve Jefferson Municipal Airport, IA. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 14, GPS RWY 32, and NDB RWY 32 SIAPs in controlled airspace.

In addition, a minor revision to the Airport Reference Point (ARP) and revised coordinates for the Jefferson NDB are included in this document.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 14, GPS RWY 32, and NDB RWY 32 SIAPs, revised the ARP, revise the NDB coordinates, and to segregate aircraft using instrument approach procedures in instrument conditions from Aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 16, 1999.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–31, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division,

Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 14, GPS RWY 32, and NDB RWY 32 SIAPs to serve the Jefferson Municipal Airport, Jefferson, IA. The amendment to Class E airspace at Jefferson, IA, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules.

The amendment at Jefferson Municipal Airport, IA, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–31.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) not a ''significant rule'' under Department of Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE IA E5 Jefferson, IA [Revised]

Jefferson Municipal Airport, IA
(Lat. 42°00′37″N., long. 94°20′33″W.)
Jefferson NDB
(Lat. 42°00′49″N., long. 94°20′34″W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Jefferson Municipal Airport and within 1.3 miles each side of the 152° bearing from the Jefferson NDB extending from the 6.3-mile radius to 7 miles southeast of the airport.

* * * * *

Issued in Kansas City, MO, on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20418 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–32]

Amendment to Class E Airspace; Smith Center, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Smith Center Municipal Airport, Smith Center, KS. The FAA has developed Global Positioning system (GPS) Runway (RWY) 17, GPS RWY 35 and VOR Omnidirectional Range/Distance Measuring Equipment (VOR/DME) or GPS–A Standard Instrument Approach Procedures (SIAPs) to serve Smith Center Municipal Airport, KS. Additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) is needed to accommodate these SIAPs and for Instrument Flight Rules (IFR) operations at this airport. The enlarged area will contain the new GPS RWY 17, GPS RWY 35, and VOR/DME or GPS–A SIAPs in controlled airspace.

The intended effect of this rule is to provide controlled Class E airspace for aircraft executing GPS RWY 17, GPS RWSY 35, and VOR/DME or GPS–A SIAPs, and to segregate aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual conditions.

DATES: This direct final rule is effective on 0901 UTC, November 4, 1999.

Comments for inclusion in the Rules Docket must be received on or before September 16, 1999.

ADDRESSES: send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 99–ACE–32, 601 East 12th Street, Kansas City, MO 64106.

The official docket may be examined in the Office of the Regional Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed GPS RWY 17, GPS RWY 35, and VOR/DME or GPS–A SIAPs to serve the Smith Center Municipal Airport, Smith Center, KS. The amendment to Class E airspace at Smith Center, KS, will provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under Instrument Flight Rules. The amendment at Smith Center Municipal Airport, KS, will provide additional controlled airspace for aircraft operating under IFR. The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending upward from 700 feet or more above the surface of the earth are published in pargraph 6005 of FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register,** and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the closing date for comments will be considered, and this rule may be amended or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 99–ACE–32.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 preparpation of a Federalism Assessment.

The FAA has determined that this regulation is noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of

Transportation (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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends 14 CFR part 71 as follows:

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

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

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

§ 71.1 [Amended]

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

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Smith Center, KS [Revised]

Smith Center Municipal Airport, KS
(Lat. 39°45′40″N., 98°47′36″W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of Smith Center Municipal Airport.

* * * * *

Issued in Kansas City, MO, on July 27, 1999.

Donovan D. Schardt,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 99–20417 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–ACE–14]

RIN 2120–AA66

Modification of VOR Federal Airways, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action modifies the legal descriptions of eight Very High Frequency Omnidirectional Range (VOR) Federal airways: V–10, V–12, V–13, V–61, V–116, V–159, V–502, and V–508. This action also removes V–65 because the modification to V–13 is a more expedient route, therefore, V–65 is no longer required. The FAA is taking these actions due to the relocation of the Kansas City Very High Frequency Omnidirectional Range/Tactical Air Navigation (VORTAC), from its current location to the Kansas City International Airport, MO.

DATES: Effective 0901 UTC, September 9, 1999.

Comment date: Comments for inclusion in the Rules Docket must be received on or before September 8, 1999.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Air Traffic Division, ACE–500, Docket No. 99–ACE–14, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

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

SUPPLEMENTARY INFORMATION:

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and therefore is issuing it as a direct final rule. Since previous rulemaking actions similar to this one have not been controversial, the FAA does not anticipate any adverse comments on this case. Therefore, unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES**. All communications received on or before the specified closing date for comments will be considered, and this rule may be amended or withdrawn in light of comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report that summarizes each FAA-public contact concerned with the substance of this action will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following

statement is made: ''Comments to Airspace Docket No. 99–ACE–14.'' The postcard will be date stamped and returned to the commenter.

The Rule

This amendment to 14 CFR part 71 modifies the legal descriptions of eight VOR Federal airways: V–10, V–12, V–13, V–61, V–116, V–159, V–502, and V–508. This action also removes V–65 because the modification to V–13 is a more expedient route, therefore, V–65 is no longer required. The FAA is taking these actions due to the relocation of the Kansas City VORTAC from its current location to the Kansas City International Airport, approximately seven miles west.

Domestic VOR Federal Airways are published in paragraph 6010(a) of the FAA Order 7400.9F, dated September 10, 1998, and effective September 16, 1998, which is incorporated by reference in 14 CFR 71.1. The airways listed in this document will be published subsequently in the Order.

Agency Findings

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

The FAA has determined that this regulation is not controversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this 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 rule, when 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.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Amendment

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

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

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

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

§ 71.1 [Amended]

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

Paragraph 6010(a)—Domestic VOR Federal Airways

* * * * *

V–10 [Revised]

From Pueblo, CO; 18 miles, 48 miles, 60 MSL, Lamar, CO; Garden City, KS; Dodge City, KS; Hutchinson, KS; Emporia, KS; Johnson County, KS; Napoleon, MO; KIrksville, MO; Burlington, IA; Bradford, IL; INT Bradford 058° and Joliet, IL, 287° radials. From INT Chicago Heights, IL, 358° and Gipper, MI, 271° radials; Gipper; Ltichfield, MI; INT Litchfield 101° and Carleton, MI, 262° radials; Carleton; INT Jefferson, OH, 279° and Youngstown, OH, 320° radials; Youngstown; INT Youngstown 116° and Revloc, PA, 300° radials; Revloc; INT Revloc; INT Revloc 107° and Lancaster, PA, 280° radials; Lancaster. The airspace within Canada is excluded.

* * * * *

* * * * *

V–12 [Revised]

From Gaviota, CA, via San Marcus, CA; Palmdale, CA; 38 miles, 6 miles wide, Hector, CA; 12 miles, 38 miles, 85 MSL, 14 miles, 75 MSL, Needles, CA; 45 miles, 34 miles, 95 MSL, Drake, AZ; Winslow, AZ; 30 miles 85 MSL, Zuni, NM; Albuquerque, NM; Otto, NM; Anton Chico, NM; Tucumcari, NM; Amarillo, TX; Gage, OK; Anthony, KS; Wichita, KS; Emporia, KS; Johnson County, KS; Napoleon, MO; INT Napoleon 095° and Columbia, MO, 292° radials; Columbia; Foristell, MO; Troy, IL; Bible Grove, IL; Shelbyville, IN; Richmond, IN; Dayton, OH; Appleton, OH, Newcomerstown, OH; Allegheny, PA; Johnstown, PA; Harrisburg, PA; INT Harrisburg 092° and Pottstown, PA, 278° radials; to Pottstown.

V–13 [Revised]

From McAllen, TX, via Harlingen, TX; INT Harlingen 033° and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 039° and Palacios, TX, 241° radials; Palacios; Humble, TX; Lufkin, TX; Belcher, LA; Texarkana, AR; Rich Mountain, OK; Fort Smith, AR; INT Fort Smith 006° and Razorback, AR, 190° radials; Razorback; Neosho, MO; Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; Farmington, MN; INT Farmington 017° and Siren, WI, 218° radials; Siren; Duluth, MN; to Thunder Bay, ON, Canada. The airspace outside the United States is excluded.

* * * * *

V–61 [Revised]

From Grand Island, NE; Pawnee City, NE; Robinson, KS; to INT Robinson 141° and St. Joseph, MO, 211° radials.

* * * * *

V–65 [Removed]

* * * * *

V–116 [Revised]

From INT Kansas City, MO, 077° and Napoleon, MO 005° radials, via Macon, MO; Quincy, IL; Peoria, IL; Pontiac, IL; Joliet, IL. From INT Chicago O'Hare, IL, 092° and Chicago Heights, IL, 013° radials; INT Chicago O'Hare 092° and Keeler, MI, 256° radials; Keeler; Kalamazoo, MI; INT Kalamazoo 089° and Jackson, MI, 265° radials; Mackson; INT Jackson 089° and Salem MI, 252° radials; Salem; Windsor, ON, Canada; INT Windsor 092° and Erie, PA, 281° radials; Erie; Bradford, PA; Stonyfork, PA; INT Stonyfork 098° and Wilkes-Barre, PA, 310° radials; Wilkes-Barre; INT Wilkes-Barre 084° and Sparta, NJ, 300° radials; to Sparta. The airspace within Canada is excluded.

* * * * *

V–159 [Revised]

From Virginia Key, FL: INT Virginia Key 344° and Vero Beach, FL, 178° rdials; Vero Beach; INT Vero Beach 318° and Orlando, FL, 140° radials; Orlando; Ocala, FL; Cross City, FL; Greenville, FL; Pecan, GA; Eufaula, AL; Tuskegee, AL; Valcan, AL; Hamilton, AL; Holly Springs, MS; Gilmore, AR; Walnut Ridge, AR; Dogwood, MO; Springfield, MO; Napoleon, MO; INT Napoleon 005° and St. Joseph, MO, 122° radials; St. Joseph; Omaha, NE; Sioux City, IA; Yankton, SD; Mitchell, SD; to Huron, SD.

* * * * *

V–502 [Revised]

From Dodge City, KS; INT Dodge City 060° and Hutchinson, KS, 296° radials; Hutchinson; Emporia, KS; Kansas City, MO; Braymer, MO; to Kirksville, MO.

* * * * *

V–508 [Revised]

From Hill City, KS; Hays, KS; Salina, KS, INT Salina 082° and Manhattan, KS, 207° radials; Manhattan; INT Manhattan 078° and Topeka, KS, 293° radials; Topeka; INT Topeka 112° and Johnson County, KS, 298° radials; to Johnson County.

* * * * *

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

Reginald C. Matthews,

Acting Program Director for Air Traffic Airspace Management.

[FR Doc. 99–20394 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

COMMODITY FUTURES TRADING COMMISSION

17 CFR Parts 10 and 12

Rules of Practice and Reparation Rules; Final Rules; Corrections

AGENCY: Commodity Futures Trading Commission.

ACTION: Final Rules; technical corrections.

SUMMARY: On October 19, 1998, the Commodity Futures Trading Commission (''Commission'') published in the **Federal Register** (63 FR 55784) final regulations amending its rules of practice (''Rules''), 17 CFR part 10 (1998), which govern most adjudicatory proceedings brought under the Commodity Exchange Act, as amended (''Act''), other than reparations proceedings. The Commission has determined to make certain technical corrections to the rules to clarify its delegation of authority and to eliminate an obsolete retroactivity provision.

In addition, the Commission has determined to make a technical correction to its Reparation Rules, 17 CFR part 12 (1994), to clarify its delegation of authority.

EFFECTIVE DATE: August 2, 1999.

FOR FURTHER INFORMATION CONTACT: Susan Nathan, Assistant General Counsel, Office of General Counsel, (202) 418–5120.

SUPPLEMENTARY INFORMATION: The Commission recently has undertaken a reexamination of its part 10 and part 12 rules and has identified those rules that require amendment to effect technical or conforming changes.

I. Rules Being Amended

The following Commission rules are being amended.

A. 17 CFR 10.109

Commission Rule 10.109 delegates certain authority to the Chief of the Opinions Section. As adopted, the rule authorizes the Chief or a person under his direction to handle particular procedural and technical matters and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer an ''Opinions Section.'' Consequently, references in Rule 10.109 to ''the Chief of the Opinions Section'' have been changed to ''the General Counsel.''

The current Rules became applicable to all proceedings pending as of August 20, 1985. Since there are no matters pending before the Commission which date back to August 20, 1985, that provision is unnecessary and is being deleted.

B. 17 CFR 12.408

Commission Rule 12.408 delegates certain authority to the Deputy General Counsel for Opinions. As adopted, the rule authorizes the Deputy General Counsel for Opinions or a person under his direction designated by him to perform specific procedural and technical functions and, in his discretion, to submit any matters otherwise falling within the terms of this rule to the Commission for its consideration. There is no longer a Deputy General Counsel for Opinions. Consequently, references in Rule 12.408 to ''the Deputy General Counsel for Opinions'' have been changed to ''the General Counsel.''

C. Administrative Procedure Act

The Commission has determined that the Administrative Procedure Act, 5 U.S.C. 553, does not require notice of proposed rulemaking and an opportunity for public participation in connection with these corrections. In this regard, the Commission notes that such notice and opportunity for comment is unnecessary because these technical corrections are related solely to agency organization, procedure and practice and make technical corrections. Accordingly, the Commission finds good cause to make these corrections effective August 2, 1999, 5 U.S.C. 553(b)(B), 553(d)(3).

In consideration of the foregoing, and pursuant to the authority contained in the Commodity Exchange Act and, in particular, sections 2(a)(4) and 2(a)(11), the Commission corrects Chapter I of Title 17 of the Code of Federal Regulations as follows:

List of Subjects

17 CFR Part 10

Administrative practice and procedure, Commodity exchanges, Commodity futures, Rules of practice before administrative agency.

17 CFR Part 12

Administrative practice and procedure, Commodity exchanges, Commodity futures, Reparations.

PART 10—RULES OF PRACTICE

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

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

2. Section 10.109 is amended by revising the introductory text, paragraph (a)(2)(ii) and (b) and by removing paragraph (d) to read as follows:

§ 10.109 Delegation of authority to the General Counsel.

The Commodity Futures Trading Commission hereby delegates, until such time as it orders otherwise, the following function to the General Counsel, to be performed by him or by such person or persons under his direction as he may designate from time to time:

(a) * * *

(2) * * *

(ii) Where, in his judgment, clarification or supplementation of the initial decision or other order disposing of the entire proceeding prior to Commission review is appropriate; however, the General Counsel or his designee may not direct that the record be reopened;

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which the General Counsel or his designee believes it appropriate, he may submit the matter to the Commission for its consideration;

* * * * *

PART 12—RULES RELATING TO REPARATION PROCEEDINGS

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

Authority: 7 U.S.C. 4a(j), 12a(5), and 18.

2. Section 12.408 is amended by revising the introductory text and paragraph (b) to read as follows:

§ 12.408 Delegation of authority to the General Counsel.

Pursuant to the authority granted under section 2(a)(4) and 2(a)(11) of the Commodity Exchange Act, as amended, 7 U.S.C. 4a(c) and 4a(j), the Commission hereby delegates, until such time as it orders otherwise, the following functions to the General Counsel, to be performed by him or such person or persons under his direction as he may designate from time to time:

* * * * *

(b) Notwithstanding the provisions of paragraph (a) of this section, in any case in which he believes it appropriate, the General Counsel or his designee may

submit the matter to the Commission for its consideration.

* * * * *

Issued in Washington, DC this 2nd day of August, 1999, by the Commodity Futures Trading Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 99–20275 Filed 8–6–99; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 91F–0228]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucrose Acetate Isobutyrate; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a final rule that appeared in the **Federal Register** of June 4, 1999 (64 FR 29949). The document amended the food additive regulations to provide for the safe use of sucrose acetate isobutyrate (SAIB) as a stabilizer of emulsions of flavoring oils used in nonalcoholic beverages. The document was published with an error. This document corrects that error.

EFFECTIVE DATE: June 4, 1999.

FOR FURTHER INFORMATION CONTACT: Blondell Anderson, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3106.

In FR Doc. 99–14147, appearing on page 29949 in the **Federal Register** of Friday, June 4, 1999, the following correction is made:

§ 172.833 [Corrected]

On page 29958, in the second column, in § 172.833 *Sucrose acetate isobutyrate*, in paragraph (c), in the second line, the citation ''§ 170.3(o)(8)'' is corrected to read ''§ 170.3(o)(28)''.

Dated: August 3, 1999

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation

[FR Doc. 99–20366 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 8834]

RIN 1545–AU22 and 1545–AX30

Treatment of Distributions to Foreign Persons Under Sections 367(e)(1) and 367(e)(2)

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

SUMMARY: This document amends the Income Tax Regulations by removing temporary regulations on the treatment of distributions to foreign persons under section 367(e) of the Internal Revenue Code and adding final regulations under section 367(e). These final regulations are necessary to implement section 367(e)(1) and (2), as added to the Internal Revenue Code by the Tax Reform Act of 1986, which affects U.S. corporations.

DATES: These regulations are effective August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Guy A. Bracuti, 202–622–3860 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information in this final rule has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned control number 1545–1487.

The collections of information in this regulation are in §§ 1.367(e)–1(d)(2), 1.367(e)–1(d)(3), 1.367(e)–2(b)(2), and 1.6038B–1(e). This information is required to obtain certain exemptions from taxation and to satisfy other information reporting requirements imposed by the Internal Revenue Code (Code). This information will be used by the Internal Revenue Service to verify whether a taxpayer is entitled to an exemption from income tax. The likely respondents are large corporations.

Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by October 8, 1999.

Comments are specifically requested concerning: Whether the collections of information are necessary for the proper performance of the functions of the IRS, including whether the information will have practical utility; The accuracy of the estimated burden associated with the collection of information (see below); How the quality, utility, and clarity of the information to be collected may be enhanced; How the burden of complying with the collections of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. The estimated total annual reporting and/or recordkeeping burden is 2,471 hours. The estimated average annual burden hours per respondent and/or recordkeeper is 11 hours. The estimated number of respondents and/or recordkeepers is 217. The estimated annual frequency of responses is once.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

Section 367(e)(1) amended the Code by providing regulatory authority to tax gain on a domestic distributing corporation's section 355 distribution of stock or securities to foreign persons. Section 367(e)(2) amended the Code by requiring a liquidating corporation to recognize gain (or loss) attributable to property distributed in a section 332 liquidation to a foreign parent corporation, except to the extent regulations provide otherwise.

On January 16, 1990, temporary regulations under section 367(e)(1) and (2) were published in the **Federal Register** (55 FR 1406 (TD 8280, 1990–1 C.B. 80)). A cross-referenced Notice of Proposed Rulemaking was published on that same date under RIN 1545–AL35 (55 FR 1472 (1990–1 C.B. 678)). The temporary regulations were proposed and issued to implement section 367(e) of the Internal Revenue Code of 1986 (Code), as amended by sections 631(d)(1) and 1810(g) of the Tax Reform Act of 1986 (100 Stat. 2085, 2272, Public

Law 99–514 (1986–3 C.B.)). On January 25, 1993, final regulations under section 367(e)(1) were published in the **Federal Register** (58 FR 5927 (TD 8472, 1993–1 C.B. 51)). RIN 1545–AL35 was thereby closed. The preamble of TD 8472 stated that final regulations under section 367(e)(2) would be promulgated in a separate Treasury decision and that taxpayers could apply the provisions contained in § 1.367(e)–2T to distributions occurring on or after January 16, 1993, and prior to the date that is 30 days after final regulations under section 367(e)(2) are published in the **Federal Register**. The final regulations under section 367(e)(1) were removed and replaced with temporary regulations that were published in the **Federal Register** on August 14, 1996 (61 FR 42165 (TD 8682, 1996–2 C.B. 12)). A cross-referenced Notice of Proposed Rulemaking was published on August 14, 1996 under RIN 1545–AU22 (61 FR 42217). A new RIN (RIN 1545–AX30) has been issued under which the section 367(e)(2) proposed regulations will be finalized.

No significant comments were received with respect to the 1996 Notice of Proposed Rulemaking with respect to section 367(e)(1). Comments were received with respect to the 1990 Notice of Proposed Rulemaking with respect to sections 367(e)(1) and 367(e)(2). No hearings were held on either Notice of Proposed Rulemaking.

Explanation of Revisions and Summary of Comments

I. Overview

These final regulations address the tax consequences of a distribution by a domestic corporation of its subsidiary's stock to foreign shareholders in a transaction described in section 355 (outbound section 355 distribution), a liquidation of a domestic corporation into a foreign parent corporation in a transaction described in section 332 (outbound liquidation), and a liquidation of a foreign corporation into a foreign parent corporation in a transaction described in section 332 (foreign-to-foreign liquidation).

Section 367(e) grants the Secretary authority to provide the extent to which a distributing corporation in an outbound section 355 distribution or liquidation or foreign-to-foreign liquidation may obtain the benefit of nonrecognition treatment when it makes the distribution to a foreign shareholder. The purpose of section 367 is to prevent the inappropriate avoidance of U.S. tax that can arise from the application of nonrecognition provisions in the cross-border context.

A. Outbound Section 355 Distributions

Section 367(e)(1) provides that a distribution under section 355 (or so much of section 356 as relates to section 355) by a U.S. corporation to its foreign shareholders is accorded nonrecognition treatment except to the extent provided in regulations. Section 1.367(e)–1 provides the circumstances under which such a distribution is taxable.

The legislative history to section 367(e)(1) provides that ''transfers of stock by domestic corporations to foreign persons pursuant to Code section 355 * * * will give rise to the recognition of gain under Code section 367(e), to the extent provided in regulations. The committee expects that the Secretary will carefully consider the extent to which it is appropriate, in view of the purpose of section 367(e), to require the recognition of gain upon the transfer of the stock of a domestic corporation to foreign persons under section 355.'' H.R. Rep. 426, 99th Cong., 1st Sess. 931 (1985); S. Rep. 313, 99th Cong., 2nd Sess. 950 (1986).

The temporary regulations under section 367(e)(1) provide a general rule that a domestic distributing corporation is taxed on a distribution of controlled stock to foreign shareholders, regardless of whether the controlled corporation is a domestic corporation or a foreign corporation. Several exceptions are provided in the current temporary regulations in the case of an outbound distribution of stock of a domestic controlled corporation.

Consistent with the legislative history above and the temporary regulations, the final regulations continue to provide that an outbound section 355 distribution of a foreign controlled corporation is taxable to the distributing corporation. See also sections 367(b) and 1248(f) of the Code. In the case of an outbound section 355 distribution of a domestic controlled corporation, however, the final regulations amend the temporary regulations by providing that the distributing corporation shall obtain the benefit of nonrecognition treatment. In weighing the administrative burdens to taxpayers and the Government in connection with rules requiring gain recognition agreements and similar arrangements, the IRS and Treasury believe that adequate protections are in place to protect the policies of section 367(e)(1). Specifically, significant protections are provided in sections 355(d) and (e) and the device and continuity of interest requirements of section 355.

B. Outbound and Foreign-to-Foreign Liquidations

Generally, a liquidating corporation does not recognize gain or loss on a distribution in complete liquidation into a parent corporation that meets the ownership requirements of section 332(b). See Section 337(a) of the Code. Section 367(e)(2) provides that a section 332 liquidation into a foreign parent is taxed to the liquidating corporation, except to the extent provided in regulations. Section 1.367(e)–2 provides the circumstances under which gain or loss on assets distributed in a section 332 liquidation into a foreign parent is not currently recognized.

Section 332 was enacted in 1935 to encourage the simplification of corporate structures and was retained in 1986 as an exception to the repeal of the *General Utilities* doctrine. Consistent with the policies of section 332, the final regulations generally tax the distribution of assets in an outbound liquidation but provide exceptions for assets over which the United States retains adequate taxing jurisdiction. The final regulations retain the exceptions in the proposed regulations for a distribution of assets used in the conduct of a U.S. trade or business and for a distribution of a U.S. real property interest (USRPI). In addition, the final regulations provide a new exception for a distribution of stock of a domestic subsidiary that is 80 percent owned by vote and value directly by the liquidating corporation.

In a foreign-to-foreign liquidation, the final regulations generally adopt the rules provided in the proposed regulations. Thus, the regulations generally provide that the liquidation is not taxable, except to the extent that assets used in a U.S. trade or business are distributed and not used in a U.S. trade or business over the subsequent ten-year period. The ten-year period (which is also used in the U.S. trade or business exception for outbound liquidations) supplements the principles contained in section 864(c)(7). The regulations also tax a distribution of assets that had formerly been used in the conduct of a U.S. trade or business by the liquidating corporation.

II. Details of Provisions

A. Outbound Section 355 Distributions

The final regulations amend the rule in the temporary regulations and do not require gain recognition on an outbound section 355 distribution of the stock or securities of a domestic corporation. The final regulations continue to require gain recognition on an outbound section

355 distribution of the stock or securities of a foreign corporation.

Where gain recognition is required, the final regulations amend the rules for determining the residency status of distributees of stock or securities in an outbound section 355 distribution. A distributee is presumed to be a person who is not a qualified U.S. person (i.e., a person that is not a U.S. citizen, resident, or corporation), except to the extent that the distributing corporation certifies that the distributee is a qualified U.S. person. A publicly traded distributing corporation may use a reasonable analysis with respect to distributees who are not five percent shareholders of publicly traded stock to demonstrate the number of distributees that are qualified U.S. persons. A reasonable analysis includes a determination of the actual number of distributees that are qualified U.S. persons or a reasonable statistical analysis of shareholder records and other relevant information. The final regulations also broaden the look-through rule in the temporary regulations for determining the identity of the distributees of stock or securities of a controlled corporation received by a partnership, trust or estate to include stock or securities received by a disregarded entity.

Section 1.367(e)–1 is applicable to distributions occurring in taxable years ending after August 8, 1999.

B. Outbound and Foreign-to-Foreign Liquidations

1. General Rule

The final regulations under section 367(e)(2) contain two sets of rules, depending upon whether the liquidating corporation is domestic or foreign. The final regulations retain the rules of the proposed regulations with respect to foreign-to-foreign liquidations with only minor modification.

In the case of an outbound liquidation, a domestic liquidating corporation is generally required to recognize gain (or loss) on the distributed assets. In determining the amount of gain or loss recognized under the general rule, the proposed regulations contain an anti-netting rule and an anti-stuffing rule that limit the domestic liquidating corporation's ability to recognize losses.

Several commentators criticized the anti-netting rule contained in the proposed regulations as overly broad because the rule prohibits the netting of ordinary losses against capital gains. The final regulations take this into account and allow the netting of ordinary or capital losses against ordinary or capital gains to the same extent allowed under general rules of the Code, including section 1211.

Commentators also questioned the propriety of the anti-stuffing rule in the proposed regulations and argued that the anti-stuffing rules contained in section 336(d) and the loss limitation rules of section 382 should sufficiently address loss trafficking concerns. The anti-stuffing rule contained in the proposed regulations disallows the recognition of losses attributable to property acquired in capital contributions, section 332 liquidations, and exchanges under sections 351 and 361 within five years of the distribution.

The IRS and Treasury do not believe that sections 336(d) and 382 alone adequately address the Government's loss trafficking concerns. For example, neither section 336(d) nor 382 would limit a liquidating corporation's ability to recognize a loss that is acquired in a reorganization among affiliates even though the loss could not have been recognized if those corporations were liquidated individually. The anti-stuffing rule in the proposed regulations also does not adequately protect against the use of losses to offset gains where the loss corporation acquires the gain property.

After considering the issue, the Treasury and the IRS have amended the anti-stuffing rule in the final regulations to limit the recognition of built-in gains and losses attributable to property received by the domestic liquidating corporation in a reorganization or liquidation occurring within two years prior to the distribution. Sections 336(d) and 382 also limit loss recognition in applicable circumstances.

Comments also requested clarification on the treatment of a distribution of an interest in a publicly traded partnership (PTP). The final regulations provide that an interest in a PTP that is treated as a corporation under section 7704(a) shall be treated in the same manner as stock.

The final regulations retain the look-through rule for a domestic liquidating corporation's distribution of a partnership interest to its foreign parent. The look-through rule provides that, for purposes of the regulation, a domestic liquidating corporation is treated as distributing its proportionate share of the partnership property. The Treasury and the IRS hereby request comments on the proper method of calculating such gain or loss and reserve a section in the final regulations with respect to this issue. Comments should consider the application of similar rules in other cross-border contexts, such as Treas. Reg. § 1.367(a)–1T(c)(3).

2. Exceptions to General Rule

The proposed regulations contain exceptions to the general gain recognition rule for the distribution of property used in a U.S. trade or business and the distribution of a USRPI. The final regulations retain the two exceptions with some modifications and add an additional exception for stock of a domestic subsidiary corporation.

Under the proposed regulations, a domestic liquidating corporation does not recognize gain (or loss) on the distribution of property used in a U.S. trade or business, if: (1) The foreign parent is not a controlled foreign corporation; (2) the foreign parent continues to use the property in a U.S. trade or business for a ten-year period following the distribution of such property; and (3) the domestic liquidating corporation and the foreign parent attach a statement to their U.S. income tax returns for the year of distribution. If within the ten-year period following a distribution, the property ceases to be used in the foreign parent's U.S. trade or business other than by a disposition, then the foreign parent is required to file an amended U.S. income tax return on behalf of the domestic liquidating corporation and recognize gain thereon. If the foreign parent disposes of such property, then the foreign parent recognizes gain (or loss) on its U.S. income tax return for the year of disposition in lieu of the domestic liquidating corporation recognizing gain on an amended return for the year of distribution. Also, under the proposed regulations, gain recognition is not triggered on involuntary conversions of such property under section 1033, like-kind exchanges of such property under section 1031, and the abandonment of obsolete or worthless property.

The final regulations modify the U.S. trade or business property exception in response to comments in several respects. First, the final regulations make the exception available to a domestic liquidating corporation that liquidates into a controlled foreign corporation. Second, the final regulations no longer require that the foreign parent file an amended return on behalf of the liquidating corporation when property ceases to be used in the conduct of a U.S. trade or business (whether by disposition or otherwise), provided that the foreign parent properly recognizes gain (or loss in the case of a disposition) as if the property had been sold for fair market value at the time the property ceases to be used in the conduct of a U.S. trade or business. Third, the final regulations

expand the types of dispositions that will not trigger gain recognition. U.S. trade or business property may be transferred to another person without gain recognition, if the transfer is a disposition normally entitled to nonrecognition under the Code and the transferor and transferee satisfy various procedural requirements.

The final regulations retain the exception for a distribution of a USRPI contained in the proposed regulation with only minor modification.

The final regulations add a new exception that allows for nonrecognition of gain on a distribution of stock of a domestic subsidiary that is 80 percent owned (by vote and value) directly by the domestic liquidating corporation, provided that the liquidation does not have as a principal purpose the avoidance of U.S. tax on a subsequent disposition of the domestic subsidiary.

3. General Anti-abuse Rule

The final regulations contain a new anti-abuse rule that allows the Commissioner to require the liquidating corporation to recognize gain (or treat the liquidating corporation as if it had recognized loss) on the distribution of property pursuant to the liquidation if a principal purpose of the liquidation is the avoidance of U.S. tax. The rule would apply, for example, if a principal purpose of a liquidation is the distribution of a domestic liquidating corporation's earnings and profits without a U.S. withholding tax. In certain circumstances, the Service is also concerned about a liquidation of a domestic corporation into a U.S. branch of a foreign corporation in a manner that facilitates the avoidance of U.S. tax, including the inappropriate use of attributes such as net operating losses. Liquidations used to facilitate the avoidance of tax may be challenged under existing law. The Treasury and the IRS hereby solicit comments, however, as to other measures that should be taken to adequately address such transactions, including the more specific identification of the conditions under which liquidated property, particularly securities and other financial instruments, may be considered to be used in a U.S. trade or business.

4. Effective Date

Section 1.367(e)–2 is applicable to distributions occurring 30 days after August 9, 1999 or, if a taxpayer elects, to distributions in taxable years ending after August 8, 1999. In addition, taxpayers may rely on the principles contained in the temporary regulations issued under section 367(e)(2) on January 16, 1990 for distributions occurring prior to 30 days after August 9, 1999.

C. Section 6038B

The regulations under section 6038B are also revised to require reporting for transactions described in section 367(e)(1) and (2) in accordance with the final regulations under section 367(e)(1) and (2).

Special Analyses

It has been determined that these regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It is hereby certified that the collections of information contained in this regulation will not have a significant economic impact on a substantial number of small entities. This certification is based upon the fact that the number of section 367(e) distributions that require reporting under these regulations is estimated to be only 400 per year. Moreover, because these regulations will primarily affect large multinational corporations, it is estimated that out of the 400 transactions very few, if any, will involve small entities. Thus, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on the impact of the proposed regulations on small business.

Drafting Information: The principal author of these regulations is Guy A. Bracuti of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects

26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

26 CFR Part 602

Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR parts 1 and 602 are amended as follows:

PART 1—INCOME TAXES

Paragraph 1. The authority citation for part 1 is amended by removing the entry for 1.367(e)–1T and by adding entries in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * * Section 1.367(e)–1 also issued under 26 U.S.C. 367(e)(1). Section 1.367(e)–2 also issued under 26 U.S.C. 367(e)(2). * * *

§ 1.367(e)–0T through § 1.367(e)–2T [Removed]

Par. 2. Sections 1.367(e)–0T, 1.367(e)–1T, and 1.367(e)–2T are removed.

Par. 3. Sections 1.367(e)–0, 1.367(e)–1, and 1.367(e)–2 are added to read as follows:

§ 1.367(e)–0 Outline of §§ 1.367(e)–1 and 1.367(e)–2.

This section lists captioned paragraphs contained in §§ 1.367(e)–1 and 1.367(e)–2 as follows:

§ 1.367(e)–1 Distributions described in section 367(e)(1).

(a) Purpose and scope.
(b) Gain recognition.
(1) General rule.
(2) Stock owned through partnerships, disregarded entities, trusts, and estates.
(3) Gain computation.
(4) Treatment of distributee.
(c) Nonrecognition of gain.
(d) Determining whether distributees are qualified U.S. persons.
(1) General rule—presumption of foreign status.
(2) Non-publicly traded distributing corporations.
(3) Publicly traded distributing corporations.
(i) Five percent shareholders.
(ii) Other distributees.
(4) Qualified exchange or other market.
(e) Reporting under section 6038B.
(f) Effective date.

§ 1.367(e)–2 Distributions described in section 367(e)(2).

(a) Purpose and scope.
(1) In general.
(2) Nonapplicability of section 367(a).
(b) Distribution by a domestic corporation.
(1) General rule.
(i) Recognition of gain and loss.
(ii) Operating rules.
(A) General rule.
(B) Overall loss limitation.
(*1*) Overall loss limitation rule.
(*2*) Example.
(C) Special rules for built-in gains and losses attributable to property received in liquidations and reorganizations.
(iii) Distribution of partnership interest.
(A) General rule.
(B) Gain or loss calculation. [Reserved]
(C) Basis adjustments.
(D) Publicly traded partnerships.
(2) Exceptions.
(i) Distribution of property used in a U.S. trade or business.
(A) Conditions for nonrecognition.
(B) Qualifying property.
(C) Required statement.
(*1*) Declaration and certification.
(*2*) Property description.

(*3*) Distributee identification.
(*4*) Treaty benefits waiver.
(*5*) Statute of limitations extension.
(D) Failure to file statement.
(E) Operating rules.
(*1*) Gain or loss recognition by the foreign distributee corporation.
(*i*) Taxable dispositions.
(*ii*) Other triggering events.
(*2*) Gain recognition by the domestic liquidating corporation.
(*i*) General rule.
(*ii*) Amended return.
(*iii*) Interest.
(*iv*) Joint and several liability.
(*3*) Schedule for property no longer used in a U.S. trade or business.
(*4*) Nontriggering events.
(*i*) Conversions, certain exchanges, and abandonment.
(*ii*) Amendment to Master Property Description
(*5*) Nontriggering transfers to qualified transferees.
(ii) Distribution of certain U.S. real property interests.
(iii) Distribution of stock of domestic subsidiary corporations.
(A) Conditions for nonrecognition.
(B) Exceptions when the liquidating corporation is a U.S. real property holding corporation.
(C) Anti-abuse rule.
(D) Required statement.
(3) Other consequences.
(i) Distributee basis in property.
(ii) Reporting under section 6038B.
(iii) Other rules.
(c) Distribution by a foreign corporation.
(1) General rule—gain and loss not recognized.
(2) Exceptions.
(i) Property used in a U.S. trade or business.
(A) General rule.
(B) Ten-year active U.S. business exception.
(C) Required statement.
(D) Operating rules.
(ii) Property formerly used in a U.S. trade or business.
(3) Other consequences.
(i) Distributee basis in property.
(ii) Other rules.
(d) Anti-abuse rule.
(e) Effective date.

§ 1.367(e)–1 Distributions described in section 367(e)(1).

(a) *Purpose and scope.* This section provides rules for recognition (and nonrecognition) of gain by a domestic corporation (distributing corporation) on a distribution of stock or securities of a corporation (controlled corporation) to foreign persons that is described in section 355. Paragraph (b) of this section contains the general rule that gain is recognized on the distribution to the extent stock or securities of controlled are distributed to foreign persons. Paragraph (c) of this section provides an exception to the gain recognition rule for distributions of stock or securities of a domestic corporation. Paragraph (d) of this section contains rules for determining whether distributees of stock or securities in a section 355 distribution are qualified U.S. persons. Paragraph (e) of this section cross-references section 6038B for certain reporting obligations. Finally, paragraph (f) of this section specifies the effective date of this section.

(b) *Gain recognition*—(1) *General rule.* If a domestic corporation makes a distribution of stock or securities of a corporation that qualifies for nonrecognition under section 355 to a person who is not a qualified U.S. person, then, except as provided in paragraph (c) of this section, the distributing corporation shall recognize gain (but not loss) on the distribution under section 367(e)(1). A distributing corporation shall not recognize gain under this section with respect to a section 355 distribution to a qualified U.S. person. For purposes of this section, a qualified U.S. person is—

(A) A citizen or resident of the United States; or

(B) A domestic corporation.

(2) *Stock owned through partnerships, disregarded entities, trusts, and estates.* For purposes of this section, distributing corporation stock or securities owned by or for a partnership (whether foreign or domestic) are owned proportionately by its partners. A partner's proportionate share of the stock or securities of the distributing corporation shall be equal to the partner's distributive share of the gain that would have been recognized had the partnership sold the stock or securities (at a taxable gain) immediately before the distribution. The partner's distributive share of gain shall be determined under the rules and principles of sections 701 through 761 and the regulations thereunder. For purposes of this section, stock or securities owned by or for an entity that is disregarded as an entity (disregarded entity) under § 1.7701–3(b)(1)(ii) or (b)(2)(i)(C) are owned directly by the owner of such disregarded entity. For purposes of this section, stock or securities owned by or for a trust or estate (whether foreign or domestic) are owned proportionately by the persons who would be treated as owning such stock or securities under section 318(a)(2)(A) and (B). In applying section 318(a)(2)(B)(i), if a trust includes interests that are not actuarially ascertainable, all such interests shall be considered to be owned by foreign persons. In a case where an interest holder in a partnership, a disregarded entity, trust, or estate that (directly or indirectly) owns stock of the distributing corporation is itself a partnership, disregarded entity, trust, or estate, the rules of this paragraph (b)(2) apply to such interest holder.

(3) *Gain computation.* Gain recognized under paragraph (b)(1) of this section shall be equal to the excess of the fair market value of the stock or securities distributed to persons who are not qualified U.S. persons (determined as of the time of the distribution) over the distributing corporation's adjusted basis in the stock or securities distributed to such distributees. For purposes of the preceding sentence, the distributing corporation's adjusted basis in each unit of each class of stock or securities distributed to a distributee shall be equal to the distributing corporation's total adjusted basis in all of the units of the respective class of stock or securities owned immediately before the distribution, divided by the total number of units of the class of stock or securities owned immediately before the distribution.

(4) *Treatment of distributee.* If the distribution otherwise qualifies for nonrecognition under section 355, each distributee shall be considered to have received stock or securities in a distribution qualifying for nonrecognition under section 355, even though the distributing corporation may recognize gain on the distribution under this section. Thus, the distributee shall not be considered to have received a distribution described in section 301 or a distribution in an exchange described in section 302(b) upon the receipt of the stock or securities of the controlled corporation, and the domestic distributing corporation shall have no withholding responsibilities under section 1441. Except where section 897(e)(1) and the regulations thereunder cause gain to be recognized by the distributee, the basis of the distributed domestic or foreign corporation stock in the hands of the foreign distributee shall be the basis of the distributed stock determined under section 358 without any increase for any gain recognized by the domestic corporation on the distribution.

(c) *Nonrecognition of gain.* A domestic distributing corporation shall not recognize gain under paragraph (b)(1) of this section on the distribution of stock or securities of a domestic corporation.

(d) *Determining whether distributees are qualified U.S. persons*—(1) *General rule—presumption of foreign status.* Except as provided in paragraphs (d)(2) and (3) of this section, all distributions of stock or securities in a distribution described in paragraph (b)(1) of this section are presumed to be to persons who are not qualified U.S. persons, as

defined in paragraph (b)(1) of this section.

(2) *Non-publicly traded distributing corporations.* If the class of stock or securities of the distributing corporation (in respect to which stock or securities of the controlled corporation are distributed) is not regularly traded on a qualified exchange or other market (as defined in paragraph (d)(4) of this section), then the distributing corporation may only rebut the presumption contained in paragraph (d)(1) of this section by identifying the qualified U.S. persons to which controlled corporation stock or securities were distributed and by certifying the amount of stock or securities that were distributed to the qualified U.S. persons.

(3) *Publicly traded distributing corporations.* If the class of stock or securities of the distributing corporation (in respect to which stock or securities of the controlled corporation are distributed) is regularly traded on a qualified exchange or other market (as defined in paragraph (d)(4) of this section), then the distributing corporation may only rebut the presumption contained in paragraph (d)(1) of this section as described in this paragraph (d)(3).

(i) *Five percent shareholders.* A publicly traded distributing corporation may only rebut the presumption contained in paragraph (d)(1) of this section with respect to distributees that are five percent shareholders of the class of stock or securities of the distributing corporation (in respect to which stock or securities of the controlled corporation are distributed) by identifying the qualified U.S. persons to which controlled corporation stock or securities were distributed and by certifying the amount of stock or securities that were distributed to the qualified U.S. persons. A five percent shareholder is a distributee who is required under U.S. securities laws to file with the Securities and Exchange Commission (SEC) a Schedule 13D or 13G under 17 CFR 240.13d-1 or 17 CFR 240.13d-2, and provide a copy of same to the distributing corporation under 17 CFR 240.13d-7.

(ii) *Other distributees.* A distributing corporation that has made a distribution described in paragraph (d)(3) of this section may rebut the presumption contained in paragraph (d)(1) of this section with respect to distributees that are not five percent shareholders (as defined in this paragraph (d)(3)) by relying on and providing a reasonable analysis of shareholder records and other relevant information that demonstrates a number of distributees that are qualified U.S. persons. Taxpayers may rely on such analysis, unless it is subsequently determined that there are actually fewer distributees who are qualified U.S. persons than were demonstrated in the analysis.

(4) *Qualified exchange or other market.* For purposes of paragraph (d) of this section, the term qualified exchange or other market means, for any taxable year—

(i) A national securities exchange which is registered with the SEC or the national market system established pursuant to section 11A of the Securities Exchange Act of 1934 (15 U.S.C. 78f); or

(ii) A foreign securities exchange that is regulated or supervised by a governmental authority of the country in which the market is located and which has the following characteristics—

(A) The exchange has trading volume, listing, financial disclosure, and other requirements designed to prevent fraudulent and manipulative acts and practices, to remove impediments to and perfect the mechanism of a free and open market, and to protect investors; and the laws of the country in which the exchange is located and the rules of the exchange ensure that such requirements are actually enforced; and

(B) The rules of the exchange ensure active trading of listed stocks.

(e) *Reporting under section 6038B.* See the regulations under section 6038B for reporting requirements for distributions under this section.

(f) *Effective date.* This section shall be applicable to distributions occurring in taxable years ending after August 8, 1999.

§ 1.367(e)–2 Distributions described in section 367(e)(2).

(a) *Purpose and scope*—(1) *In general.* This section provides rules requiring gain and loss recognition by a corporation on its distribution of property to a foreign corporation in a complete liquidation described in section 332. Paragraph (b)(1) of this section contains the general rule that gain and loss are recognized when a domestic corporation makes a distribution of property in complete liquidation under section 332 to a foreign corporation that meets the stock ownership requirements of section 332(b) with respect to stock in the domestic corporation. Paragraph (b)(2) of this section provides the only exceptions to the gain and loss recognition rule of paragraph (b)(1) of this section. Paragraph (b)(3) of this section refers to other consequences of distributions described in paragraphs (b)(1) and (2) of this section. Paragraph (c)(1) of this section contains the general rule that gain and loss are not recognized when a foreign corporation makes a distribution of property in complete liquidation under section 332 to a foreign corporation that meets the stock ownership requirements of section 332(b) with respect to stock in the foreign liquidating corporation. Paragraph (c)(2) of this section provides the only exceptions to the nonrecognition rule of paragraph (c)(1) of this section. Paragraph (c)(3) of this section refers to other consequences of distributions described in paragraphs (c)(1) and (2) of this section. Paragraph (d) of this section contains an anti-abuse rule. Finally, paragraph (e) of this section specifies the effective date for the rules of this section. The rules of this section are issued pursuant to the authority conferred by section 367(e)(2).

(2) *Nonapplicability of section 367(a).* Section 367(a) shall not apply to a complete liquidation described in section 332 by a domestic liquidating corporation into a foreign corporation that meets the stock ownership requirements of section 332(b).

(b) *Distribution by a domestic corporation*—(1) *General rule*—(i) *Recognition of gain and loss.* If a domestic corporation (domestic liquidating) makes a distribution of property in complete liquidation under section 332 to a foreign corporation (foreign distributee) that meets the stock ownership requirements of section 332(b) with respect to stock in the domestic liquidating corporation, then—

(A) Pursuant to section 367(e)(2), section 337(a) and (b)(1) shall not apply; and

(B) The domestic liquidating corporation shall recognize gain or loss on the distribution of property to the foreign distributee, except as provided in paragraph (b)(2) of this section.

(ii) *Operating rules*—(A) *General rule.* Except as provided in paragraphs (b)(1)(ii) (B) and (C) of this section, the rules contained in section 336 will apply to the gain and loss recognized pursuant to this section.

(B) *Overall loss limitation*—(*1*) *Overall loss limitation rule.* Loss in excess of gain from the distribution shall not be recognized. If realized losses exceed recognized losses, the losses shall be recognized on a pro rata basis with respect to the realized loss attributable to each distributed loss asset in the category of assets (i.e., capital or ordinary) to which the realized but unrecognized loss relates. For additional limitations on the

recognition of losses, see, e.g., section 1211.

(*2*) *Example.* The following example illustrates the overall loss limitation rule, the pro rata loss allocation method, and the general capital loss limitation rule in section 1211(a):

Example. F, a foreign corporation, owns all stock of US1, a domestic corporation. US1 owns the following capital assets: Asset A, which has a fair market value of $100 and an adjusted basis of $40; Asset B, which has a fair market value of $60 and an adjusted basis of $80; and, Asset C, which has a fair market value of $40 and an adjusted basis of $100. US1 also owns the following business assets that will generate ordinary income (or loss) upon disposition: Asset D, which has a fair market value of $100 and an adjusted basis of $40; Asset E, which has a fair market value of $60 and an adjusted basis of $100; and, Asset F, which has a fair market value of $40 and an adjusted basis of $80. US1 liquidates into F and distributes all assets to F in liquidation. None of the assets qualify for nonrecognition under paragraph (b)(2) of this section. US1's total realized capital loss is $80, but it may only recognize $60 of that loss. See section 1211(a). US1's total realized ordinary loss is $80, but it may only recognize $60 of that loss. See paragraph (b)(1)(ii)(B)(*1*) of this section. US1 will allocate $45 (60 X .75) of the recognized capital loss to Asset B and will allocate the remaining $15 (60 X .25) of recognized capital loss to Asset C. See paragraph (b)(1)(ii)(B)(*1*) of this section. US1 will allocate $30 (60 X .50) of the recognized ordinary loss to Asset E and will allocate the remaining $30 (60 X .50) to Asset F. See paragraph (b)(1)(ii)(B)(*1*) of this section.

(C) *Special rules for built-in gains and losses attributable to property received in liquidations and reorganizations.* Built-in losses attributable to property received in a transaction described in sections 332 or 361 (during the two-year period ending on the date of the distribution in liquidation covered by this section) shall not offset gain from property not received in the same transaction. Built-in gains attributable to property received in a transaction described in sections 332 or 361 (during the two-year period ending on the date of the distribution in liquidation covered by this section) shall not offset loss from property not received in the same transaction. Built-in gain or loss is that amount of gain or loss on property that existed at the time the domestic liquidating corporation acquired such property. See sections 336(d) and 382 for additional limitations on the recognition of losses.

(iii) *Distribution of partnership interest*—(A) *General rule.* If a domestic corporation distributes a partnership interest (whether foreign or domestic) in a distribution described in paragraph (b)(1)(i) of this section, then for purposes of applying this section the domestic liquidating corporation shall be treated as having distributed a proportionate share of partnership property. Accordingly, the applicability of the recognition rules of paragraphs (b)(1) (i) and (ii) of this section, and of any exception to recognition provided in this section shall be determined with reference to the partnership property, rather than to the partnership interest itself. Where the partnership property includes an interest in a lower-tier partnership, the applicability of any exception with respect to the interest in the lower-tier partnership shall be determined with reference to the lower-tier partnership property. In the case of multiple tiers of partnerships, the applicability of an exception shall be determined with reference to the property of each partnership, applying the rule contained in the preceding sentence. A domestic liquidating corporation's proportionate share of partnership property shall be determined under the rules and principles of sections 701 through 761 and the regulations thereunder.

(B) *Gain or loss calculation.* [Reserved]

(C) *Basis adjustments.* The foreign distributee corporation's basis in the distributed partnership interest shall be equal to the domestic liquidating corporation's basis in such partnership interest immediately prior to the distribution, increased by the amount of gain and reduced by the amount of loss recognized by the domestic liquidating corporation on the distribution of the partnership interest. Solely for purposes of sections 743 and 754, the foreign distributee corporation shall be treated as having purchased the partnership interest for an amount equal to the foreign corporation's adjusted basis therein.

(D) *Publicly traded partnerships.* The distribution by a domestic liquidating corporation of an interest in a publicly traded partnership that is treated as a corporation for U.S. income tax purposes under section 7704(a) shall not be subject to the rules of paragraphs (b)(1)(iii) (A) and (B) of this section. Instead, the distribution of such an interest shall be treated in the same manner as a distribution of stock. Thus, a transfer of an interest in a publicly traded partnership that is treated as a U.S. corporation for U.S. income tax purposes shall be treated in the same manner as stock in a domestic corporation, and a transfer of an interest in a publicly traded partnership that is treated as a foreign corporation for U.S. income tax purposes shall be treated in the same manner as stock in a foreign corporation.

(2) *Exceptions*—(i) *Distribution of property used in a U.S. trade or business*—(A) *Conditions for nonrecognition.* A domestic liquidating corporation shall not recognize gain or loss under paragraph (b)(1) of this section on its distribution of property (including inventory) used by the domestic liquidating corporation in the conduct of a trade or business within United States, if—

(*1*) The foreign distributee corporation, immediately thereafter and for the ten-year period beginning on the date of the distribution of such property, uses the property in the conduct of a trade or business within the United States;

(*2*) The domestic liquidating corporation attaches the statement described in paragraph (b)(2)(i)(C) of this section to its U.S. income tax returns for the taxable years that include the distributions in liquidation; and

(*3*) The foreign distributee corporation attaches a copy of the property description contained in paragraph (b)(2)(i)(C)(*2*) of this section to its U.S. income tax return for the tax year that includes the date of distribution.

(B) *Qualifying property.* Property is used by the foreign distributee corporation in the conduct of a trade or business in the United States within the meaning of this paragraph (b)(2)(i) only if all income from the use of the property and all income or gain from the sale or exchange of the property would be subject to taxation under section 882(a) as effectively connected income. Also, stock held by a dealer as inventory or for sale in the ordinary course of its trade or business shall be treated as inventory and not as stock in the hands of both the domestic liquidating corporation and the distributee foreign corporation. Notwithstanding the foregoing, the exception provided in this paragraph (b)(2)(i) shall not apply to intangibles described in section 936(h)(3)(B).

(C) *Required statement.* The statement required by paragraph (b)(2)(i)(A) of this section shall be entitled ''Required Statement under § 1.367(e)–2(b)(2)(i)'' and shall be prepared by the domestic liquidating corporation and signed under penalties of perjury by an authorized officer of the domestic liquidating corporation and by an authorized officer of the foreign distributee corporation. The statement shall contain the following items:

(*1*) *Declaration and certification.* A declaration that the distribution to the foreign distributee corporation is one to which the rules of this paragraph

(b)(2)(i) apply and a certification that the domestic liquidating corporation and the foreign distributee corporation agree to all of the terms and conditions set forth in this paragraph (b)(2)(i).

(*2*) *Property description.* A description of all property distributed by the domestic liquidating corporation (irrespective of whether the property qualifies for nonrecognition). Such description shall be entitled ''Master Property Description'' and shall identify the property that continues to be used by the foreign distributee corporation in the conduct of a trade or business within the United States, including the location, adjusted basis, estimated fair market value, a summary of the method (including appraisals if any) used for determining such value, and the date of distribution of such items of property. The description shall also identify the property excepted from gain recognition under paragraphs (b)(2)(ii) and (iii) of this section.

(*3*) *Distributee identification.* An identification of the foreign distributee corporation, including its name and address, taxpayer identification number, residence, and place of incorporation.

(*4*) *Treaty benefits waiver.* With respect to property entitled to nonrecognition pursuant to this paragraph (b)(2)(i), a declaration by the foreign distributee corporation that it irrevocably waives any right under any treaty (whether or not currently in force at the time of the liquidation) to sell or exchange any item of such property without U.S. income taxation or at a reduced rate of taxation, or to derive income from the use of any item of such property without U.S. income taxation or at a reduced rate of taxation.

(*5*) *Statute of limitations extension.* An agreement by the domestic liquidating corporation and the foreign distributee corporation to extend the statute of limitations on assessments and collections (under section 6501) with respect to the domestic liquidating corporation on the distribution of each item of property until three years after the date on which all such items of property have ceased to be used in a trade or business within the United States, but in no event shall the extension be for a period longer than 13 years from the filing of the original U.S. income tax return for the taxable year of the last distribution of any such item of property. The agreement to extend the statute of limitation shall be executed on a Form 8838, ''Consent to Extend the Time to Assess Tax Under Section 367—Gain Recognition Agreement.''

(*D*) *Failure to file statement.* If a domestic liquidating corporation that would otherwise qualify for nonrecognition on the distribution of property under this paragraph (b)(2)(i) fails to file the statement described in paragraph (b)(2)(i)(C) of this section or files a statement that does not comply with the requirements of paragraph (b)(2)(i)(C) of this section, the Commissioner may treat the domestic liquidating corporation as if it had claimed nonrecognition under this paragraph (b)(2)(i) and met all the requirements of paragraph (b)(2)(i)(C) of this section, if such treatment is necessary to prevent the domestic liquidating corporation or the foreign distributee corporation from otherwise deriving a tax benefit by such failure.

(E) *Operating rules.* By the domestic liquidating corporation's claiming nonrecognition under this paragraph (b)(2)(i) and filing a statement described in paragraph (b)(2)(i)(C) of this section, the domestic liquidating corporation and the foreign distributee corporation agree to be subject to the rules of this paragraph (b)(2)(i)(E).

(*1*) *Gain or loss recognition by the foreign distributee corporation*—(*i*) *Taxable dispositions.* If, within the ten-year period from the date of a distribution of qualifying property, the foreign distributee corporation disposes of any qualifying property in a transaction subject to tax under section 882(a), then the foreign distributee corporation shall recognize such gain (or loss) and properly report it on a timely filed U.S. income tax return. If the foreign distributee corporation recognizes gain (or loss) under this paragraph (b)(2)(i)(E)(*1*)(*i*) and properly reports such gain (or loss) on its U.S. income tax return, then the domestic liquidating corporation shall not recognize gain attributable to such property under paragraph (b)(2)(i)(E)(*2*) of this section.

(*ii*) *Other triggering events.* If, within the ten-year period from the date of distribution, any qualifying property ceases to be used by the foreign distributee corporation in the conduct of a trade or business in the United States (other than by reason of a taxable disposition described in paragraph (b)(2)(i)(E)(*1*)(*i*) of this section, a nontriggering event described in paragraph (b)(2)(i)(E)(*4*) of this section, or a nontriggering transfer described in paragraph (b)(2)(i)(E)(*5*) of this section), then the foreign distributee corporation shall recognize gain (but not loss) attributable to such property and properly report it on a timely filed U.S. income tax return. If the foreign distributee corporation properly reports gain under this paragraph (or if such qualified property is not gain property on the date that it ceases to be used in the foreign distributee corporation's U.S. trade or business), then the domestic liquidating corporation shall not recognize gain attributable to such property under paragraph (b)(2)(i)(E)(*2*) of this section. The gain recognized under this paragraph (b)(2)(i)(E)(*1*)(*ii*) shall be an amount equal to the fair market value of the property on the date it ceases to be used in the foreign distributee corporation's U.S. trade or business less the foreign distributee corporation's adjusted basis in such property.

(*2*) *Gain recognition by the domestic liquidating corporation*—(*i*) *General rule.* If, within the ten-year period from the date of distribution, any qualifying property described in paragraph (b)(2)(i)(B) of this section ceases to be used by the foreign distributee corporation (or a qualifying transferee described in paragraph (b)(2)(i)(E)(*5*) of this section) in the conduct of a trade or business in the United States for any reason (including but not limited to the sale or exchange of such property or the removal of the property from conduct of the trade or business), then, except to the extent gain (or loss) is recognized under paragraph (b)(1)(i)(E)(*1*) of this section, the domestic liquidating corporation shall recognize the gain (but not loss) realized but not recognized upon the initial distribution of such item of property. The domestic liquidating corporation shall recognize gain pursuant to this paragraph (b)(2)(i)(E)(*2*)(*i*) on the amended U.S. income tax return described in paragraph (b)(2)(i)(E)(*2*)(*ii*) of this section.

(*ii*) *Amended return.* If gain recognition is required pursuant to paragraph (b)(2)(i)(E)(*2*)(*i*) of this section, the foreign distributee corporation shall file an amended U.S. income tax return on behalf of the domestic liquidating corporation for the year of the distribution of such item of property. On the amended return, the domestic liquidating corporation may use any losses (or credits) existing in the year of the distribution to offset the gain recognized pursuant to paragraph (b)(2)(i)(E)(*2*)(*i*) of this section (or the tax thereon), provided that the losses (or credits) were otherwise available in the year distribution and were not used in another year. The amended return shall be filed no later than the due date (including extensions) for the return of the foreign distributee corporation for the taxable year in which the property ceases to be used by the foreign distributee corporation in the conduct of a trade or business in the United States.

(*iii*) *Interest.* If the domestic liquidating corporation owes additional

tax pursuant to paragraph (b)(2)(i)(E)(*2*)(*i*) of this section for the year of liquidation, then interest must be paid on that amount at the rates determined under section 6621. The interest due will be calculated from the due date of the domestic liquidating corporation's U.S. income tax return for the year of the distribution to the date on which the additional tax for that year is paid.

(*iv*) *Joint and several liability.* The foreign distributee corporation shall be jointly and severally liable for any tax owed by the domestic liquidating corporation as a result of the application of this section, and shall succeed to the domestic liquidating corporation's agreement to extend the statute of limitations on assessments and collections under section 6501.

(*3*) *Schedule for property no longer used in a U.S. trade or business.* If qualifying property (other than inventory) ceases to be used by the foreign distributee corporation in the conduct of a U.S. trade or business in the ten-year period beginning on the date of distribution of such property from the domestic liquidating corporation to the foreign distributee corporation, then the foreign distributee corporation shall list on a separate schedule (attached to its U.S. income tax return for the year of cessation) all such qualifying property. For purposes of this paragraph (b)(2)(i)(E)(*3*), property ceases to be used in a U.S. trade or business whenever such property is sold, exchanged, or otherwise removed from the U.S. trade or business, irrespective of whether the domestic liquidating corporation filed an amended return under paragraph (b)(2)(i)(E)(*2*) of this section, and irrespective of whether the property ceases to be used in the foreign distributee corporation's U.S. trade or business by virtue of a nontriggering event described in paragraph (b)(2)(i)(E)(*4*) of this section or a nontriggering transfer described in paragraph (b)(2)(i)(E)(*5*) of this section.

(*4*) *Nontriggering events*—(*i*) *Conversions, certain exchanges, and abandonment.* Gain (or loss) under this paragraph (b)(2)(i)(E) shall not be triggered if qualifying property described in paragraph (b)(2)(i)(B) of this section is involuntarily converted into, or exchanged for, similar qualifying property used in the conduct of a trade or business in the United States, to the extent such conversion or exchange qualifies for nonrecognition under section 1033 or 1031. Also, the abandonment or disposal of worthless or obsolete property shall not trigger gain (or loss) under this paragraph (b)(2)(i)(E).

(*ii*) *Amendment to Master Property Description.* If the foreign distributee corporation acquires replacement property by virtue of a conversion or exchange of the qualifying property under this paragraph (b)(2)(i)(E)(*4*), then the foreign distributee corporation shall attach to its U.S. income tax return for the year of the acquisition such replacement property a schedule entitled ''Amendment to Master Property Description Required by § 1.367(e)–2(b)(2)(i)'' that lists the replacement property and the property being replaced.

(*5*) *Nontriggering transfers to qualified transferees.* Gain (or loss) under this paragraph (b)(2)(i)(E) will not be triggered if qualifying property described in paragraph (b)(2)(i)(B) of this section is transferred to another person (qualified transferee) in a transaction qualifying for nonrecognition under the Internal Revenue Code (other than transactions described in paragraphs (b)(2)(i)(E)(4)(*i*) and (c)(1) of this section), if—

(*i*) The qualified transferee (and all other subsequent qualified transferees), immediately thereafter and for the ten-year period beginning on the date of the initial distribution of such qualifying property from the domestic liquidating corporation to the foreign distributee corporation, uses the property in the conduct of a trade or business in the United States;

(*ii*) The foreign distributee corporation (or its successor in interest) prepares and attaches to its U.S. income tax return for the year of transfer a statement entitled ''Required Statement under § 1.367(e)–2(b)(2)(i)(E)(*5*) for Property Transferred to a Qualified Transferee'' that is signed under penalties of perjury by an authorized officer of the foreign distributee corporation and by a person similarly authorized by the qualified transferee;

(*iii*) The statement described in paragraph (b)(2)(i)(E)(*5*)(*ii*) of this section shall contain a description of all qualifying property transferred by the foreign distributee corporation (or qualified transferee) to the qualified transferee (or subsequent qualified transferee);

(*iv*) The statement described in paragraph (b)(2)(i)(E)(*5*)(*ii*) of this section shall also contain an identification of the qualified transferee (or subsequent qualified transferee), including its name and address, taxpayer identification number, residence, and place of incorporation (if applicable);

(*v*) The statement described in paragraph (b)(2)(i)(E)(*5*)(*ii*) of this section shall also contain a declaration by the qualifying transferee (or subsequent qualifying transferee) that it irrevocably waives any right under any treaty (whether or not currently in force at the time of the liquidation) to sell or exchange any item of such property without U.S. income taxation or at a reduced rate of taxation, or to derive income from the use of any item of such qualifying property without U.S. income taxation or at a reduced rate of taxation; and

(*vi*) A declaration that the transfer to the qualifying transferee (or subsequent qualifying transferee) is one to which the rules of this paragraph (b)(2)(i)(E)(*5*) apply and a certification that the foreign distributee corporation (or its successor in interest) and the qualifying transferee (or subsequent qualifying transferee) agree to all of the terms and conditions set forth in paragraph (b)(2)(i)(E)(*1*) of this section, replacing ''foreign distributee corporation'' with ''qualifying transferee'' and replacing references to ''section 882(a)'' with ''section 871(b)'' (as the case may be).

(ii) *Distribution of certain U.S. real property interests.* A domestic liquidating corporation shall not recognize gain (or loss) under paragraph (b)(1) of this section on the distribution of a U.S. real property interest (other than stock in a former U.S. real property holding corporation that is treated as a U.S. real property interest for five years under section 897(c)(1)(A)(ii)). If property distributed by the domestic liquidating corporation is a U.S. real property interest that qualifies for nonrecognition under this paragraph (b)(2)(ii) in addition to nonrecognition provided by paragraph (b)(2)(i) of this section, then the domestic liquidating corporation shall secure nonrecognition pursuant to this paragraph (b)(2)(ii) and not pursuant to the provisions of paragraph (b)(2)(i) of this section.

(iii) *Distribution of stock of domestic subsidiary corporations*—(A) *Conditions for nonrecognition.* A domestic liquidating corporation shall not recognize gain or loss under paragraph (b)(1) of this section on a distribution of stock of an 80 percent domestic subsidiary corporation, if the domestic liquidating corporation attaches a statement described in paragraph (b)(2)(iii)(D) of this section to its U.S. income tax return for the year of the distribution of such stock. For purposes of this paragraph (b)(2)(iii), a corporation is an 80 percent domestic subsidiary corporation, if—

(*1*) The subsidiary corporation is a domestic corporation (but not a foreign

corporation that has made an election under section 897(i) to be treated as a U.S. corporation for purposes of section 897);

(*2*) The domestic liquidating corporation owns (directly) at least 80 percent of the total voting power of the stock of such corporation; and

(*3*) The domestic liquidating corporation owns (directly) at least 80 percent of the total value of all stock of such corporation.

(B) *Exceptions when the liquidating corporation is a U.S. real property holding corporation.* If the domestic liquidating corporation is a U.S. real property holding corporation (as defined in section 897(c)(2)) at the time of liquidation (or was a U.S. real property holding corporation with respect to the foreign distributee corporation during the five year period ending on the date of liquidation), then the exception in paragraph (b)(2)(iii)(A) of this section shall apply only to the distribution of stock of an 80 percent domestic subsidiary corporation that is a U.S. real property holding corporation (as defined in section 897(c)(2)) at the time of the liquidation and immediately thereafter.

(C) *Anti-abuse rule.* (*1*) The exception in paragraph (b)(2)(iii)(A) of this section shall not apply, if a principal purpose of the distribution of the 80 percent domestic subsidiary corporation's stock is the avoidance of U.S. tax that would have been imposed on the domestic liquidating corporation's disposition of such stock (directly or indirectly) to an unrelated party. A distribution may have a principal purpose of tax avoidance even though the tax avoidance purpose is outweighed by other purposes (taken together or separately).

(*2*) For purposes of paragraph (b)(2)(iii)(C)(*1*) of this section, a distribution of stock of the 80 percent domestic subsidiary corporation will be deemed to have been made pursuant to a plan, one of the principal purposes of which was the avoidance of U.S. tax, if the foreign distributee corporation disposes of any such stock within two years of such distribution. The rule in this paragraph (b)(2)(iii)(C)(*2*) will not apply if the foreign distributee corporation can demonstrate to the satisfaction of the Commissioner that a principal purpose of the liquidation was not the avoidance of U.S. tax.

(D) *Required statement.* The statement required by paragraph (b)(2)(iii)(A) of this section shall be entitled ''Required Statement under § 1.367(e)–2(b)(2)(iii) for Stock of 80 Percent Domestic Subsidiary Corporations'' and shall be prepared by the domestic liquidating corporation and shall be signed under penalties of perjury by an authorized officer of the domestic liquidating corporation and by an authorized officer of the foreign distributee corporation. The required statement shall contain a certification that states that if the foreign distributee corporation disposes of any stock subject to paragraph (b)(2)(iii)(A) of this section in a transaction described in paragraph (b)(2)(iii)(C) of this section, then the domestic liquidating corporation shall recognize all realized gain attributable to such stock at the time of distribution, and the domestic liquidating corporation (or the foreign distributee corporation on behalf of the domestic liquidating corporation) shall file a U.S. income tax return (or amended U.S. income tax return, as the case may be) for the year of distribution reporting the gain attributable to such stock.

(3) *Other consequences*—(i) *Distributee basis in property.* The foreign distributee corporation's basis in property subject to this paragraph (b) shall be the same as the domestic liquidating corporation's basis in such property immediately before the liquidation, increased by any gain, or reduced by any loss recognized by the domestic liquidating corporation on such property pursuant to paragraph (b)(1) of this section. In no case, however, will the foreign distributee corporation's adjusted basis in distributed property exceed the fair market value of such property at the time of liquidation.

(ii) *Reporting under section 6038B.* Section 6038B and the regulations thereunder apply to a domestic liquidating corporation's transfer of property to a foreign distributee corporation under section 367(e)(2).

(iii) *Other rules.* For other rules that may be applicable, see sections 1248, 897, and 381.

(c) *Distribution by a foreign corporation*—(1) *General rule—gain and loss not recognized.* If a foreign corporation (foreign liquidating) makes a distribution of property in complete liquidation under section 332 to a foreign corporation (foreign distributee) that meets the stock ownership requirements of section 332(b) with respect to stock in the foreign liquidating corporation, then, except as provided in paragraph (c)(2) of this section, section 337 (a) and (b)(1) shall apply and the foreign liquidating corporation shall not recognize gain (or loss) on the distribution under section 367(e)(2). If a foreign liquidating corporation distributes a partnership interest (whether foreign or domestic), then such corporation shall be treated as having distributed a proportionate share of partnership property in accordance with the principles of paragraph (b)(1)(iii) of this section.

(2) *Exceptions*—(i) *Property used in a U.S. trade or business*—(A) *General rule.* A foreign liquidating corporation (including a corporation that has made an effective election under section 897(i)) that makes a distribution described in paragraph (c)(1) of this section shall recognize gain on the distribution of qualified property, as described in paragraph (b)(2)(i)(B) of this section (other than U.S. real property interests), that is used by the foreign liquidating corporation in the conduct of a trade or business within the United States at the time of distribution.

(B) *Ten-year active U.S. business exception.* A foreign liquidating corporation shall not recognize gain under paragraph (c)(2)(i)(A) of this section, if—

(*1*) The foreign distributee corporation, immediately thereafter and for the ten-year period beginning on the date of the distribution of such property, uses the property in the conduct of a trade or business in the United States;

(*2*) The foreign distributee corporation is not entitled to benefits under a comprehensive income tax treaty (this requirement shall apply only if the foreign liquidating corporation (or predecessor corporation) was not entitled to benefits under a comprehensive income tax treaty); and

(*3*) The foreign liquidating corporation and foreign distributee corporation attach the statement described in paragraph (c)(2)(i)(C) of this section to their U.S. income tax returns for their taxable years that include the distribution.

(C) *Required statement.* The statement required by paragraph (c)(2)(i)(B)(3) of this section shall be entitled ''Required Statement under § 1.367(e)–2(c)(2)(i),'' shall be prepared by foreign liquidating corporation, shall be signed under penalties of perjury by an authorized officer of the foreign liquidating corporation and by an authorized officer of the foreign distributee corporation, and shall be identical to the statement described in paragraph (b)(2)(i)(C) of this section, except that ''§ 1.367(e)–2(c)(2)(i)(B)'' shall be substituted for references to ''§ 1.367(e)–2(b)(2)(i)'' and ''foreign liquidating corporation'' shall be substituted for ''domestic liquidating corporation'' each time it appears. References in the rules of paragraph (b)(2)(i)(C) of this section to various rules in paragraph (b) of this section shall be applied as if such references were to this paragraph (c). However, the

statement described in this paragraph (c)(2)(i)(C) shall be modified as follows:

(*1*) The foreign distributee corporation shall not be required to waive its income tax treaty benefits as required by § 1.367(e)–2(b)(2)(i)(C)(*4*), unless—

(*i*) The foreign liquidating corporation was required to waive its treaty benefits under paragraph (b)(2)(i)(C)(4) of this section in connection with the distribution of such property in a prior liquidation distribution subject to the provisions of this section; or (*ii*) The foreign distributee corporation is entitled benefits under a treaty to which the foreign liquidating corporation was not entitled.

(*2*) If the foreign distributee is required to waive treaty benefits because of paragraph (c)(2)(i)(C)(*1*)(*ii*) of this section, then the foreign distributee shall only be required to waive benefits that were not available to the foreign liquidating corporation (or a predecessor corporation) prior to liquidation.

(*3*) The property description described in paragraph (b)(2)(i)(C)(*2*) of this section shall include only the qualified U.S. trade or business property described in paragraph (c)(2)(i) of this section.

(D) *Operating rules.* By the foreign liquidating corporation's claiming nonrecognition under paragraph (c)(2)(i)(B) of this section and filing a statement described in paragraph (c)(2)(i)(C) of this section, the foreign liquidating corporation and the foreign distributee corporation agree to be subject to the rules of paragraph (c)(2)(i) of this section, as well as the rules of paragraphs (b)(2)(i)(D) and (E) of this section. In applying the rules of paragraphs (b)(2)(i)(D) and (E) of this section, ''foreign liquidating corporation'' shall be used instead of ''domestic liquidating corporation'' each time it appears. References in the rules of paragraphs (b)(2)(i)(D) and (E) of this section to various rules in paragraph (b) of this section shall be applied as if such references were to this paragraph (c).

(ii) *Property formerly used in a United States trade or business.* A foreign liquidating corporation that makes a distribution described in paragraph (c)(1) of this section shall recognize gain (but not loss) on the distribution of property (other than U.S. real property interests) that had ceased to be used by the foreign liquidating corporation in the conduct of a U.S. trade or business within the ten-year period ending on the date of distribution and that would have been subject to section 864(c)(7) had it been disposed. Section 864(c)(7) shall govern the treatment of any gain recognized on the distribution of assets described in this paragraph as income effectively connected with the conduct of a trade or business within the United States.

(3) *Other consequences*—(i) *Distributee basis in property.* The foreign distributee corporation's basis in property subject to this paragraph (c) shall be the same as the foreign liquidating corporation's basis in such property immediately before the liquidation, increased by any gain, or reduced by any loss recognized by the foreign liquidating corporation on such property, pursuant to paragraph (c)(2) of this section. In no event, however, will the foreign distributee corporation's adjusted basis in distributed property exceed the fair market value of such property at the time of liquidation.

(ii) *Other rules.* For other rules that may apply, see sections 367(b) and 381.

(d) *Anti-abuse rule.* The Commissioner may require either a domestic liquidating corporation or a foreign liquidating corporation to recognize gain on a distribution in liquidation described in paragraph (b) or (c) of this section (or treat the liquidating corporation as if it had recognized loss on a distribution in liquidation), if a principal purpose of the liquidation is the avoidance of U.S. tax (including, but not limited to, the distribution of a liquidating corporation's earnings and profits with a principal purpose of avoiding U.S. tax). A liquidation may have a principal purpose of tax avoidance even though the tax avoidance purpose is outweighed by other purposes (taken together or separately).

(e) *Effective date.* This section shall be applicable to distributions occurring 30 days after August 9, 1999 or, if taxpayer so elects, to distributions in taxable years ending after August 8, 1999.

Par. 4. Section 1.6038B–1 is amended by revising the fourth sentence of paragraph (a), the first sentence of paragraph (b)(1)(i), and paragraphs (d), (e), and (g) to read as follows:

§ 1.6038B–1 Reporting of certain transactions to foreign corporations.

(a) * * * Section 1.6038B–1(e) describes the filing requirements for property transfers described in section 367(e). * * *

(b) *Time and manner of reporting*—(1) *In general*—(i) *Reporting procedure.* Except for stock or securities qualifying under the special reporting rule of paragraph (b)(2) of this section, or cash, which is subject to special rules contained in paragraph (b)(3) of this section, any U.S. person that makes a transfer described in section 6038B(a)(1)(A), 367(d), or 367(e), is required to report pursuant to section 6038B and the rules of this section and must attach the required information to Form 926, ''Return by Transferor of Property to a Foreign Corporation.''

* * *

* * * * *

(d) [Reserved]. For further guidance, see § 1.6038B–1T(d).

(e) *Transfers subject to section 367(e)*—(1) *In general.* If a domestic corporation (distributing corporation) makes a distribution described in section 367(e)(1) or section 367(e)(2), the distributing corporation must comply with the reporting requirements of this paragraph (e). Unless otherwise provided in this section, a distributing corporation making a distribution described in sections 367(e)(1) or 367(e)(2) must file a Form 926, ''Return by a U.S. Transferor of Property to a Foreign Corporation (under section 367),'' as amended and modified by this section.

(2) *Reporting requirements for section 367(e)(1) distributions of domestic controlled corporations.* A domestic distributing corporation making a distribution of the stock or securities of a domestic corporation under section 355 is not required to file a Form 926, as described in paragraph (e)(1) of this section, and shall have no other reporting requirements under section 6038B.

(3) *Reporting requirements for section 367(e)(1) distributions of foreign controlled corporations.* If the distributing corporation makes a section 355 distribution of the stock or securities of a foreign controlled corporation to distributee shareholders who are not qualified U.S. persons, as defined in § 1.367(e)–1(b)(1), then the distributing corporation shall complete Part 1 of the Form 926 and attach a signed copy of such form to its U.S. income tax return for the year of the distribution. The distributing corporation shall also attach to its U.S. income tax return for the year of distribution a statement signed under the penalties of perjury entitled, ''Addendum to Form 926.'' The addendum shall contain a brief description of the transaction, state the number of shares distributed to distributees who are not qualified U.S. persons (applying the rules contained in § 1.367(e)–1(d)), and state the basis and fair market value of the distributed stock or securities (including a list stating the amounts that were distributed to distributees who were not qualified U.S. persons and distributees who were qualified U.S. persons).

(4) *Reporting rules for section 367(e)(2) distributions by domestic*

liquidating corporations. If the distributing corporation makes a distribution of property in complete liquidation under section 332 to a foreign distributee corporation that meets the stock ownership requirements of section 332(b) with respect to the stock of the distributing corporation, then the distributing corporation shall complete a Form 926 and attach a signed copy of such form to its U.S. income tax return for the year of the distribution. The property description contained in Part III of the Form 926 shall contain a description of all property distributed by the liquidating corporation (regardless of whether the property qualifies for nonrecognition). The description shall also identify the property excepted from gain recognition under § 1.367(e)–2(b)(2)(ii) and (iii). If the distributing corporation distributes property that will be used by the foreign distributee corporation in a U.S. trade or business and the distributing corporation does not recognize gain on such distribution under § 1.367(e)–2(b)(2)(i), then the distributing corporation may satisfy the requirements of this section by completing Part 1 of the Form 926, noting thereon that the information required by the Form 926 is contained in the statement required by § 1.367(e)–2(b)(2)(i)(C)(*2*), and attaching a signed copy of the Form 926 to its U.S. income tax return for the year of the distribution.

* * * * *

(g) *Effective dates.* This section applies to transfers occurring on or after July 20, 1998, except paragraph (e) of this section, which applies to transfers that are subject to §§ 1.367(e)–1(f) and 1.367(e)–2(e). See § 1.6038B–1T for transfers occurring prior to July 20, 1998– See also § 1.6038B–1T(e) in effect prior to August 9, 1999, (as contained in 26 CFR part 1 revised April 1, 1999) for transfers described in section 367(e) that are not subject to §§ 1.367(e)–1(f) and 1.367(e)–2(e).

Par. 5. Section 1.6038B–1T is amended by revising the section heading, revising paragraph (e) and revising the first sentence of paragraph (g), to read as follows.

§ 1.6038B–1T Reporting of certain transactions to foreign corporations (temporary).

* * * * *

(e) [Reserved] For further guidance, see § 1.6038B–1(e).

* * * * *

(g) *Effective date.* This section applies to transfers occurring after December 31, 1984. * * *

PART 602—OMB CONTROL NUMBERS UNDER THE PAPERWORK REDUCTION ACT

Par. 6. The authority citation for part 602 continues to read as follows:

Authority: 26 U.S.C. 7805.

Par. 7. In § 602.101, paragraph (b) is amended in the table by removing the entries for 1.367(e)–1T and 1.367(e)–2T, revising the entry for 1.6038B–1, and adding entries in numerical order to read as follows:

§ 602.101 OMB Control numbers.

* * * * *

(b) * * *

CFR part or section where identified and described	Current OMB Control No.
* * * *	*
1.367(e)–1	1545–1487
1.367(e)–2	1545–1487
* * * *	*
1.6038B–1	1545–1487 1545–1615
* * * *	*

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Approved: July 29, 1999.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–20092 Filed 8–6–99; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[RI–38–6985a; A–1–FRL–6411–3]

Approval and Promulgation of Air Quality Implementation Plans; Revised Format of 40 CFR Part 52 for Materials Being Incorporated by Reference for Rhode Island

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; notice of administrative change.

SUMMARY: EPA is revising the format of 40 CFR part 52 for materials submitted by Rhode Island that are incorporated by reference (IBR) into its respective State implementation plan (SIP). The regulations affected by this format change have all been previously submitted by the respective State agency and approved by EPA.

EFFECTIVE DATE: This action is effective August 9, 1999.

ADDRESSES: SIP materials which are incorporated by reference into 40 CFR part 52 are available for inspection at the following locations: Environmental Protection Agency, Region 1, One Congress Street, Boston, MA 02203; Office of Air and Radiation, Docket and Information Center (Air Docket), EPA, 401 M Street, SW, Room M1500, Washington, DC 20460; and Office of the Federal Register, 800 North Capitol Street, NW, Suite 700, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Mr. Donald O. Cooke, Environmental Scientist, at the above Region 1 address or at (617) 918–1668.

SUPPLEMENTARY INFORMATION: This format revision will primarily affect the ''Identification of plan'' sections of 40 CFR part 52, as well as the format of the SIP materials that will be available for public inspection at the Office of the Federal Register (OFR), the Air and Radiation Docket and Information Center located in Waterside Mall, Washington, D.C., and the Regional Office. The sections of 40 CFR part 52 pertaining to provisions promulgated by EPA or State-submitted materials not subject to IBR review remain unchanged.

Background

Each State is required to have a SIP which contains the control measures and strategies which will be used to attain and maintain the national ambient air quality standards (NAAQS). The SIP is extensive, containing such elements as emission inventories, monitoring network, attainment demonstrations, and enforcement mechanisms. The control measures and strategies must be formally adopted by each State after the public has had an opportunity to comment on them. They are then submitted to EPA as SIP revisions on which EPA must formally act.

Once these control measures are approved by EPA after notice and comment, they are incorporated into the SIP and are identified in part 52 (Approval and Promulgation of Implementation Plans), Title 40 of the Code of Federal Regulations (40 CFR part 52). The actual State Regulations which are approved by EPA are not reproduced in their entirety in 40 CFR part 52, but are ''incorporated by reference,'' which means that the citation of a given State regulation with a specific effective date has been approved by EPA. This format allows both EPA and the public to know which measures are contained in a given SIP and insures that the State is enforcing the regulations. It also allows EPA and

the public to take enforcement action, should a State not enforce its SIP-approved regulations.

The SIP is a living document which can be revised by the State as necessary to address the unique air pollution problems in the State. Therefore, EPA from time to time must take action on SIP revisions which may contain new and/or revised regulations as being part of the SIP. On May 22, 1997 (62 FR 27968), EPA revised the procedures for incorporating by reference Federally-approved SIPs, as a result of consultations between EPA and OFR. EPA began the process of developing (1) a revised SIP document for each State that would be incorporated by reference under the provisions of 1 CFR part 51; (2) a revised mechanism for announcing EPA approval of revisions to an applicable SIP and updating both the IBR document and the CFR, and (3) a revised format of the ''Identification of plan'' sections for each applicable subpart to reflect these revised IBR procedures. The description of the revised SIP document, IBR procedures and ''Identification of plan'' format are discussed in further detail in the May 22, 1997, **Federal Register** document.

Content of Revised IBR Document

The new SIP compilations contain the Federally-approved portion of regulations and source specific permits submitted by each State agency. These regulations and source specific permits have all been approved by EPA through previous rule making actions in the **Federal Register**. The compilations are stored in 3-ring binders and will be updated, primarily on an annual basis.

Each compilation contains two parts. Part 1 contains the regulations and part 2 contains the source specific permits that have been approved as part of the SIP. Each part has a table of contents identifying each regulation or each source specific permit. The table of contents in the compilation corresponds to the table of contents published in 40 CFR part 52 for these States. The Regional EPA Offices have the primary responsibility for ensuring accuracy and updating the compilations. The Region 1 EPA Office developed and will maintain the compilations for Rhode Island. A copy of the full text of each State's current compilation will also be maintained at the Office of the Federal Register and EPA's Air Docket and Information Center.

EPA is continuing, with this document, the phasing in of SIP compilations for individual States. This revised format is consistent with the SIP compilation requirements of section 110(h)(1) of the Clean Air Act.

Revised Format of the ''Identification of Plan'' Sections in Each Subpart

In order to better serve the public, EPA is revising the organization of the ''Identification of plan'' section and including additional information which will make it clearer as to what provisions constitute the enforceable elements of the SIP.

The revised Identification of plan section will contain five subsections: (a) Purpose and scope, (b) Incorporation by reference, (c) EPA approved regulations, (d) EPA approved source specific permits, and (e) EPA approved nonregulatory provisions such as transportation control measures, statutory provisions, control strategies, monitoring networks, etc.

Enforceability and Legal Effect

All revisions to the applicable SIP become federally enforceable as of the effective date of the revisions to paragraph (c), (d) or (e) of the applicable identification of plan found in each subpart of 40 CFR part 52. To facilitate enforcement of previously approved SIP provisions and provide a smooth transition to the new SIP processing system, EPA is retaining the original Identification of Plan section, previously appearing in the CFR as the first or second section of part 52 for each State subpart. After an initial two year period, EPA will review its experience with the new system and enforceability of previously approved SIP measures, and will decide whether or not to retain the Identification of plan appendices for some further period.

Notice of Administrative Change

Today's rule constitutes a ''housekeeping'' exercise to ensure that all revisions to State programs that have occurred are accurately reflected in 40 CFR part 52. State SIP revisions are controlled by EPA regulations at 40 CFR part 51. When EPA receives a formal SIP revision request, the Agency must publish the proposed revision in the **Federal Register** and provide for public comment before approval.

EPA has determined that today's rule falls under the ''good cause'' exemption in section 553(b)(3)(B) of the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes agencies to dispense with public participation and section 553(d)(3) which allows an agency to make a rule effective immediately (thereby avoiding the 30-day delayed effective date otherwise provided for in the APA). Today's rule simply codifies provisions which are already in effect as a matter of law in Federal and approved State programs.

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' Public comment is ''unnecessary'' and ''contrary to the public interest'' since the codification only reflects existing law. Immediate notice in the CFR benefits the public by removing outdated citations.

Administrative Requirements

A. Executive Order 12866

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

B. Executive Order 12875

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

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

C. Executive Order 13045

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the

environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

D. Executive Order 13084

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

E. Regulatory Flexibility

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

F. Unfunded Mandates

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

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

G. Submission to Congress and the Comptroller General

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

H. Petitions for Judicial Review

EPA has also determined that the provisions of section 307(b)(1) of the Clean Air Act pertaining to petitions for judicial review are not applicable to this action. Prior EPA rulemaking actions for each individual component of the Rhode Island SIP compilation has previously afforded interested parties the opportunity to file a petition for judicial review in the United States Court of Appeals for the appropriate circuit within 60 days of such rulemaking action. Thus, EPA sees no need in this action to reopen the 60-day period for filing such petitions for judicial review.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Hydrocarbons, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: July 19, 1999.

John P. DeVillars,

Regional Administrator, Region 1.

Part 52 of chapter I, title 40, Code of Federal Regulations, is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart OO—Rhode Island

2. Section 52.2070 is redesignated as § 52.2087 and the heading and paragraph (a) are revised to read as follows:

§ 52.2087 Original identification of plan section.

(a) This section identifies the original ''Air Implementation Plan for the State of Rhode Island'' and all revisions submitted by Rhode Island that were federally approved prior to August 9, 1999.

* * * * *

3. A new § 52.2070 is added to read as follows:

§ 52.2070 Identification of plan.

(a) Purpose and scope. This section sets forth the applicable State implementation plan for Rhode Island

under section 110 of the Clean Air Act, 42 U.S.C. 7401–7671q and 40 CFR part 51 to meet national ambient air quality standards.

(b) Incorporation by reference. (1) Material listed in paragraphs (c) and (d) of this section with an EPA approval date prior to August 9, 1999 was approved for incorporation by reference by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Material is incorporated as it exists on the date of the approval, and notice of any change in the material will be published in the **Federal Register**. Entries in paragraphs (c) and (d) of this section with EPA approval dates after August 9, 1999, will be incorporated by reference in the next update to the SIP compilation.

(2) EPA Region 1 certifies that the rules/regulations provided by EPA in the SIP compilation at the addresses in paragraph (b)(3) of this section are an exact duplicate of the officially promulgated State rules/regulations which have been approved as part of the State implementation plan as of August 9, 1999.

(3) Copies of the materials incorporated by reference may be inspected at the Region 1 EPA Office at One Congress Street, Boston, MA 02203; the Office of the Federal Register, 800 North Capitol Street, NW., Suite 700, Washington, DC.; or at the EPA, Air and Radiation Docket and Information Center, Air Docket (6102), 401 M Street, SW., Washington, DC. 20460.

(c) EPA approved regulations.

EPA APPROVED RHODE ISLAND REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 1.	Visible emissions.	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 2.	Handling of soft coal.	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 3.	Particulate emissions from industrial processes..	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 4.	Open fires.	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 5.	Fugitive dust.	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 6.	Opacity monitors.	11/22/89	09/30/91, 56 FR 49416.	
Air Pollution Control Regulation 7.	Emission of air contaminants detrimental to persons or property..	07/19/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 8.	Limitation of sulfur in fuels..	05/02/85	01/08/86, 51 FR 756.	
Air Pollution Control Regulation 9.	Air pollution control permits..	08/19/96	06/02/99, 64 FR 29563	Except for Chapters 9.13, 9.14, 9.15, and Appendix A.
Air Pollution Control Regulation 10.	Air pollution episodes. ..	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 11.	Petroleum liquids marketing and storage..	01/31/93	12/17/93, 58 FR 65933.	
Air Pollution Control Regulation 12.	Incinerators.	04/22/81	04/26/82, 47 FR 17817.	
Air Pollution Control Revisions to Regulation 13.	Particulate emissions from fossil fuel fired steam or hot water generating units..	10/05/82	03/29/83, 48 FR 13027.	
Air Pollution Control Regulation 14.	Record keeping and reporting..	01/31/93	01/10/95, 60 FR 2526.	
Air Pollution Control Regulation 15.	Control of organic solvent emissions..	12/10/89	09/30/91, 56 FR 49416	Except subsections 15.1.16 and 15.2.2.
Air Pollution Control Regulation 16.	Operation of air pollution control system..	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 17.	Odors.	02/22/77	05/07/81, 46 FR 25446.	
Air Pollution Control Regulation 18.	Control of emissions from solvent metal cleaning..	12/10/89	09/30/91, 56 FR 49416	Except subsections 18.1.8, 18.2.1, 18.3.2(d), 18.3.3(f), and 18.5.2.
Air Pollution Control Regulation 19.	Control of VOCs from surface coating operations..	10/30/92	10/18/94, 59 FR 52429	Except 19.2.2, and the last sentence of 19.1.1, which RI did not submit as part of the SIP.
Air Pollution Control Regulation 21.	Control of VOCs from printing operations..	12/10/89	09/30/91, 56 FR 49416	Except subsections 21.1.15, and 21.2.2, and portion of subsection 21.5.2(h) which states ''equivalent to'' in the parenthetical.
Air Pollution Control Regulation 25.	Control of volatile organic compound emissions from cutback and emulsified asphalt..	10/30/92	10/18/94, 59 FR 52429	Except 25.2.2, which RI did not submit as part of the SIP.

EPA APPROVED RHODE ISLAND REGULATIONS—Continued

State citation	Title/subject	State effective date	EPA approval date	Explanations
Air Pollution Control Regulation 26.	Control of organic solvent emissions from manufacture of synthesized pharmaceutical products..	10/30/92	10/18/94, 59 FR 52429	Except 26.2.3, which RI did not submit as part of the SIP.
Air Pollution Control Regulation 27.	Control of nitrogen oxide emissions..	01/16/96	09/02/97, 62 FR 46202.	
Air Pollution Control Regulation 29.3.	Emissions.	04/28/95	03/22/96, 61 FR 11735	This rule limits a source's potential to emit, therefore avoiding RACT, Title V Operating Permit.
Air Pollution Control Regulation 30.	Control of VOC from automotive refinishing operations..	06/27/95	02/02/96, 61 FR 3827.	
Air Pollution Control Regulation 31.	Consumer and commercial products..	03/31/94	10/30/96, 61 FR 55903	Except Section 31.2.2. and Section 31.5.2.
Air Pollution Control Regulation 32.	Marine vessels.	03/31/94	04/04/96, 60 FR 14978	Except Section 32.2.2 which Rhode Island did not submit as part of the SIP revision.
Air Pollution Control Regulation 33.	Architectural and industrial maintenance coatings..	03/31/94	10/30/96, 61 FR 55903	Except Section 33.2.2, and Section 33.5.2.
Air Pollution Control Regulation 38.	Nitrogen Oxides Allowance Program..	06/10/98	06/02/99, 64 FR 29567.	

(d) EPA-approved State Source specific requirements.

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
Narragansett Electric Company South Street Station in Providence.	A.H. File No. 83–12–AP	08/29/83	07/27/84, 49 FR 30177	Revisions to Air Pollution Control Regulation 8, ''Sulfur Content of Fuels,'' specifying maximum sulfur-in-coal limits (1.21 lbs/MMBtu on a 30-day rolling average and 2.31 lbs/MMBtu on a 24-hour average). These revisions approve Section 8.3.4, ''Large Fuel Burning Devices Using Coal,'' for South Street Station only.
Stanley Bostitch, Bostitch Division of Textron.	A.H. File No. 85–8–AP	06/06/85	12/11/86, 51 FR 44604	RI DEM and Bostitch administrative consent agreement effective 6/6/85. Requires Bostitch to reformulate certain solvent-based coatings to low/no solvent formulation by 12/31/86. Also addendum dated 9/20/85 defining emission limitations reformulated coatings must meet. (A) An administrative consent agreement between the RI DEM and Bostitch Division of Textron. (B) A letter to Bostitch Division of Textron from the RI DEM dated September 20, 1985 which serves as an addendum to the consent agreement. The addendum defines the emission limitations which Bostitch's Division of Textron reformulated coatings must meet.
Keene Corporation, East Providence, RI.	A.H. File No. 85–10–AP	09/12/85	08/31/87, 52 FR 2793 ...	RI DEM and Keene Corporation administrative consent agreement effective 9/12/85. Granting final compliance date extension for the control of organic solvent emissions from six paper coating lines. (A) Letter from the RI DEM dated November 5, 1985 submitting revisions to the RI SIP. (B) An administrative consent agreement between the RI DEM and Keene Corporation.
Tech Industries	File No. 86–12–AP	11/24/87	03/10/89, 54 FR 10147	RI DEM and Tech Industries original administrative consent agreement (86–12–AP) [except for provisions 7 and 8] effective 6/12/86, an addendum effective 11/24/87, defining and imposing reasonably available control technology to control volatile organic compounds.

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanations
				(A) An administrative consent agreement (86–12–AP), except for Provisions 7 and 8, between the RI DEM and Tech Industries effective June 12, 1986. (B) An addendum to the administrative consent agreement (86–12–AP) between the RI DEM and Tech Industries. The addendum was effective November 24, 1987. (C) Letters dated May 6, 1987; October 15, 1987; and January 4, 1988 submitted to the EPA by the RI DEM.
University of Rhode Island.	A.P. File No. 87–5–AP ..	03/17/87	09/19/89, 54 FR 38517	Revisions to the SIP submitted by the RI DEM on April 28, 1989, approving a renewal of a sulfur dioxide bubble for the University of Rhode Island.
University of Rhode Island.	File No. 95–50–AP	03/12/96	09/02/97, 62 FR 46202	An administrative consent agreement between RIDEM and University of Rhode Island, Alternative NO_X RACT (RI Regulation 27.4.8)
Providence Metallizing in Pawtucket, Rhode Island.	File No. 87–2–AP	04/24/90	09/06/90, 55 FR 36635	Define and impose RACT to control volatile organic compound emissions. (A) Letter from the RIDEM dated April 26, 1990, submitting a revision to the RI SIP. (B) An administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective July 24, 1987. (C) An amendment to the administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective May 4, 1989. (D) An addendum to the administrative consent agreement (87–2–AP) between the RI DEM and Providence Metallizing effective April 24, 1990.
Tillotson-Pearson in Warren, Rhode Island.	File No. 90–1–AP	06/05/90	08/31/90, 55 FR 35623	Revisions to the SIP submitted by the RI DEM on May 24, 1990, to define and impose RACT to control volatile organic compound emissions. (A) Letter from the RI DEM dated May 24, 1990 submitting a revision to the RI SIP. (B) An Administrative consent agreement (90–1-AP) between the RI DEM and Tillotson-Pearson.
Rhode Island Hospital ...	File No. 95–14–AP	11/27/95	09/02/97, 62 FR 46202	Alternative NO_X RACT. An administrative consent agreement between the RI DEM and RI Hospital.
Osram Sylvania Incorporated.	File No. 95–14–AP ..... Air Pollution Permit Approval, No. 1350.	09/04/96	09/02/97, 62 FR 46202	Alternative NO_X RACT. (A) An Administrative consent agreement between the RI DEM and Osram Sylvania Incorporated, file no. 95–14–AP, effective September 4, 1996. (B) An air pollution Permit approval, no. 1350 Osram Sylvania Incorporated issued by RIDEM effective May 14,1996.
Algonquin Gas Transmission Company.	File No. 95–52–AP	12/05/95	09/02/97, 62 FR 46202	Alternative NO_X RACT. (A) Letter from the RI DEM dated September 17, 1996 submitting a revision to the RI SIP. (B) An administrative consent agreement between RIDEM and Algonquin Gas Transmission Company, effective on December 5, 1995.
Bradford Dyeing Association, Inc.	File No. 95–28–AP	11/17/95	09/02/97, 62 FR 46202	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Bradford Dyeing Association, Inc.
Hoechst Celanese Corporation.	File No. 95–62–AP	11/20/95	09/02/97, 62 FR 46202	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Hoechst Celanese Corporation.

EPA-APPROVED RHODE ISLAND SOURCE SPECIFIC REQUIREMENTS—Continued

Name of source	Permit No.	State effective date	EPA approval date	Explanations
Naval Education and Training Center in Newport.	File No. 96–07–AP	03/04/96	09/02/97, 62 FR 46202	Alternative NO_X RACT. An administrative consent agreement between RIDEM and Naval Education and Training Center in Newport.
Rhode Island Economic Development.	File No. 96–04–AP	09/02/97	06/02/99, 64 FR 29567	Alternative NO_X RACT. A consent agreement between RIDEM and Rhode Island Economic Development Corporation's Central Heating Plant in North Kingstown.

(e) Nonregulatory.

RHODE ISLAND NON REGULATORY

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Explanations
Notice of public hearing..	Statewide	Submitted 02/09/72	06/15/72, 37 FR 11911.	Proposed Implementation Plan Regulations, RI Department of Health.
Miscellaneous nonregulatory additions to the plan correcting minor deficiencies.	Statewide	Submitted 02/29/72	07/27/72, 37 FR 15080.	Approval and promulgation of Implementation Plan Miscellaneous Amendments, RI Department of Health.
Compliance schedules	Statewide	Submitted 04/24/73	06/20/73, 38 FR 16144.	Submitted by RI Department of Health.
AQMA identifications for the State of Rhode Island.	Statewide	Submitted 04/11/74	04/29/75, 40 FR 18726.	Submitted by RI Department of Health.
Letter identifying Metropolitan Providence as an AQMA.	Metropolitan Providence.	Submitted 09/06/74	04/29/75, 40 FR 18726.	Submitted by the Governor.
A comprehensive air quality monitoring plan, intended to meet requirements of 40 CFR part 58.	Statewide	Submitted 01/08/80	01/15/81, 46 FR 3516	Submitted by the RI Department of Environmental Management Director.
Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977, Included are plans to attain the carbon monoxide and ozone standards and information allowing for the re-designation of Providence to non-attainment for the primary TSP standard based on new data.	Statewide	Submitted 05/14/79, 06/11/79, 08/13/79, 01/08/80, 01/24/80, 03/10/80, 03/31/80, 04/21/80, 06/06/80, 06/13/80, 08/20/80, 11/14/80, 03/04/81, 03/05/81 and, 04/16/81.	05/07/81, 46 FR 25446.	Attainment plans to meet the requirements of Part D of the Clean Air Act, as amended in 1977.
A program for the review of construction and operation of new and modified major stationary sources of pollution in non-attainment areas.				
Certain miscellaneous provisions unrelated to Part D are also included.				
Section VI, Part II, ''Stationary Source Permitting and Enforcement'' of the narrative.	Statewide	Submitted 05/14/82; and 07/01/82.	06/28/83, 48 FR 29690.	As submitted by RI DEM on May 14, 1982 and July 1, 1982 for review of new major sources and major modifications in non-attainment areas. Also included are revisions to add rules for banking emission reductions.

RHODE ISLAND NON REGULATORY—Continued

Name of non regulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/ effective date	EPA approved date	Explanations
Revisions to the Rhode Island State Implementation Plan for attainment of the primary National Ambient Air Quality Standard for ozone 1982 Ozone Attainment Plan.	Statewide	Submitted 05/14/82; 07/01/82; 07/07/82; 10/04/82; and 03/02/83.	07/06/83, 48 FR 31026.	Submitted by the Department of Environmental Management.
Revisions to attain and maintain the lead NAAQS.	Statewide	Submitted 07/07/83	09/15/83, 48 FR 41405.	Submitted by the Department of Environmental Management.
Section VI, Part II of the associated narrative of the RI SIP.	Statewide	Submitted 02/06/84; 01/27/84; and 06/06/84.	07/06/84, 49 FR 27749.	To incorporate the requirements for the Prevention of Significant Deterioration of 40 CFR 51.24, permitting major stationary sources of lead and other miscellaneous changes.
Letter from RI DEM submitting an amendment to the RI State Implementation Plan. Section VII of the RI SIP Ambient Air Quality Monitoring.	Statewide	Submitted 01/14/94; and 06/14/94.	10/30/96, 61 FR 55897.	A revision to the RI SIP regarding ozone monitoring. RI will modify its SLAMS and its NAMS monitoring systems to include a PAMS network design and establish monitoring sites. The State's SIP revision satisfies 40 CFR 58.20(f) PAMS requirements.
Letter from RI DEM submitting revisions.	Statewide	Submitted 03/15/94	10/30/96, 61 FR 55903.	Revision to the RI SIP regarding the States' Contingency Plan.
Letter from RI DEM submitting revision—Rhode Island's 15 Percent Plan and Contingency Plan.	Statewide	Submitted 03/15/94	04/17/97, 62 FR 18712.	The revisions consist of the State's 15 Percent Plan and Contingency Plan. EPA approved only the following portions of these submittals: 15 Percent Plan—the EPA approved the calculation of the required emission reductions, and the emission reduction credit claimed from surface coating, printing operations, marine vessel loading, plant closures (0.79 tons per day approved out of 0.84 claimed), cutback asphalt, auto refinishing, stage II, reformulated gas in on-road and off-road engines, and tier I motor vehicle controls. Contingency Plan—the EPA approved the calculation of the required emission reduction, and a portion of the emission reduction credits claimed from Consumer and Commercial products (1.1 tons per day approved out of 1.9 tons claimed), and architectural and industrial maintenance (AIM) coatings (1.9 tons per day approved out of 2.4 tons claimed). EPA concurrently disapproved portions of these SIP submissions, as discussed within Section 52.2084(a)(2).

[FR Doc. 99–20312 Filed 8–6–99; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. NY 32–194a, FRL–6414–1]

Approval and Promulgation of State Plans for Designated Facilities; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the State Plan submitted by New York to implement and enforce the Emission Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (HMIWI). The EG require states to develop plans to reduce toxic air emissions from all HMIWIs.

DATES: This direct final rule is effective on October 8, 1999 without further notice, unless EPA receives adverse comment by September 8, 1999. If adverse comment is received, EPA will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the state submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, Air Programs Branch, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Ted Gardella or Craig Flamm, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866, (212) 637–3892 or (212) 637–4021, respectively.

SUPPLEMENTARY INFORMATION:

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I. What Action Is EPA Taking Today?

EPA is approving New York's State Plan submitted on September 9, 1998, and supplemented on March 11, May 12, and May 15, 1999, for the control of air emissions from HMIWIs throughout the State, except for those HMIWIs located on Indian Nation land. When EPA developed the New Source Performance Standards (NSPS) for HMIWIs, we simultaneously developed the Emission Guidelines (EG) to control air emissions from older HMIWIs (see 62 FR 48348–48391, September 15, 1997). New York State developed a State Plan, as required by section 111(d) of the Clean Air Act (the Act), to adopt the EG into their body of regulations, and we are acting today to approve New York's State Plan.

Under section 129 of the Act, the EG are not federally enforceable. Section 129(b)(2) of the Act requires states to submit to EPA for approval State Plans that implement and enforce the EG. State Plans must be at least as protective as the EG, and they become federally enforceable upon approval by EPA. The procedures for adopting and submitting State Plans are located in 40 CFR part 60, subpart B.

EPA originally issued the subpart B provisions on November 17, 1975. EPA amended subpart B on December 19, 1995, to allow the subparts developed under section 129 to include specifications that supersede the general provisions in subpart B regarding the schedule for submittal of State Plans, the stringency of the emission limitations, and the compliance schedules, see 60 FR 65414 (December 19, 1995). This action approves the State Plan submitted by New York to implement and enforce the EG, as it applies to older HMIWI units.

II. Why Is EPA Approving New York's State Plan?

EPA has evaluated the HMIWI State Plan submitted by New York for consistency with the Act, EPA guidelines and policy. EPA has determined that New York's State Plan meets all requirements and, therefore, EPA is approving New York's Plan to implement and enforce the EG, as it applies to older HMIWIs.

III. Why Does EPA Want To Regulate Air Emissions From HMIWIs?

When burned, hospital waste and medical/infectious waste emit various air pollutants, including hydrochloric acid, dioxin/furan, toxic metals (lead, cadmium, and mercury) and particulate matter. Mercury is highly hazardous and is of particular concern because it persists in the environment and bioaccumulates through the food web. Serious developmental and adult effects in humans, primarily damage to the nervous system, have been associated with exposures to mercury. Harmful effects in wildlife have also been reported; these include nervous system damage and behavioral and reproductive deficits. Human and wildlife exposure to mercury occur mainly through eating of fish. When inhaled, mercury vapor attacks also the lung tissue and is a cumulative poison. Short-term exposure to mercury in certain forms can cause hallucinations and impair consciousness. Long-term exposure to mercury in certain forms can affect the central nervous system and cause kidney damage.

Exposure to particulate matter can aggravate existing respiratory and cardiovascular disease and increase risk of premature death. Hydrochloric acid is a clear colorless gas. Chronic exposure to hydrochloric acid has been reported to cause gastritis, chronic bronchitis, dermatitis, and photosensitization. Acute exposure to high levels of chlorine in humans may result in chest pain, vomiting, toxic pneumonitis, pulmonary edema, and death. At lower levels, chlorine is a potent irritant to the eyes, the upper respiratory tract, and lungs.

Exposure to dioxin and furan can cause skin disorders, cancer, and reproductive effects such as endometriosis. These pollutants can also affect the immune system.

IV. What Are EPA's Requirements for HMIWIs?

On September 15, 1997, under sections 111 and 129 of the Act, EPA issued the NSPS applicable to new HMIWIs and the EG applicable to older HMIWIs. The NSPS and EG are codified at 40 CFR part 60, subparts Ec and Ce, respectively, see 62 FR 48348 (September 15, 1997).

Under the EG, EPA requires that affected older HMIWIs do the following:

(1) Control emissions for the following designated pollutants:

particulate matter, sulfur dioxide, hydrogen chloride, oxides of nitrogen, carbon monoxide, lead, cadmium, mercury, and dioxins and dibenzofurans.

(2) Control stack opacity.

(3) Include operator training/qualification, waste management plans, and testing/monitoring of pollutants and operating parameters.

(4) Inspect small incinerator equipment located in rural areas.

The Federal NSPS and EG define an HMIWI as any device that combusts any amount of medical/infectious waste or hospital waste. The terms medical infectious waste or hospital waste are defined in 40 CFR 60.51c.

The HMIWI source category is divided into three subcategories based on waste burning capacity: small (less than or equal to 200 pounds per hour (lb/hr)), medium (more than 200 lb/hr up to 500 lb/hr), and large (more than 500 lb/hr).

V. Are Any Sources Exempt From the Federal Requirements?

The following incinerator source categories are exempt from the federal requirements for HMIWIs:

(1) Incinerators that burn only pathological, low-level radiation, and/or chemotherapeutic waste (all defined in section 60.51c). However, the owner or operator must notify the EPA Administrator of an exemption claim and the owner or operator must keep records of the periods of time when only pathological, low-level radioactive, and/or chemotherapeutic waste is burned.

(2) Any unit required to have a permit under section 3005 of the Solid Waste Disposal Act.

(3) Incinerators that are subject to the NSPS and EG for Municipal Waste Combustors.

(4) Existing incinerators, processing operations, or boilers that co-fire medical/infectious waste or hospital waste with other fuels or wastes and that combust less than ten percent or less medical/infectious waste and hospital waste by weight (on a calendar quarter basis). However, the owner or operator must notify the EPA Administrator of an exemption claim and the owner or operator must keep records of the amount of each fuel and waste fired.

VI. What Is a State Plan?

Section 111(d) of the Act requires that pollutants controlled under NSPS must also be controlled at older sources in the same source category. Once an NSPS is issued, EPA then publishes an EG applicable to the control of the same pollutant from existing (designated) facilities. States with designated facilities must then develop a State Plan to adopt the EG into their body of regulations. States must also include in their State Plan other elements, such as inventories, legal authority, and public participation documentation, to demonstrate their ability to enforce the State Plans.

VII. What Does New York's State Plan Contain?

On September 9, 1998, the New York State Department of Environmental Conservation (NYSDEC) submitted its section 111(d) State Plan for implementing EPA's EG for older HMIWI units located in New York State. This submittal was supplemented by the NYSDEC on March 11, May 12, and May 15, 1999.

New York has adopted by reference the requirements of the EG in Part 200 of title 6 of the New York Code of Rules and Regulations (6NYCRR) of the State of New York, entitled, ''General Provisions'' and in Subpart 219–1 of 6NYCRR entitled ''Incineration-General Provisions.'' These adoptions were effective on October 1, 1998. New York will enforce the requirements under Part 201, entitled, ''Permits and Registration'' which was also effective on October 1, 1998. By incorporating the EG by reference into Part 200, NYSDEC has the authority to include them as applicable requirements in the permits for the designated facilities and to enforce such requirements. For consistency, Subpart 219–1, which addresses the applicability of the various Part 219 Subpart requirements (New York's incineration rules) now includes the new requirements and necessary definition changes.

New York's State Plan contains the following:

(1) A demonstration of the State's legal authority to implement the section 111(d) State Plan;

(2) State rules adopted into 6NYCRR as the mechanism for implementing and enforcing the State Plan;

(3) An inventory of fifteen known HMIWI facilities, including eighteen incinerator units, along with measurements of their toxic air emissions;

(4) Emission limits that are as protective as the EG;

(5) Enforceable compliance schedules incorporated into each facility's existing State operating permit. Compliance dates vary from one year from the effective date of EPA approval of New York's State Plan to not later than September 15, 2002;

(6) Testing, monitoring, reporting and recordkeeping requirements for the designated facilities;

(7) Records for the public hearing; and

(8) Provisions for progress reports to EPA.

New York's State Plan was reviewed for approval with respect to the following criteria: 40 CFR 60.23 through 60.26, ''Subpart B—Adoption and Submittal of State Plans for Designated Facilities''; and, 40 CFR 60.30e through 60.39e, ''Subpart Ce—Emission Guidelines and Compliance Times for Hospital/Medical/Infectious Waste Incinerators.''

VIII. What Sources Are Affected by New York's State Plan?

New York's State Plan regulates all the sources covered by EPA's EG for older HMIWIs for which construction commenced on or before June 20, 1996. If your facility meets this criterion, you are subject to these regulations.

IX. What Steps Do Affected Sources Need To Take?

Affected sources must meet the requirements listed in the EG, summarized as follows:

(1) Determine the size of your incinerator by establishing its maximum design capacity.

(2) Determine the specific emission limits that apply to you. Each size category of HMIWI has certain emission limits established that your incinerator must meet (see Table 1 of 40 CFR part 60, subpart Ce). The emission limits apply at all times, except during startup, shutdown, or malfunctions, provided that no waste has been charged during these events. (40 CFR 60.33e, as listed at 62 FR 48382, September 15, 1997).

(3) Meet the provisions required of small rural incinerators, if applicable. (See 40 CFR 60.33e(b), 60.36e, 60.37e(c)(d), and 60.38e(b), as listed at 62 FR 48380, September 15, 1997).

(4) Meet a 10% opacity limit on your discharge, averaged over a six-minute block (see 40 CFR 60.33e(c), as listed at 62 FR 48380, September 15, 1997).

(5) Provide for a qualified HMIWI operator available to supervise the operation of your incinerator. This operator must be trained and qualified through a State-approved program, or a training program that meets the requirements listed under 40 CFR part 60.53c(c) (see 40 CFR 60.34e, as listed at 62 FR 48380).

(6) Provide for operator certification, as discussed in (5) above, no later than one year after we approve New York's State Plan (see 40 CFR 60.39e(e), as listed at 62 FR 48382).

(7) Develop and submit to NYSDEC a waste management plan. This plan must be developed under guidance provided by the American Hospital Association publication, An Ounce of Prevention: Waste Reduction Strategies for Health Care Facilities, 1993, and must be submitted to NYSDEC no later than sixty days following the initial performance test (see 40 CFR 60.35e, as listed at 62 FR 48380; and 40 CFR 60.38e, as listed at 62 FR 48381).

(8) Conduct an initial performance test to determine your incinerator's compliance with these emission limits. This performance test must be completed by the date specified at 40 CFR 60.37e and 60.8, as listed at 62 FR 48380.

(9) Install and maintain devices to monitor the parameters listed under Table 3 to Subpart Ec (see 40 CFR 60.37e(c), as listed at 62 FR 48381).

(10) Document and maintain information concerning pollutant concentrations, opacity measurements, charge rates, and other operational data. This information must be maintained for a period of five years (see 40 CFR 60.38e, as listed at 62 FR 48381).

(11) Report to NYSDEC the results of your initial performance test, the values for your site-specific operating parameters, and your waste management plan. This information must be reported within 60 days following your initial performance test, and must be signed by the facilities manager (see 40 CFR 60.38e, as listed at 62 FR 48381).

(12) Comply with all the requirements of this State Plan within one year after we approve it; however, there are provisions to extend your compliance date (see 40 CFR 60.39e, as listed at 62 FR 48381). Those sources who have modified their state operating permits to include a compliance schedule to come into compliance with the State Plan within a year or more of our approval, must do so by the dates specified in their individual compliance schedules.

X. What Are EPA's Conclusions?

EPA has determined that New York's State Plan meets all requirements and, therefore, EPA is approving New York's Plan to implement and enforce the EG, as it applies to older HMIWIs.

EPA is publishing this rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no relevant adverse comments. However, in the proposed rules section of this **Federal Register** publication, EPA is publishing a separate document that will serve as the proposal to approve the State Plan should relevant adverse comments be filed. This rule will be effective October 8, 1999 without further notice unless the Agency receives relevant adverse comments by September 8, 1999.

If the EPA receives such comments, then EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. All public comments received will then be addressed in a subsequent final rule based on the proposed rule. The EPA will not institute a second comment period on this rule. Any parties interested in commenting on this rule should do so at this time. If no such comments are received, the public is advised that this rule will be effective on October 8, 1999 and no further action will be taken on the proposed rule.

XI. Administrative Requirements

Executive Order 12866

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

Executive Order 12875

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

Today's rule implements requirements specifically set forth by the Congress in sections 111 and 129 of the Clean Air Act, as amended in 1990, without the exercise of any discretion by EPA. Accordingly, the requirements of section 1(a) of Executive Order 12875 do not apply to this rule.

Executive Order 13045

E.O. 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), applies to any rule that: (1) is determined to be ''economically significant'' as defined under E.O. 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to E.O. 13045 because it is not an economically significant action under Executive Order 12866 and does not involve decisions intended to mitigate environmental health or safety risks.

Executive Order 13084

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

Today's rule implements requirements specifically set forth by the Congress in sections 111 and 129 of the Clean Air Act, as amended in 1990, without the exercise of any discretion by EPA. Accordingly, the requirements of section 3(b) of Executive Order 13084 do not apply to this rule.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not

have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This final rule will not have a significant impact on a substantial number of small entities because State Plan approvals under section 111 of the Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal State Plan approval does not create any new requirements, EPA certifies that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The Clean Air Act forbids EPA to base its actions concerning State Plans on such grounds. Union Electric Co., v. *U.S. EPA*, 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

Unfunded Mandates

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

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

Submission to Congress and the General Accounting Office

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. 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).

Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by October 8, 1999. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 62

Environmental protection, Air pollution control, Intergovernmental relations, Hospital/Medical/Infectious Waste Incinerators, Reporting and recordkeeping requirements.

Dated: July 23, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

Part 62, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 62—[AMENDED]

1. The authority citation for part 62 continues to read as follows:

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

Subpart HH—New York

2. Part 62 is amended by adding § 62.8105 and an undesignated heading to subpart HH to read as follows:

Metals, Acid Gases, Organic Compounds, Particulates and Nitrogen Oxide Emissions From Existing Hospital/Medical/Infectious Waste Incinerators

§ 62.8105 Identification of plan.

(a) The New York State Department of Environmental Conservation submitted to the Environmental Protection Agency a ''State Plan for implementation and enforcement of 40 CFR part 60, subpart CE, Emissions Guidelines for Hospitals/Medical/Infectious Waste Incinerators'' on September 9, 1998 and supplemented on March 11, May 12, and May 15, 1999.

(b) Identification of sources: The plan applies to all existing HMIWI facilities for which construction was commenced on or before June 20, 1996, as described in 40 CFR Part 60, Subpart Ce.

(c) The effective date for the portion of the plan applicable to existing Hospital/Medical/Infectious Waste Incinerators is October 8, 1999.

[FR Doc. 99–20305 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 5 and 90

[ET Docket No. 96–256, FCC 98–283]

Revision of the Experimental Radio Service Regulations

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: On November 19, 1998 (63 FR 64199), the Commission published final rules in the Report and Order, which revised the rules governing the Experimental Radio Service. This document contains corrections to that rule.

EFFECTIVE DATE: January 19, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney Small, Office of Engineering and Technology, (202) 418–2452.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document amending parts 5 and 90 of the Commission's rules in the **Federal Register** on November 19, 1998, (63 FR 64199). This document corrects the **Federal Register** as it appeared. In rule FR Doc. 98–30381, published on November 19, 1998, 63 FR 64199, the Commission is correcting §§ 5.3(f), 5.59(d), 5.59(f), 5.61(c), 5.61(c)(6), 5.61(c)(9), 5.89(c), 5.105, 5.109(b), and 90.203 of the Commission's rules.

In rule FR Doc. 98–30381 published on November 19, 1998 (63 FR 64199) make the following corrections.

1. On page 64202, in the third column of § 5.3 paragraph (f) is corrected to read as follows:

§ 5.3 Scope of service.

* * * * *

(f) Demonstration of equipment to prospective purchasers by persons

engaged in the business of selling radio equipment.

* * * * *

§ 5.59 [Corrected]

2. On page 64204, in the second column, the first sentence of § 5.59 paragraph (d) is corrected by removing the term ''to construct or''; and in the same column, paragraph (f) should be removed.

3. On page 64204, in the third column, in § 5.61, paragraphs (c) introductory text, (c)(6) and (c)(9) are corrected to read as follows:

§ 5.61 Procedure for obtaining a special temporary authorization.

* * * * *

(c) An application for special temporary authorization may be filed in letter form and shall contain the following information:

* * * * *

(6) Description of the location(s) and, if applicable, geographical coordinates of the proposed operation.

* * * * *

(9) Maximum effective radiated power (ERP) or equivalent isotrophically radiated power (EIRP).

* * * * *

4. On page 64207, in the first column, in § 5.89, the first sentence in paragraph (c) is corrected to read as follows:

§ 5.89 School and student authorizations.

* * * * *

(c) Operations under this section are limited to 4 watts equivalent isotropically radiated power (EIRP).

* * *

* * * * *

5. On page 64207, in the third column, in § 5.105, the first sentence is corrected to read as follows:

§ 5.105 Authorized bandwidth.

Each authorization issued to a station operating in this service will show, as the prefix to the emission classification, a figure specifying the maximum necessary bandwidth for the emission used. * * *

6. On page 64208, in the first column, in § 5.109, paragraph (b) is corrected to read as follows:

§ 5.109 Antenna and tower requirements.

(b) The licensee of any radio station that has an antenna structure required to be painted and illuminated pursuant to the provisions of section 303(q) of the Communications Act of 1934, as amended, and part 17 of this chapter, shall perform the inspections and maintain the tower marking and lighting, and associated control equipment, in accordance with the requirements of part 17, subpart C, of this chapter.

7. On page 64208, in the third column, in § 90.203, the section heading, paragraph (a) introductory text and paragraph (l) are corrected to read as follows:

§ 90.203 Certification required.

(a) Except as specified in paragraphs (b) and (l) of this section, each transmitter utilized for operation under this part and each transmitter marketed as set forth in § 2.803 of this chapter must be of a type which has been certificated for use under this part.

* * * * *

(l) Ocean buoy and wildlife tracking transmitters operating in the band 40.66–40.70 MHz or 216–220 MHz under the provisions of § 90.248 of this part shall be authorized under verification procedure pursuant to subpart J of part 2 of this chapter.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–20388 Filed 8–6–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[IB Docket No. 98–118, FCC 99–51]

Biennial Review of International Common Carrier Regulations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission published in the **Federal Register** of April 19, 1999, a document concerning the biennial review of international common carrier regulations. Inadvertently amendatory instruction 10 contained errors. This document corrects those instructions.

DATES: Effective August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Douglas Klein or Peggy Reitzel, Policy and Facilities Branch, Telecommmunications Division, International Bureau, (202) 418–1470.

SUPPLEMENTARY INFORMATION: The Federal Communications Commission published a document in the **Federal Register** of April 19, 1999, (64 FR 19063). This correction revises amendatory instruction 10.

In the **Federal Register** Doc. 99–9480 published on April 19, 1999, (64 FR 19063) make the following correction.

On page 19063, in the first column, correct amendatory instruction 10 to read as follows:

§ 63.12 [Corrected]

10. Section 63.12, paragraph (c)(2) is amended by removing the words ''within the meaning of § 63.18(h)(1)'', removing paragraph (c)(4), redesignating paragraph (c)(5) as new paragraph (c)(4), and revising it, and revising paragraphs (a), (b), (c)(1) and (d) to read as follows:

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 99–20391 Filed 8–6–99; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1508; MM Docket No. 98–135; RM–9300 & RM–9383]

Radio Broadcasting Services; Corrigan and Lufkin, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 261A to Lufkin, Texas, in response to a petition filed by Russell L. Lindley, *see* 63 FR 41765, August 5, 1998. The coordinates for Channel 261A at Lufkin are 31–16–13 NL and 94–43–50 WL. There is a site restriction 8.5 kilometers (5.3 miles) south of the community. In response to a counterproposal filed by Corrigan Broadcasting Company, we shall allot Channel 232A to Corrigan, Texas, at coordinates 30–59–30 NL and 94–59–41 WL. There is a site restriction 15.7 kilometers (9.8 miles) west of the community. With this action, this proceeding is terminated. A filing window for Channel 261A at Lufkin and Channel 232A at Corrigan will not be opened at this time. Instead, the issue of opening a filing window for these channels will be addressed by the Commission in a subsequent order.

DATES: Effective September 13, 1999.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 98–135, adopted July 21, 1999, and released July 30, 1999. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street, SW,

Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 1231 20th Street, NW., Washington, DC. 20036, (202) 857–3800, facsimile (202) 857–3805.

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 and 336.

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Texas, is amended by adding Corrigan, Channel 232A, and by adding Channel 261A at Lufkin.

Federal Communications Commission.

John A. Karousos,

Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 99–20390 Filed 8–6–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

48 CFR Parts 202 and 217

[DFARS Case 97–D308]

Defense Federal Acquisition Regulation Supplement; Multiyear Contracting

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to update guidance pertaining to multiyear contracting. The rule contains statutory requirements related to the award of multiyear contracts for supplies, services, and weapon systems.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Melissa Rider, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–4245; telefax (703) 602–0350. Please cite DFARS Case 97–D308.

SUPPLEMENTARY INFORMATION:

A. Background

This final rule amends DFARS Subpart 217.1 to update guidance pertaining to the award of multiyear contracts. The rule adds requirements to reflect the provisions of 10 U.S.C. 2306(g)(2)(B), 10 U.S.C. 2306b(i)(3), and Section 8008(b) of Public Law 105–56; updates other statutory references throughout the subpart; and makes editorial revisions for clarity. In addition, the rule adds a definition of ''Congressional defense committees'' at DFARS 202.101

This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

This final rule does not constitute a significant revision within the meaning of FAR 1.501 and Public Law 98–577 and publication for public comment is not required. However, comments from small entities concerning the affected DFARS subparts will be considered in accordance with 5 U.S.C. 610. Such comments should cite DFARS Case 97–D308.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the rule does not contain any information collection requirements that require the approval of the Office of Management and Budget under 44 U.S.C. 3501, *et seq.*

List of Subjects in 48 CFR Parts 202 and 217

Government procurement.

Michele P. Peterson,

Executive Director, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 202 and 217 are amended as follows:

1. The authority citation for 48 CFR Parts 202 and 217 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 202—DEFINITIONS OF WORDS AND TERMS

2. Section 202.101 is amended by adding, in alphabetical order, a definition of ''Congressional defense committees'' to read as follows:

§ 202.101 Definitions

''Congressional defense committees'' means—

(1) The Committee on Armed Services of the Senate;

(2) The Subcommittee on Defense of the Committee on Appropriations of the Senate;

(3) The Committee on Armed Services of the House of Representatives; and

(4) The Subcommittee on Defense of the Committee on Appropriations of the House of Representatives.

* * * * *

PART 217—SPECIAL CONTRACTING METHODS

3. Sections 217.170 through 217.714 are revised to read as follows:

217.170 General

(a) Before awarding a multiyear contract, the head of the agency must compare the cost of that contract to the cost of an annual procurement approach, using a present value analysis. Do not award the multiyear contract unless the analysis shows that the multiyear contract will result in the lower cost (10 U.S.C. 2306(1)(5)).

(b) The head of the agency must provide written notice to the congressional defense committees at least 10 days before termination of any multiyear contract (10 U.S.C. 2306(1)(4)).

(c) The Secretary of Defense may instruct the head of the agency proposing a multiyear contract to include in that contract negotiated priced options for varying the quantities of end items to be procured over the life of the contract (10 U.S.C. 2306b(j)).

(d) Every multiyear contract must comply with FAR 17.104(c), unless an exception is approved through the budget process in coordination with the cognizant comptroller.

(e)(1) DoD must receive authorization from, or provide notification to, Congress before entering into a multiyear contract for certain procurements, including those expected to—

(i) Exceed $500 million for any particular system or system component (see 217.173(b)(4));

(ii) Employ economic order quantity procurement in excess of $20 million in any one year (see 217.174(a)(1));

(iii) Employ an unfunded contingent liability in excess of $20 million (see 217.172(c)); or

(iv) Involve a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year (see 217.174(a)(2)).

(2) A DoD component must submit a request for authority to enter into such multiyear contracts as part of the component's budget submission for the fiscal year in which the multiyear contract will be initiated. DoD will include the request, for each candidate it supports, as part of the President's Budget for that year and in the

Appendix to that budget as part of proposed legislative language for the appropriations bill for that year (Section 8008(b) of Pub. L. 105–56).

(3) If the advisability of using a multiyear contract becomes apparent too late to satisfy the requirements in paragraph (e)(2) of this section, the request for authority to enter into a multiyear contract must be—

(i) Formally submitted by the President as a budget amendment; or

(ii) Made by the Secretary of Defense, in writing, to the congressional defense committees (Section 8008(b) of Pub. L. 105–56).

217.171 Multiyear contracts for services.

(a) *10 U.S.C. 2306(g).*

(1) The head of the agency may enter into multiyear contracts for the following types of services (and items of supply relating to such services), even though funds are limited by statute to obligation only during the fiscal year for which they were appropriated:

(i) Operation, maintenance, and support of facilities and installations.

(ii) Maintenance or modification of aircraft, ships, vehicles, and other highly complex military equipment.

(iii) Specialized training requiring high quality instructor skills (e.g., training for pilots and other aircrew members or foreign language training).

(iv) Base services (e.g., ground maintenance, in-plane refueling, bus transportation, and refuse collection and disposal).

(2) The head of the agency may use this authority only if the term of the contract does not exceed 5 years. However, the head of the agency may extend the term of the contract by exercising an option that does not—

(i) Exceed 3 years; or

(ii) Include charges for plant, equipment, or other nonrecurring costs already amortized.

(3) Before entering into a multiyear contract for services, the head of the agency must make a written determination that—

(i) There will be a continuing need for the services and incidental supplies consistent with current plans for the proposed contract period;

(ii) Furnishing the services and incidental supplies will require—

(A) A substantial initial investment in plant or equipment; or

(B) The incurrence of substantial contingent liabilities for the assembly, training, or transportation of a specialized work force; and

(iii) Using a multiyear contract will be in the best interest of the United States by encouraging effective competition and promoting economical business operations (e.g., economic lot purchases and more efficient production rates).

(b) *10 U.S.C. 2829.*

(1) The head of the agency may enter into multiyear contracts for supplies and services required for management, maintenance, and operation of military family housing and may pay the costs of such contracts for each year from annual appropriations for that year.

(2) The head of the agency may use this authority only if the term of the contract does not exceed 4 years.

217.172 Multiyear contracts for supplies.

(a) This section applies to all multiyear contracts for supplies, including weapon systems. For policies that apply only to multiyear contracts for weapon systems, see 217.173.

(b) The head of the agency may enter into a multiyear contract for supplies if, in addition to the conditions listed in FAR 17.105–1(b), the use of such a contract will promote the national security of the United States.

(c) The head of the agency must provide written notice to the congressional defense committees at least 30 days before the contracting officer awards a multiyear contract including an unfunded contingent liability in excess of $20 million (10 U.S.C. 2306b(l)(1)(A)).

(d) Agencies must establish reporting procedures to meet the requirements of paragraph (c) of this section. The head of the agency must submit copies of the notifications to the Director of Defense Procurement, Office of the Under Secretary of Defense (Acquisition and Technology) (OUSD(A&T)DP), and to the Deputy Under Secretary of Defense (Comptroller) (Program/Budget) (OUSD(C)(P/B)).

217.173 Multiyear contracts for weapon systems.

(a) As authorized by 10 U.S.C. 2306b(h) and subject to the conditions in paragraph (b) of this section, the head of the agency may enter into a multiyear contract for—

(1) A weapon system and associated items, services, and logistics support for a weapon system; and

(2) Advance procurement of components, parts, and materials necessary to manufacture a weapon system, including advance procurement to achieve economic lot purchases or more efficient production rates (see 217.174 regarding economic order quantity procurement).

(b) The head of the agency must ensure that the following conditions are satisfied before awarding a multiyear contract under the authority described in paragraph (a) of this section:

(1) The multiyear exhibits required by DoD 7000.14–R, Financial Management Regulation, are included in the agency's budget estimate submission and the President's budget request.

(2) The Secretary of Defense certifies to Congress that the current 5-year defense program fully funds the support costs associated with the multiyear program (10 U.S.C. 2306b(i)(1)(A)). The head of the agency must submit information supporting this certification to USD(C) (P/B) for transmission to Congress through the Secretary of Defense.

(3) The proposed multiyear contract provides for production at not less than minimum economic rates, given the existing tooling and facilities (10 U.S.C. 2306b(i)(1)(B)). The head of the agency must submit to USD(C) (P/B) information supporting the agency's determination that this requirement has been met.

(4) If the value of a multiyear contract for a particular system or component exceeds $500 million, use of a multiyear contract is specifically authorized by—

(i) An appropriations act (10 U.S.C. 2306b(l)(3)); and

(ii) A law other than an appropriations act (10 U.S.C. 2306b(i)(3)).

(5) All other requirements of law are met and there are no other statutory restrictions on using a multiyear contract for the specific system or component (10 U.S.C. 2306b(i)(2)). One such restriction may be the achievement of specified cost savings. If the agency finds, after negotiations with the contractor(s), that the specified savings cannot be achieved, the head of the agency must assess the savings that, nevertheless, could be achieved by using a multiyear contract. If the savings are substantial, the head of the agency may request relief from the law's specific savings requirement. The request must—

(i) Quantify the savings that can be achieved;

(ii) Explain any other benefits to the Government of using the multiyear contract;

(iii) Include details regarding the negotiated contract terms and conditions; and

(iv) Be submitted to OUSD (A&T) DP for transmission to Congress via the Secretary of Defense and the President.

217.174 Multiyear contracts that employ economic order quantity procurement.

(a) The head of the agency must provide written notice to the congressional defense committees at least 30 days before awarding—

(1) A multiyear contract providing for economic order quantity procurement in excess of $20 million in any one year; or

(2) A contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20 million in any one year (10 U.S.C. 2306b(l)(1)(A)).

(b) Before initiating an advance procurement, the contracting officer must verify that it is consistent with DoD policy (e.g., Part 3 of DoD 5000.2–R, Mandatory Procedures for Major Defense Acquisition Programs (MDAPs) and Major Automated Information System (MAIS) Acquisition Programs, and the full funding policy in Volume 2A, Chapter 1, of DoD 7000.14–R, Financial Management Regulation).

[FR Doc. 99–20284 Filed 8–6–99; 8:45 am]
BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

48 CFR Parts 204, 212, 213, 252, and 253

[DFARS Case 98–D027]

Defense Federal Acquisition Regulation Supplement; Taxpayer Identification Numbers and Commercial and Government Entity Codes

AGENCY: Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: The Director of Defense Procurement has issued a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add procedures for reporting payment information to the Internal Revenue Service (IRS); to revise the procedures for obtaining Taxpayer Identification Numbers (TINs) and Commercial and Government Entity (CAGE) codes when contractors are required to register in the Central Contractor Registration (CCR) database; and to make editorial changes.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Sandra G. Haberlin, Defense Acquisition Regulations Council, PDUSD (A&T) DP (DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telephone (703) 602–0289; telefax (703) 602–0350. Please cite DFARS Case 98–D027.

SUPPLEMENTARY INFORMATION:

A. Background

1. *Reporting payment information to the IRS.* This rule supplements the final FAR rule published as Item I of Federal Acquisition Circular 97–12 on June 17, 1999 (64 FR 32741).

a. The FAR rule renumbered and retitled FAR 4.903, Payment information, as FAR 4.904, Reporting payment information to the IRS; and deleted the list, previously located at FAR 4.903(b), of the types of payments that are exempt from reporting payment information to the IRS on Form 1099. The list was considered unnecessary for including in the FAR, because the payment office is responsible for submitting Form 1099 reports to the IRS.

b. This rule adds a new section at DFARS 204.904, Reporting payment information to the IRS. The new section contains a list that is similar to the one previously found in the FAR, but the list has been updated to comply with the Taxpayer Relief Act of 1997 (Pub. L. 105–32). Section 1022 of the Act amended 26 U.S.C. 6041A to add payments under certain classified contracts to the list of exceptions, and to remove payments for services provided by corporations from the list. DFARS 204.904 also adds a requirement for the contracting officer to provide a statement to the payment office if the contractor is providing services subject to Form 1099 reporting to the IRS. The statement is not required if the contracting officer concludes that one of the exceptions listed at DFARS 204.904(1) applies. This procedure is added to the DFARS to facilitate issuance of Form 1099 reports by the payment office.

2. *Procedures for obtaining TINs and CAGE code numbers when CCR applies.* The FAR rule also modified the process for obtaining TINs, by permitting agencies to prescribe their own procedures for obtaining TINs from contractors and for providing the TINs to the payment office. DoD uses the CCR database for these purposes. This DFARS rule clarifies that the contracting officer must not use the solicitation provisions at FAR 52.204–3, Taxpayer Identification, and DFARS 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting; or paragraph (b) of the provision at FAR 52.212–3, Offeror Representations and Certifications—Commercial Items, when the contractor is required to register in the CCR database, since the information that these provisions request is duplicative of the information that the contractor must provide during the CCR process.

3. *Editorial changes.* This DFARS rule makes a number of editorial changes, including updating CAGE code information in Subpart 204.72, Contractor Identification, and clarifying certain requirements in Subpart 204.73, Central Contractor Registration.

4. *Proposed rule.* A proposed DFARS rule was published in the **Federal Register** on January 15, 1999 (64 FR 2617). Three sources submitted comments on the proposed rule. All comments were considered in the development of the final rule.

5. This rule was not subject to Office of Management and Budget review under Executive Order 12866, dated September 30, 1993.

B. Regulatory Flexibility Act

DoD certifies that this final rule will not have a 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.*, because the FAR and DFARS already contain requirements for offerors and contractors to provide TINs and CAGE codes and to register in the CCR database. This rule simply clarifies that, if a prospective contractor is required to register in the CCR database, it does not have to provide a TIN or a CAGE code to the contracting officer.

C. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. 3501, *et seq.*) applies because the rule contains information collection requirements. The final rule decreases the collection requirements currently approved under Office of Management and Budget Control Number 0704–0225, since the rule limits use of the solicitation provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, to contractors that are not required to register in the CCR database. Therefore, the final rule reduces the number of respondents by 89,545, and the number of burden hours by 22,386.

List of Subjects in 48 CFR Parts 204, 212, 213, 252, and 253

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR parts 204, 212, 213, 252, and 253 are amended as follows:

1. The authority citation for 48 CFR parts 204, 212, 213, 252, and 253 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 204—ADMINISTRATIVE MATTERS

2. Section 204.203 is added to read as follows:

204.203 Taxpayer identification information.

(1) The procedures at FAR 4.203(a) and (b) do not apply to contracts that include the clause at 252.204–7004, Required Central Contractor Registration.

(2) For a DoD basic ordering agreement or indefinite-delivery contract that requires the contractor to register in the Central Contractor Registration (CCR) database (see subpart 207.73)—

(i) The contracting officer issuing the agreement or contract need not provide a copy of the completed solicitation provision at FAR 52.204–3 or 52.212–3(b) to DoD contracting officers placing orders under the agreement or contract; and

(ii) A DoD contracting officer placing an order under the agreement or contract need not provide the TIN or type of organization information to the payment office.

(3) For a non-DoD basic ordering agreement or indefinite-delivery contract, a DoD contracting officer placing an order under the agreement or contract must use the procedures at 204.7303(a)(2) to determine if the contractor is registered in the CCR database.

(i) If the contractor is registered, the contracting officer need not provide the TIN or type of organization information to the payment office.

(ii) If the contractor is not registered, the contracting officer must follow the procedures at 204.7303(b).

204.602–70 [Removed]

3. Section 204.602–70 is removed.

4. Section 204.603 is added to read as follows:

204.603 Solicitation provisions.

(1) Use the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, in solicitations when—

(i) The solicitation does not include the clause at 252.204–7004, Required Central Contractor Registration; and

(ii) The CAGE codes for the potential offerors are not available to the contracting office.

(2) Use the provision at FAR 52.204–6, Data Universal Numbering System (DUNS) Number, in solicitations that—

(i) Have an estimated value exceeding $25,000; or

(ii) Have an estimated value of $25,000 or less and include the clause at $252.204–7004, Required Central Contractor Registration.

5. Subpart 204.9 is revised to read as follows:

Subpart 204.9—Taxpayer Identification Number Information

Sec.
204.902 General.
204.904 Reporting payment information to the IRS.
204.905 Solicitation provision.

204.902 General

(b) DoD uses DD Form 350, Individual Contracting Action Report, (see 204.670) to meet these reporting requirements.

204.904 Reporting payment information to the IRS.

(1) 26 U.S.C. 6041 and 6041A and 26 CFR 1.6041 require Government payors to report to the IRS, on IRS Form 1099, payments of an annual cumulative value of $600 or more provided to a contractor, except payments for—

(i) Supplies, unless the supplies are incidental to the furnishing of services;

(ii) Telegram, telephone, freight, storage, or similar charges;

(iii) Income that the payor must report on IRS Form W–2 (e.g., payments to employees or payments under contracts for personal services);

(iv) Any contract with a Federal agency;

(v) Any contract with a State, the District of Columbia, or a possession of the United States; or a political subdivision, agency, or instrumentality of any of the foregoing;

(vi) Any contract with an organization exempted from taxation by 26 U.S.C. 501(a). Such organizations may include charitable, social welfare, labor, agricultural, veterans', and political organizations; business leagues; social clubs; fraternal societies; and employees' associations. Contracting officers may obtain additional information to assist in determining an organization's tax-exempt status via the Internet at http://www.irs.ustreas.gov/prod/bus__info/eo/eo-types.html;

(vii) Any contract with a foreign government or a political subdivision of a foreign government;

(viii) Any contract with an international organization listed in 22 U.S.C. 288;

(ix) Any classified contract excepted by 26 U.S.C. 6050M. As used in this section only, a contract is classified if—

(A) DoD designates the existence of the contract or the contract subject matter as classified (i.e., the contract requires a specific degree of protection against unauthorized disclosure for reasons of national security); or

(B) The head of the agency determines that filing IRS Form 1099 would interfere with the effective conduct of a confidential law enforcement or foreign intelligence activity; or

(x) Such other services as the IRS may specify in regulations.

(2) Unless an exception in paragraph (1) of this section applies, the contracting officer must provide, as the last page of the copy of the contract sent to the payment office—

(i) A statement that the contractor is providing services subject to Form 1099 payment information reporting to the IRS, as required by 26 U.S.C. 6041 and 6041A; and

(ii) The contractor's Taxpayer Identification Number and type of organization, if the contract does not include the clause at 252.204–7004, Required Central Contractor Registration.

204.905 Solicitation provision.

Do not use the provision at FAR 52.204–3, Taxpayer Identification, in solicitations that include the clause at 252.204–7004, Required Central Contractor Registration.

6. Sections 204.7200 through 204.7204 are revised to read as follows:

204.7200 Scope of subpart

This subpart prescribes uniform policies and procedures for identification of commercial and Government entities when it is necessary to—

(a) Exchange data with another contracting activity, including contract administration activities and contract payment activities, or comply with the reporting requirements of subpart 204.6; or

(b) Identify contractors for the purpose of developing computerized acquisition systems or solicitation mailing lists.

204.7201 Definitions.

(a) ''Commercial and Government Entity (CAGE) code'' means—

(1) A code assigned by the Defense Logistics Information Service (DLIS) to identify a commercial or Government entity; or

(2) A code assigned by a member of the North Atlantic Treaty Organization (NATO) that DLIS records and maintains in the CAGE master file. This type of code is known as an ''NCAGE code.''

(b) ''Contractor identification code'' means a code that the contracting office uses to identify an offeror. The three types of contractor identification codes are CAGE codes, Data Universal Numbering System (DUNS) numbers, and Taxpayer Identification Numbers (TINs).

204.7202 General.

204.7202–1 CAGE codes.

(a) DLIS assigns or records and maintains CAGE codes to identify commercial and Government entities. DoD 4000.25–5–M, Military Standard Contract Administration Procedures (MILSCAP); Volume 7 of DoD 4100.39–M, Federal Logistics Information System (FLIS) Procedures Manual; and 253.204–70(b)(5)(ii)(C) prescribe use of CAGE codes.

(b)(1) If a prospective contractor must register in the Central Contractor Registration (CCR) database (see subpart 204.73) and does not have a CAGE code, DLIS will assign a CAGE code when the prospective contractor submits its request for registration in the CCR database.

(2) If registration in the CCR database is not required, the prospective contractor's CAGE code is not already available in the contracting office, and the prospective contractor does not respond to the provision at 252.204–7001, Commercial and Government Entity (CAGE) Code Reporting, use the following procedures:

(i) To identify the prospective contractor's CAGE code, use—

(A) The monthly H-series CD ROM that contains the H–4/H–8 CAGE master file issued by DLIS (Their address is: Customer Service, Federal Center, 74 Washington Avenue, North, Battle Creek, MI 49017–3084. Their telephone number is: toll-free 1–888–352–9333);

(B) The on-line access to the CAGE file through the Defense Logistics Information System;

(C) The on-line access to the Defense Logistics Agency (DLA) CAGE file through the DLA Network or dial-up capability; or

(D) The Internet to access the CAGE Lookup Server at http://www.dlis.dla.mil/cageserve.htm.

(ii) If no CAGE code is identified through use of the procedures in paragraph (b)(2)(i) of this subsection, ask DLIS to assign a CAGE code. Submit a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code, (or electronic equivalent) to the address in paragraph (b)(2)(i)(A) of this subsection, ATTN: DLIS–SBB. The contracting office completes Section A of the DD Form 2051, and the contractor completes Section B. The contracting office must verify Section B before submitting the form.

(c) Direct questions on obtaining computer tapes, electronic updates, or code assignments to DLIS (DLIS–SBB) at DSN 932–4381, or commercial (616) 961–4381.

204.7202–2 DUNS numbers.

Requirements for use of DUNS numbers are in FAR 4.602(d) and 4.603.

204.7202–3 TINs.

Requirements for use of TINs are in FAR subpart 4.9.

204.7203 Responsibilities of contracting officers.

(a) Assist offerors in obtaining the required CAGE codes.

(b) Do not deny a potential offeror a solicitation package because the offeror does not have a contractor identification code.

(c) Consider requesting a CAGE code at the time a potential offeror is sent a solicitation package or added to the mailing list to ensure that a code is assigned in sufficient time to process the DD Form 350, Individual Contracting Action Report, without delay.

204.7204 Maintenance of the CAGE file.

(a) DLIS will accept written requests for changes to CAGE files, other than name changes, from the following entities:

(1) The entity identified by the code. The entity must use company letterhead to forward the request.

(2) The contracting office.

(3) The contract administration office.

(b) Submit requests for changes to CAGE files on DD Form 2051, or electronic equivalent, to—Defense Logistics Information Service, DLIS–SBB, Federal Center, 74 Washington Avenue, North Battle Creek, MI 49017–3084. Telephone Numbers: DSN 932–4381, commercial (616) 961–4381. Facsimile: (616) 961–4528, 4388, 4485.

(c) The contracting officer responsible for execution of a change-of-name agreement (see FAR subpart 42.12) must submit the agreement to DLIS–SBB. If there are no current contracts, each contracting and contract administration office receiving notification of changes from the commercial entity must forward a copy of the change notice annotated with the CAGE code to DLIS–SBB unless the change notice indicates that DLIS–SBB already has been notified.

(d) Additional guidance for maintaining CAGE codes is in Volume 7 of DoD 4100.39–M, Federal Logistics Information System (FLIS) Procedures Manual.

7. Sections 204.7302 through 204.7304 are revised to read as follows:

204.7302 Policy.

Prospective contractors must be registered in the CCR database prior to award of a contract, basic agreement, basic ordering agreement, or blanket purchase agreement, except for—

(a) Purchases paid for with a Governmentwide commercial purchase card;

(b) Awards made to foreign vendors for work performed outside the United States;

(c) Classified contracts or purchases (see FAR 4.401) when registration in the CCR database, or use of CCR data, could comprise the safeguarding of classified information or national security;

(d) Contracts awarded by deployed contracting officers in the course of military operations, including, but not limited to, contingency operations as defined in 10 U.S.C. 101(a)(13) or humanitarian or peacekeeping operations as defined in 10 U.S.C. 2302(7), or contracts awarded by contracting officers in the conduct of emergency operations, such as responses to natural disasters or national or civil emergencies; and

(e) Purchases to support unusual or compelling needs of the type described in FAR 6.302–2.

204.7303 Procedures.

(a)(1) Except as provided in 204.7302, the contracting officer must require each offeror to provide a DUNS number (see 204.603(2)) or, if applicable, a DUNS+4 number, with its verbal or written offer, regardless of the dollar amount of the offer.

(2) Before awarding a contract, basic agreement, basic ordering agreement, or blanket purchase agreement, the contracting officer must verify that the prospective contractor is registered in the CCR database (but see paragraph (b) of this section). The contracting officer may verify registration using the DUNS number or, if applicable, the DUNS+4 number, by calling toll-free: 1–800–841–4431, commercial: (616) 961–5757, or DSN: 932–5757; via the Internet at http://ccr.edi.disa.mil/ccr/cgi-bin/status.pl; or as otherwise provided by agency procedures.

(3) The contracting officer need not verify registration before placing an order or call under a DoD contract or agreement.

(4) The contracting officer must verify registration before placing an order or call under a non-DoD contract or agreement. If the contracting is not registered, the contracting officer must follow the procedures in paragraph (b) of this section.

(5) As part of the annual review of basic agreements, basic ordering agreements, and blanket purchase agreements, contracting officers must modify these agreements to incorporate the clause at 252.204–7004, Required Central Contractor Registration.

(b) If the contracting officer determined that a prospective contractor is not registered in the CCR database and an exception to the registration requirements for the awarded does not apply (see 204.7302), the contracting officer must—

(1) If the needs of the requiring activity allow for a delay, proceed toward after the contractor is registered; or

(2) If the needs of the requiring activity do not allow for a delay, proceed to award to the next otherwise successful registered offeror, provided that written approval is obtained at one level above the contracting officer.

(c) Agencies must protect against improper disclosure of contractor CCR information.

(d) The contracting officer must, on contractual documents transmitted to the payment office, provide either the Commercial and Government Entity code or the DUNS number in accordance with agency procedures.

§ 204.7304 Contract clause.

Except as provided in 204.7302, use the clause at 252.204–7004, Required Central Contractor Registration, in solicitations and contracts.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

8. Section 212.301 is amended by adding paragraph (b)(2) to read as follows:

§ 212.301 Solicitation provisions and contract clauses for the acquisition of commercial items.

(b)(2) Paragraph (b) of the provision at FAR 52.212–3 does not apply when the solicitation includes the clause at 252.204–7004, Required Central Contractor Registration.

* * * * *

PART 213—SIMPLIFIED ACQUISITION PROCEDURES

9. Subpart 213.1 is added to read as follows:

Subpart 231.1—Procedures

Sec.
213.106–3 Award and documentation.

§ 213.106–3 Award and documentation.

(e) The procedures at FAR 13.106–3(e) do not apply when the contract includes the clause at 252.204–7004, Required Central Contractor Registration.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

10. Section 252.204–7001 is revised to read as follows:

§ 252.204–7001 Commercial and Government Entity (CAGE) Code Reporting.

As prescribed in 204.603(1), use the following provision:

Commercial and Government Entity (CAGE) Code Reporting (Aug 1999)

(a) The offeror is requested to enter its CAGE code on its offer in the block with its name and address. The CAGE code entered must be for that name and address. Enter ''CAGE'' before the number.

(b) If the offeror does not have a CAGE code, it may ask the Contracting Officer to request one from the Defense Logistics Information Service (DLIS). The Contracting Officer will—

(1) Ask the Contractor to complete section B of a DD Form 2051, Request for Assignment of a Commercial and Government Entity (CAGE) Code;

(2) Complete section A and forward the form to DLIS; and

(3) Notify the Contractor of its assigned CAGE code.

(c) Do not delay submission of the offer pending receipt of a CAGE code.

(End of provision)

PART 253—FORMS

11. Section 253.204–70 is amended by revising paragraph (b)(5)(ii)(F) *(3)* to read as follows:

§ 253.204–70 DD Form 350, Individual Contracting Action Report.

* * * * *

(b) * * *

(5) * * *

(ii) * * *

(F) * * *

(3) An agency or instrumentality of the Federal Government.

* * * * *

[FR Doc. 99–20283 Filed 8–6–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. I.D. 071698B]

RIN 0648–AJ67

Atlantic Highly Migratory Species (HMS) Fisheries; Vessel Monitoring Systems

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

ACTION: Delay of effectiveness.

SUMMARY: NMFS delays the effective date of the Vessel Monitoring System established by 50 CFR 635.69, published May 28, 1999, from September 1, 1999 until January 1, 2000.

DATES: The effective date of the addition of 50 CFR 635.69, published May 28, 1999 (64 FR 29090), is delayed until January 1, 2000.

ADDRESSES: Copies of the Highly Migratory Species Fishery Management Plan (HMS FMP), the final rule and supporting documents can be obtained from Rebecca Lent, Chief, Highly Migratory Species Division, Office of Sustainable Fisheries, NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, NMFS, (301) 713–2347, or Buck Sutter (727) 570–5447.

SUPPLEMENTARY INFORMATION: The final regulations to implement the HMS FMP, and Amendment 1 to the Atlantic Billfish Fishery Management Plan included a provision requiring an owner or operator of a commercial vessel permitted to fish for Atlantic HMS under § 635.4 and that fishes with a pelagic longline to install a NMFS-approved vessel monitoring system (VMS) unit on board the vessel and operate the VMS unit whenever the vessel leaves port with pelagic longline gear on board. The VMS requirement of the final rule is effective September 1, 1999.

At the time of publication of the final rule (May 28, 1999), NMFS indicated that a **Federal Register** announcement would be forthcoming listing the hardware specifications for approved VMS units. Due to unforseen circumstances, NMFS has experienced a delay in type approving suitable units and service providers. Once the type approval process has been completed, NMFS will publish a **Federal Register** document listing NMFS-approved VMS

units and communication service providers. In order to allow affected Atlantic HMS pelagic longline fishermen an opportunity to receive adequate notification of approved VMS units (the swordfish fishery is currently active, and trips in excess of 4 weeks are typical of this fishery), as well as time to purchase and properly install a VMS unit for operation consistent with provisions provided under § 635.69, NMFS is delaying until January 1, 2000, the effective date of § 635.69.

Dated: August 3, 1999.

Gary C. Matlock, Director,

Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20354 Filed 8–3–99; 4:59 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 152
Monday, August 9, 1999

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 354

[Docket No. 98–073–1]

RIN 0579–AB05

User Fees; Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the user fee regulations by adjusting the fees charged for certain agricultural quarantine and inspection services we provide in connection with certain commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the customs territory of the United States. The adjusted fees would cover fiscal years 2000 through 2002. We have determined that the fees must be adjusted to reflect the anticipated actual cost of providing these services through FY 2002.

DATES: We invite you to comment. We will consider all comments that we receive by October 8, 1999.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 98–073–1, Regulatory Analysis and Development, PPD, APHIS, suite 3CO3, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 98–073–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: For information concerning program Operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295. For information concerning rate development, contact Ms. Donna Ford, PPQ User Fees Section Head, FSSB, BASE, ABS, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

Section 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a), referred to below as the FACT Act, authorizes the Animal and Plant Health Inspection Service (APHIS) to collect user fees for agricultural quarantine and inspection (AQI) services. The FACT Act was amended by § 504 of the Federal Agricultural Improvement and Reform Act of 1996 (Pub. L. 104–127), on April 4, 1996.

The FACT Act, as amended, authorizes APHIS to collect user fees for providing AQI services in connection with the arrival, at a port in the customs territory of the United States, of:

- Commercial vessels,
- Commercial trucks,
- Commercial railroad cars,
- Commercial aircraft, and
- International airline passengers.

According to the FACT Act, as amended, these user fees should recover the costs of:

- Providing the AQI services listed above,
- Providing preclearance or preinspection at a site outside the customs territory of the United States to such passengers and vehicles,
- Administering the user fee program, and
- Maintaining a reasonable balance in the Agricultural Quarantine Inspection User Fee Account (AQI account).

Introduction

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a rule amending the user fees and setting user fees in advance for AQI services for fiscal years 1997 through 2002.

APHIS has had to provide AQI services beyond what we anticipated when the currently scheduled fees were set in 1997. The increases in services stem from an increase in international trade and travel, necessitating more inspections at ports of arrival, changes in our regulations that result in our having to inspect additional imported articles, and enhanced efforts to crack down on the smuggling of agricultural commodities. These increases in service are discussed in more detail below, under the heading ''*New AQI Program Costs.*''

In this document, we are proposing to amend those fees for fiscal years 2000 through 2002 in order to compensate for increased AQI program costs and to reestablish a reasonable reserve in the AQI account.

Because rulemaking takes time, we anticipate that the revised user fees will not take effect until at least the second quarter of FY 2000. Therefore, some of the calculations on the following pages, which assume an implementation date of October 1, 1999, will have to be revised when the final rule is published.

We plan to publish a notice in the **Federal Register** prior to the beginning of each fiscal year to remind or notify the public of the user fees for that particular fiscal year.

We also intend to monitor our fees throughout each year and look closely at adjustments to fees that may be needed in future years. If we determine that any fees are too high and are contributing to unreasonably high reserve levels, we will publish lower fees in the **Federal Register** and make them effective as quickly as possible. If it becomes necessary to increase any fees because reserve levels are being drawn too low, we will publish, for public comment, proposed fee increases in the **Federal Register**.

New AQI Program Costs

APHIS is continually requested to process international airline passengers faster, although we need to inspect passengers and their baggage thoroughly to safeguard against the introduction of harmful pests and diseases of animals and plants. We are committed to processing passengers as quickly as possible, without jeopardizing the success of AQI, whose purpose is to prevent the introduction of foreign plant and animal pests and diseases which are harmful to this country's agriculture; however, faster processing requires more officers, additional canine teams, and the purchase of state-of-the-art high definition x-ray machines at the medium and large ports throughout the country. The new high definition x-ray machines, estimated to cost $600,000

each, will greatly enhance the processing of passengers and reduce further need for more inspectors. Due to the expense involved, we plan to purchase these machines for the busiest ports to make optimal use of the machines.

New and expanding airport terminals are also increasing the demand for AQI services at areas in airports where we do not currently have officers located. In the past, we were able to quickly clear passengers, because most passengers arrived in the same general area of the airport. Not only is the number of passengers increasing, but additional international terminals are being built in new locations, requiring additional officers and canine teams to keep up with demand for service.

At the same time, we are trying to meet the constant demands from brokers and shippers to clear cargo faster at various locations. In many instances, in order to move cargo quickly, we must conduct both initial and final inspections. Since we cannot hold cargo up at the port to conduct a full inspection, we inspect a sampling of cargo at the port of first arrival and conduct a more thorough inspection at the final destination when the cargo is off-loaded. This requires additional officers at the port of first arrival to cover the increasing numbers of inspection locations, and new officers at final destination points to conduct additional inspection services.

Further, inspection activities have increased as a result of recent rulemakings. For example, additional inspections are necessary to implement new regulations intended to prevent the introduction of pests in imported solid wood packing material (see 63 FR 50100–50111 and 63 FR 69539–69543).

AQI services related to enforcing our regulations have also expanded. APHIS compliance officers work in teams with local authorities to detect, investigate, and prosecute violators. Recent increased efforts include both border blitzes and market surveys.

Border blitzes involve unannounced, targeted inspections, as well as random searches of cargo containers entering the United States where no AQI staffing exists, at times when staffing is not usually provided, or where existing staff must be supplemented. Market surveys consist of searches in grocery stores, plant stores, and fruit and vegetable markets for prohibited items.

When prohibited items are detected, follow-up investigations are conducted to identify the item's origin and the responsible shippers, importers, and brokers. Previous shipments and their destination points are researched, located, and investigated for other prohibited items and infested materials. This information is being used to develop a violation database to help the teams target specific commodities and importers who have a history of smuggling prohibited commodities, and allow legitimate importers and exporters to move their products through commerce without undue delay.

These activities are supported by many agricultural industries, who see them as positive steps toward detecting and eliminating plant and animal pests and diseases before they can become established in the United States.

Projected AQI Program Costs for Fiscal Years 1999–2002

The following table shows the total projected costs of administering the AQI program for fiscal years 1999 through 2002. When we projected costs for fiscal years 1999 through 2002, we began with the base need of $130,001,000 for Plant Protection and Quarantine (PPQ), the APHIS unit that administers the AQI program in the United States. The base need of PPQ is an increase of approximately $3.6 million in PPQ's base need as identified in the July 14, 1997, final rule, and is due to unanticipated personnel compensation of $1.6 million for additional Civil Service Retirement assessments, higher overtime costs of approximately $1.4 million, and additional pay cost increases of $600,000. (The base need of PPQ simply reflects the cost required for APHIS to be prepared to provide AQI services at all international ports in the United States, without taking into account the additional annual costs shown in the following table. The base need is not affected by projected changes in the volumes of each category of service.)

We then added new annual costs associated with increased PPQ activities in the United States to project the total AQI program costs to PPQ for fiscal years 1999 through 2002.

International Services is the APHIS program that administers the AQI program in foreign regions. We projected the annual costs to International Services of providing international preclearance services for fiscal years 1999 through 2002 based on FY 1998 program costs plus new costs associated with preclearance activities in Bermuda and the Bahamas. The projected International Services annual costs were then added to PPQ's annual costs to arrive at projected AQI annual program cost subtotals.

We then added agency support costs and departmental charges to the projected annual costs for PPQ and International Services to arrive at projected annual AQI program costs.

The projected annual program costs take into account the costs of providing AQI services only. They do not contain a reserve-building component. The projected cost for each fiscal year simply reflects the amount we anticipate it will cost to run the AQI program for that year.

As shown in the following table, we are proposing to phase in new AQI services over fiscal years 1999 through 2002 in order to supplement our existing work force at expanding and new ports.

AGRICULTURAL QUARANTINE INSPECTION (AQI) PROGRAM PROJECTED COSTS FY 1999–2002

Basis for calculating funding need	FY 1999 estimate	FY 2000 estimate	FY 2001 estimate	FY 2002 estimate
Plant Protection and Quarantine (PPQ)				
Base Need (FY 1998 costs + FY 1999 pay costs)	$130,001,000	$130,001,000	$130,001,000	$130,001,000
Personnel Increase:				
116 New positions @ 2 months	2,779,000			
315 New positions + 116 in FY 99		32,149,000		
40 New positions + 116 in FY 99; + 315 in FY 00			41,003,000	
40 New positions + 116 in FY 99; + 315 in FY 00; + 40 in FY 01				50,027,000
Automation/Maintenance	1,900,000	4,500,000	4,500,000	1,000,000
Upgrade/Replace X-Ray Equipment:				
20 machines	1,540,000			
20 machines		1,540,000		
16 machines			1,232,000	

AGRICULTURAL QUARANTINE INSPECTION (AQI) PROGRAM PROJECTED COSTS FY 1999–2002—Continued

Basis for calculating funding need	FY 1999 estimate	FY 2000 estimate	FY 2001 estimate	FY 2002 estimate
New X-Ray Equipment:				
5 machines	3,000,000	.....	.....	.....
10 machines	.....	6,000,000	.....	.....
5 machines	.....	.....	3,000,000	.....
5 machines	.....	.....	.....	3,000,000
New and Replacement Vehicles:				
50 vehicles	800,000	.....	.....	.....
50 vehicles	.....	800,000	.....	.....
50 vehicles	.....	.....	800,000	.....
32 vehicles	.....	.....	.....	512,000
New and Expanding Facility Costs:				
JFK (NY); Laredo IV and Eagle Pass II (TX)	500,000	.....	.....	.....
Miami and Sanford (FL); Atlanta (GA), Brownsville, El Paso, and Los Tomates (TX); Santa Teresa (NM)	.....	1,900,000	.....	.....
PPQ Subtotal	140,520,000	176,890,000	180,536,000	184,540,000
International Services (IS)	1,099,072	1,826,112	1,991,918	2,132,275
Program Subtotal	141,619,072	178,716,112	182,526,918	186,672,275
Support Costs:				
Agency Overhead & Departmental Charges @ 10.63%	16,838,508	21,249,346	21,702,451	22,195,333
AQI Program Cost	158,457,580	199,965,458	204,229,369	208,867,608

Reserve Funds

In order to provide adequate AQI services, we have been forced to use reserve funds to cover our costs for fiscal years 1997 through 1999. This has reduced our reserve levels at an alarming rate. Since the current fees do not contain a reserve component, the potential to run out of reserve funds entirely could become a reality in FY 2001 if we do not add a reserve component to the fees. The following table shows our use of reserve funds to recover costs that were higher than available user fee collections in FY 1998.

FY 1998 RESERVE USAGE

Total user fee collections	$150,804,661
Unavailable collections [1]	−13,829,975
Available fee collections	136,974,686
Cost of AQI program administration	−140,094,753
Funding shortage	−3,120,067
FY 1998 available reserve	+17,785,662
FY 1999 available reserve	14,665,595

[1] These collections were unavailable to pay for services provided in FY 1998 because they were either not collected until after the close of FY 1998, or are unavailable for expenditure until FY 2003 under certain provisions of the FACT Act.

Further, for FY 1999, we are projecting the need to cover $10.2 million in costs from our reserve. As a result, the reserve would contain a balance of less than $3.9 million at the start of FY 2000 (2 percent of the cost of running the program for that year), as shown in the following table.

AQI USER FEE PROJECTED RESERVE—CASH BASIS ACCOUNTING METHOD

	Fiscal Year				
	1998	1999	2000	2001	2002
Fee Collections	$150,804,661	$159,727,857	$201,066,541	$214,822,796	$217,421,963
Unavailable collections [1]	13,829,975	12,000,000	5,000,000	.....	.....
Available collections	136,974,686	147,727,857	196,066,541	214,822,796	217,421,963
AQI Program Cost	140,094,753	158,457,580	199,965,458	204,229,369	208,867,608
Shortage/surplus	−3,120,067	−10,729,723	−3,898,917	10,593,427	8,554,355
Projected available reserve BEGIN FY	17,785,662	14,665,595	3,935,872	36,955	10,630,382
Projected available reserve END FY	14,665,595	3,935,872	36,955	10,630,382	19,184,737
Unavailable until FY 2003 [1].					
FY 1997 carry-over	2,000,000	.....	.....	.....	.....
Annual	13,829,975	12,000,000	5,000,000	.....	.....

AQI USER FEE PROJECTED RESERVE—CASH BASIS ACCOUNTING METHOD—Continued

	Fiscal Year				
	1998	1999	2000	2001	2002
Cumulative	15,829,975	27,829,975	32,829,975	32,829,975	32,829,975

[1] These collections are unavailable to pay for services provided because they were either not collected until after the close of the fiscal year in which they were earned, or are unavailable for expenditure until FY 2003 under provisions of the FACT Act.

Rebuilding the Reserve

While our spending authority is on a fiscal year basis, the accounting method used by the Department of Treasury for user fee collections is based on the date the funds are received and recorded in the Treasury (cash basis—see the table above), not when they are earned (accrual basis). The final amount that is available to us from the AQI account each year is based on the amount collected and recorded in the account between October 1 and September 30 of each fiscal year. Since most of the fourth quarter payments are not due and therefore not received until after the fiscal year is over, we are not able to use those funds to pay for providing services in the fiscal year when they are earned.

In the July 1997 final rule, we explained that it is necessary to maintain a reasonable reserve balance in the AQI account in order to account for fees earned for providing AQI services in a given fiscal year that were not received until after that fiscal year ended. The reserve also provides us with a means to ensure the continuity of AQI service in cases of bad debt, carrier insolvency, and fluctuations in activity volumes.

When we set the current user fees, we did not include a reserve-building component in them because we believed that the reserve levels would be maintained with fees we collected in excess of the program costs. Although our user fees are designed to recover the cost of providing services, in some instances, due to the fact that fees are rounded up to the nearest quarter or nickel, we may collect additional funds that are applied to the individual activity reserve balances. The reserve levels have been maintained in the past through such additional collections.

However, due to increasing costs, we cannot maintain our reserve with the current user fees. Therefore, we are proposing to include a reserve-building component in the user fees to rebuild the reserve levels for each activity over fiscal years 2000 through 2002. Under this proposal, the reserve levels for each category of service have been calculated to reflect approximately 25 percent of each activity's annual cost. The proposed reserve component would gradually rebuild the reserve balance to a reasonable level of approximately 25 percent of the AQI annual program costs to ensure that the reserve is fully funded by fiscal year 2002.

The table below shows the final annual cost of the AQI program once costs to rebuild the reserve are added. The final annual costs are the figures on which we based our proposed fees. The fees are designed to recover the full cost of the AQI program.

TOTAL AQI PROGRAM COSTS

	FY 2000	FY 2001	FY 2002
Cost of AQI program services	199,965,458	204,229,369	208,867,608
Cost of rebuilding the reserve	17,125,000	17,550,000	21,480,000
(% of total program cost)	(8.56%)	(8.59%)	(10.28%)
Total AQI program costs	217,090,458	221,779,369	230,347,608

Calculation of Fees

Once we established the total annual costs to administer the AQI program, including an amount to rebuild the AQI account reserve to a reasonable level, we began the calculation of our proposed fees.

Volumes

First, we estimated the annual volume for each category of service that would be subject to inspection. The estimates were based on annual rates of activity for each service category shown in our FY 1992 through FY 1997 collection history.

In our commercial aircraft, commercial vessel, and commercial truck service categories, we calculated the percentage of change in volume between FY 1995 and FY 1996, and FY 1996 and FY 1997. Then we calculated the average percentage of change for those years. We used this average percentage of change to project volumes for fiscal years 1999 through 2002. We have collection data for FY 1998 available, but decided not to use it in our calculations because numerous adjustments to the FY 1998 collection data could be made through the end of FY 2000 (i.e., we will have to account for funds for overpaid vessels and adjustments to aircraft fees remittances resulting from audit findings). Therefore, we will review the FY 1998 collection data prior to publishing a final rule and make necessary adjustments to the calculations.

For commercial trucks, however, we had to revise our projected volume for FY 1998 because the actual volume appeared to be much higher. The average percentage of change from FY 1995 to FY 1996, and from FY 1996 to FY 1997, was –1.27 for commercial trucks. The actual volume for FY 1998 shows a 10.22 percent increase over the volume in FY 1997. Nevertheless, we believe the volume increase for FY 1998 is misleading. During the first quarter of FY 1998, the wrong fee was originally assessed for individual border crossings ($2.00 instead of $4.00). In many cases, the corrected fee was eventually collected, but was recorded in the system as an individual crossing, thus inflating the actual volumes for FY 1998. Furthermore, a review of commercial truck volumes for fiscal years 1993 through 1997 shows that the percentage of change ranged from 2.59 percent to –2.77 percent. Based on these relatively stable but slightly negative changes in volume, we are projecting commercial truck volumes for fiscal

years 1999 through 2002 based on the percentage of change we calculated for fiscal years 1995 through 1997 (–1.27 percent). These volumes are shown in the following table:

VOLUMES/PERCENTAGE OF CHANGE FROM PREVIOUS YEAR

Fiscal Year	Commercial aircraft		Commercial vessel		Commercial truck	
	Volume	Change	Volume	Change	Volume	Change
1995	361,657	.....	48,098	.....	612,743	.....
1996	351,989	–2.67%	47,655	–0.92%	614,214	0.24%
1997	380,911	8.22%	48,758	2.31%	597,173	–2.77%
1998	391,469	2.77%	51,098	4.80%	658,204	10.22%
Average: FY 1996 & FY 1997 percentage of change	(–2.67% + 8.22%)/2= 2.77%		(–0.92% + 2.31%)/2= 0.70%		(0.24% + (–2.77%))/2= –1.27%	
Fiscal year	Projected volume	Change	Projected volume	Change	Projected volume	Change
1999	402,320	2.77%	51,454	0.70%	649,863	–1.27%
2000	413,472	2.77%	51,813	0.70%	641,628	–1.27%
2001	424,933	2.77%	52,173	0.70%	633,498	–1.27%
2002	436,711	2.77%	52,537	0.70%	625,471	–1.27%

In our commercial truck decal service category, we found that the volume of users continued to increase, but at a decreasing rate. We determined that the volume would most likely continue to increase slightly, but that the increase in the number of decals would most likely be limited to new or additional growth in trade. The decal program has been in operation for several years now, and we believe that the companies interested in buying them are doing so now. Therefore, we are projecting a modest 5 percent growth increase for each year, as shown in the following table:

VOLUMES OF COMMERCIAL TRUCK DECALS/PERCENTAGE OF CHANGE FROM PREVIOUS YEAR

Fiscal year	Volume	Percentage of change
1992	9,256	.....
1993	12,403	34.00%
1994	13,476	8.66%
1995	14,317	6.24%
1996	15,758	10.07%
1997	18,003	14.24%
1998	19,298	7.20%
1999 (projected)	20,263	5.00%
2000 (projected)	21,276	5.00%
2001 (projected)	22,340	5.00%
2002 (projected)	23,457	5.00%

In our international air passenger service category, we found that the volume of users continued to increase each fiscal year 1992 through 1998, but at a decreasing rate. Using the international air passenger volumes listed below, we estimated percentage of increase in volume for FY 1999 in the following manner:

1. First, we subtracted the percentage of change in volume from FY 1996 to FY 1997 (4.39%) from the percentage of change in volume from FY 1997 to FY 1998 (3.28%), yielding a rate of decline of −1.11.

2. We then divided this figure by the percentage of change in volume from FY 1996 to FY 1997 (4.39%) to obtain a rate of decline from FY 1996 to FY 1997 of −25.28.

3. We then multiplied this rate of decline by the percentage of change in volume from FY 1997 to FY 1998 (3.28%), yielding a rate of decline of −0.8293.

4. Finally, we added this result to the percentage of change in volume from FY 1997 to FY 1998 (3.28%), yielding a projected increase in volume of 2.45 percent for FY 1999.

This process was repeated to estimate growth for each fiscal year from 2000 through 2002. These volumes are shown in the table below.

VOLUMES OF INTERNATIONAL AIR PASSENGERS/ PERCENTAGE OF CHANGE FROM PREVIOUS YEAR

Fiscal year	Volume	Percent change
1992	35,442,923	.....
1993	39,630,213	11.81%
1994	41,784,350	5.44%
1995	44,710,181	7.00%
1996	48,296,322	8.02%
1997	50,414,566	4.39%

VOLUMES OF INTERNATIONAL AIR PASSENGERS/ PERCENTAGE OF CHANGE FROM PREVIOUS YEAR—Continued

Fiscal year	Volume	Percent change
1998	52,068,452	3.28%
1999 (projected)	53,346,102	2.45%
2000 (projected)	54,325,203	1.84%
2001 (projected)	55,070,989	1.37%
2002 (projected)	55,636,477	1.03%

The volumes in our loaded railroad car service category increased from 74,006 in 1994 to 102,265 in 1995 to 147,315 in 1996 as a result of the North American Free Trade Agreement. The volume decreased in 1997, but for 1998, there was a slight increase in volume over 1996. However, one of the five railroad companies transiting goods across the U.S.-Mexican border has ceased operations indefinitely. In addition, due to recent business consolidations, the number of railroad companies crossing the border has decreased from five to three. Since our fee is assessed to loaded railroad cars only, we do not anticipate much increase in individual loaded railroad cars, but better utilization of the cars by railroad companies. We believe that future increases above the FY 1998 level will be minimal, and are projecting a zero percent increase each fiscal year through 2002. We will watch the railroad car volumes carefully, and if our volume assumption is incorrect, we will take steps immediately to adjust the fees accordingly. The volumes are shown in the following table.

VOLUMES OF LOADED RAILROAD CAR/PERCENTAGE OF CHANGE FROM PREVIOUS YEAR

Fiscal year	Volume	Percent change
1992	56,688	.....
1993	64,023	12.94%
1994	74,006	15.59%
1995	102,265	38.18%
1996	147,315	44.05%
1997	141,717	−3.80%
1998	148,300	4.65%
1999 (projected)	148,300	0.00%
2000 (projected)	148,300	0.00%
2001 (projected)	148,300	0.00%
2002 (projected)	148,300	0.00%

Distribution of Costs

Next, we projected the direct costs of providing AQI services in fiscal years 1999 through 2002 for each category of service: Commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers. The cost of providing these services in prior fiscal years served as a basis for calculating our projected costs.

In FY 1992, APHIS established accounting procedures to segregate AQI user fee program costs. We published a detailed description of these procedures in the **Federal Register** on December 31, 1992 (57 FR 62468–62473, Docket No. 92–148–1), as part of a document amending some of our user fees.

As part of our accounting procedures, we established distinct accounting codes to record costs that can be directly related to each inspection activity. At the State level and below, the following costs are direct-charged to the AQI User Fee Account: Salaries and benefits for inspectors and canine officers, supervisors (such as port directors) and clerical staff; equipment used only in connection with services subject to user fees; contracts; and large supply items such as x-ray equipment or uniforms.

Other costs that cannot be directly charged to individual accounts are charged to ''distributable'' accounts established at the State level. The following types of costs are charged to distributable accounts: Utilities, rent, telephone, vehicles, office supplies, etc. The costs in these distributable accounts are prorated (or distributed) among all the activities that benefit from the expense, based on the ratio of the costs that are directly charged to each activity divided by the total costs directly charged to each account at the field level. For example, if a State office performs work on domestic programs, AQI user fee programs, and AQI appropriated programs, the costs are distributed among the programs, based on the percentage of the direct costs for that activity at the field level that are charged to that activity. Costs incurred at the regional-, headquarters program staff-, and agency-level support offices are also prorated to the separate AQI activities based on the percentage of the costs that were directly charged to each activity at the field level, as discussed above.

Using these accounting procedures, we calculated the total cost of providing AQI services in each past fiscal year by determining the amounts in each direct-charge account, then adding the pro rata share of the distributable accounts maintained at the State, regional, headquarters, and agency levels.

We then projected total costs to provide each category of service during each future fiscal year. Each projection included the costs of program delivery, which are incurred at the State level and below. Also included was a pro rata share of the program direction and support costs, as explained above, which include items at the regional and headquarters program staff levels. Finally, each projection included a pro rata share of agency-level support costs, as discussed above, which includes activities that support the entire agency, such as recruitment and development, legislative and public affairs, regulations development, regulatory enforcement, budget and accounting services, and payroll and purchasing services. Costs for billing and collection services, legal

counsel, and rate development services that are directly related to user fee activities are directly added to the user fee activities they support and are not included in the proration of agency-level costs.

User Fee Calculation

The following tables show our user fee calculations. To calculate the user fees, we divided the sum of the costs for each service by the projected volume subject to inspection for that service, thereby arriving at ''raw'' fees. We then rounded the raw fees.

As in the past, we rounded raw fees up, rather than down, to ensure that we collect enough revenue to cover the costs of providing services and enough revenue to maintain a reasonable reserve. Any excess collections due to rounding would be added to the reserve balance for each individual fee category. If an increase in volume results in additional revenue from user fees, this revenue would not necessarily increase the reserve because the additional money would be used to service the increased volume.

We rounded all user fees up to the nearest quarter, except for the international airline passenger user fee. Given the large volume of passengers, if we rounded up to the nearest quarter we would recover far more than is necessary. Therefore, we rounded the passenger user fee up to the nearest nickel.

AQI USER FEE CALCULATIONS, FY 2000

AQI activity	Estimated total costs [1]	Projected volume	Raw fee	Rounded fee	Projected revenue
Commercial vessel	24,115,749	51,813	465.44	465.50	24,118,952
Commercial truck [2]	4,442,247	1,067,156	4.16	4.25	4,535,413
Loaded railroad cars	977,907	148,300	6.59	6.75	1,001,025
Commercial aircraft	26,397,363	413,472	63.84	64.00	26,462,208
Airline passengers	161,157,192	54,325,203	2.97	3.00	162,975,609
Total	217,090,458				219,093,206

[1] Total program costs include the cost of rebuilding the AQI account available reserve.
[2] Decals could be purchased at 20 times the individual crossing rate, or $85.00 per decal, and would be valid from January 1 through December 31, 2000.

AQI USER FEE CALCULATIONS, FY 2001

AQI activity	Estimated total costs [1]	Projected volume	Raw fee	Rounded fee	Projected revenue
Commercial vessel	24,755,100	52,173	474.48	474.50	24,756,089
Commercial truck [2]	4,832,670	1,080,302	4.47	4.50	4,861,359
Loaded railroad cars	1,018,647	148,300	6.87	7.00	1,038,100
Commercial aircraft	27,476,799	424,933	64.66	64.75	27,514,412
Airline passengers	163,696,152	55,070,989	2.97	3.00	165,212,967
Total	221,779,368				223,382,926

[1] Total program costs include the cost of rebuilding the AQI account available reserve.
[2] Decals could be purchased at 20 times the individual crossing rate, or $90.00 per decal, and would be valid from January 1 through December 31, 2001.

AQI USER FEE CALCULATIONS, FY 2002

AQI activity	Estimated total costs [1]	Projected volume	Raw fee	Rounded fee	Projected revenue
Commercial vessel	25,242,791	52,537	480.48	480.50	25,244,029
Commercial truck [2]	5,046,927	1,094,614	4.61	4.75	5,199,417
Loaded railroad cars	1,024,546	148,300	6.91	7.00	1,038,100
Commercial aircraft	28,402,958	436,711	6.504	6.525	28,495,393
Airline passengers	170,630,386	55,636,477	3.07	3.10	172,473,079
Total	230,347,608				232,450,016

[1] Total program costs include the cost of rebuilding the AQI account available reserve.
[2] Decals could be purchased at 20 times the individual crossing rate, or $95.00 per decal, and would be valid from January 1 through December 31, 2002.

Current and Proposed User Fees

Our current user fees for AQI services for fiscal years 1999 through 2002 and the user fees we are proposing to charge for these services for FY 2000 through FY 2002 are shown in the table below. Also, below, we describe each AQI service, and explain additional activities and costs as they pertain to each service individually.

AGRICULTURAL QUARANTINE INSPECTION (AQI) USER FEES

Service	Current FY 1999	Currently scheduled FY 2000	Proposed FY 2000	Currently scheduled FY 2001	Proposed FY 2001	Currently scheduled FY 2002	Proposed FY 2002
Commercial Vessel	454.50	461.75	465.50	471.25	474.50	480.25	480.50
Commercial Truck	4.00	4.00	4.25	4.00	4.50	4.25	4.75
Commercial Truck Decal	80.00	80.00	[1] 85.00	80.00	[1] 90.00	85.00	[1] 95.00
Loaded Railroad Car	6.50	6.75	6.75	6.75	7.00	7.00	7.00
Commercial Aircraft	59.75	60.25	64.00	61.25	64.75	62.25	65.25
Airline Passenger	2.00	2.05	3.00	2.10	3.00	2.15	3.10

[1] Commercial truck decals are issued on a calendar year basis. Decal rates would be effective January 1 of each year.

Commercial Vessels

We inspect commercial vessels of 100 net tons or more arriving at ports of entry into the customs territory of the United States. Vessels pay a user fee for the first 15 arrivals at ports. The US Customs Service (Customs) collects this user fee for APHIS.

The proposed fees for fiscal years 2000, 2001, and 2002 are approximately 0.8, 0.7, and 0.05 percent higher than the respective currently scheduled fees. The proposed fees would allow us to recover increased costs attributed to:

- Anticipated new hires in fiscal years 1999 and 2000 of at least 51 inspection personnel at seaports throughout the United States, including Miami, FL; Elizabeth, NJ; San Juan, PR; and Charleston, SC.
- New and replacement vehicles, equipment, and additional x-ray equipment.
- The addition of a reserve component to the fees to gradually rebuild the vessel reserve to a reasonable level of approximately 25 percent of annual operating costs by the end of FY 2002.

For fiscal years 2001 and 2002, the proposed fees are less than one half of one percent higher than the currently scheduled fees. This is attributed to conducting the increased volume of vessel inspections with the same number of personnel and new and improved technology.

Commercial Trucks

We inspect commercial trucks arriving at land ports in the customs territory of the United States from Mexico.[1] Customs also collects our truck user fees.

The proposed fees for fiscal years 2000, 2001, and 2002 are approximately 6.25, 12.5, and 11.8 percent higher than the respective currently scheduled fees. The proposed fees would allow us to recover increased costs attributed to:

- Anticipated new hires in fiscal years 1999 through 2002 of approximately 39 additional inspection personnel at various land border ports, including Brownsville and El Paso, TX, and Santa Teresa, NM.
- New and replacement vehicles, equipment, and additional x-ray equipment.
- The addition of a reserve component to the fees to gradually rebuild the depleted truck reserve to a reasonable level of approximately 25 percent of the annual operating costs by the end of FY 2002.

The regulations currently require that commercial trucks pay the APHIS user fee each time they enter the customs territory of the United States from Mexico at the same time they pay the Customs user fee. Our regulations also allow commercial trucks to prepay the APHIS user fee; however, this only applies if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival, and is valid for an unlimited number of entries during the calendar year (see 7 CFR 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year.

Commercial Railroad Cars

We inspect loaded commercial railroad cars arriving at land ports in the customs territory of the United States from Mexico.[2] The fees for this service are calculated and remitted by the individual railroad companies within 60 days after the end of each calendar month.

The proposed fee for fiscal year 2001 is approximately 3.7 percent higher than the currently scheduled fee. The fees for fiscal years 2000 and 2002 will not change. The proposed fees would allow us to recover increased costs attributed to:

- Anticipated new hires in fiscal years 2000 through 2002 of approximately 18 additional inspection personnel at various land border ports, including Los Tomates and Brownsville, TX, and Nogales, AZ.
- New and replacement vehicles and equipment.
- The addition of a reserve component to the fees to gradually rebuild the railroad car reserve to a reasonable level of approximately 25 percent of the annual operating costs by the end of FY 2002.

Commercial Aircraft

We also inspect international commercial aircraft arriving at airports in the customs territory of the United States. The fees for this service are calculated and remitted by the individual airline companies within 31 days after the end of each calendar quarter.

The proposed fees for fiscal years 2000, 2001, and 2002 are approximately 6.2, 5.7, and 4.8 percent higher than the respective currently scheduled fees. The proposed fees would allow us to recover increased costs attributed to:

- Anticipated new hires in fiscal years 1999 through 2002 of approximately 137 additional inspection personnel at various existing and expanding or new airport facilities, including Miami, Orlando, and Ft. Lauderdale, FL; Atlanta and Savannah, GA; Chicago, IL; JFK International Airport, NY; Dallas, San Antonio, and Houston, TX; Los Angeles and San Francisco, CA; Honolulu, HI; and San Juan, PR.
- New and replacement vehicles, equipment, and additional x-ray equipment.
- The addition of a reserve component to the fees to gradually rebuild the commercial aircraft reserve to a reasonable level of approximately 25 percent of the annual operating costs by the end of FY 2002.

[1] 7 CFR 354.3(c)(2)(i) of the regulations exempts commercial trucks entering the customs territory of the United States from Canada from paying this APHIS user fee.

[2] Section 354.3(c)(2)(i) of the regulations exempts loaded commercial railroad cars entering the customs territory of the United States from Canada from paying the APHIS user fee.

In addition, we are working closely with Customs on the development and installation at major airports of a joint automated cargo tracking system, which would greatly improve the paper tracking cargo system currently used at most airports.

International Airline Passengers

We also inspect international airline passengers arriving at airports in the customs territory of the United States.

Millions of travelers pass through U.S. airports daily. APHIS' overall goal is a timely, seamless inspection process, integrated with clearance processes of other agencies in the Federal Inspection Service (FIS) that will ensure the fastest passenger clearance time while safeguarding against the introduction of harmful pests and diseases of animals and plants. Our joint goal is to improve enforcement and regulatory processes in order to clear most international air passengers through the FIS inspection process in 30 minutes or less. In partnership with the airline industry, advanced information will be obtained on 80 percent of international air passengers through the use of the Advance Passenger Information System to expedite the overall processing of passengers with no loss in enforcement.

To accomplish these goals and to ensure adequate coverage, we anticipate additional costs that would result from:

- Hiring approximately 216 additional inspection personnel in fiscal years 1999 through 2002 at various new and expanding airport facilities, including Miami, Sanford, and Tampa, FL; New Orleans, LA; Atlanta and Savannah, GA; Chicago, IL; JFK International Airport and Brooklyn, NY; Dallas, Houston, San Antonio, El Paso, Galveston, and Brownsville, TX; Los Angeles, Fresno, Sacramento, and San Francisco, CA; Honolulu and Maui, HI; San Juan, PR; Bermuda, and the Bahamas.
- Purchasing new and replacement vehicles, equipment, and additional x-ray equipment.
- Purchasing and installing new high definition x-ray machines with luggage tracking and marking capability at most of the larger airports throughout the country.
- Adding about 50 new canine teams (one officer and one dog per team) at airports throughout the country, including JFK International Airport, NY; Newark, NJ; Chicago, IL; Honolulu, HI; Miami and Ft. Lauderdale, FL; Atlanta, GA; Houston, Dallas, Pharr, Laredo, and El Paso, TX; Los Angeles, Oakland, and San Francisco, CA.
- The addition of a reserve component to the fees to gradually rebuild the international airline passenger reserve to a reasonable level of approximately 25 percent of the annual operating costs by the end of FY 2002.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be significant for the purposes of Executive Order 12866 and, therefore, has been reviewed by the Office of Management and Budget. The economic analysis prepared for this proposed rule provides a cost-benefit analysis as required by Executive Order 12866 and an analysis of economic effects on small entities as required by the Regulatory Flexibility Act. The analysis is summarized below. Copies of the full analysis are available by contacting Ms. Donna Ford at the address listed under **FOR FURTHER INFORMATION CONTACT**.

Introduction

APHIS is proposing to revise existing agricultural quarantine and inspection (AQI) user fees to recover additional and unanticipated program costs and to rebuild the AQI reserve. The proposed AQI user fee revisions would become effective in the first quarter of FY 2000 and would be in effect through FY 2002.

International air passengers, commercial aircraft, commercial vessels, commercial trucks, and commercial railroad cars arriving at ports in the customs territory of the United States would be affected by the increase in AQI user fees.

The FACT Act, as amended, provides that APHIS may prescribe and collect fees to cover the cost of providing quarantine and inspection services in connection with the arrival of international airline passengers, commercial aircraft, commercial vessels, commercial trucks, and commercial railroad cars at ports in the customs territory of the United States. The FACT Act further states that the fees should be sufficient to cover the cost of administering the program and sufficient to maintain a reasonable balance (or reserve) in the AQI User Fee Account.

Need for Regulation

The purpose of AQI inspections at United States ports of entry is to prevent international travelers and conveyances from introducing harmful plant and animal pests that could damage U.S. agriculture and cause substantial economic losses to domestic producers, consumers, exporters, and to a range of allied agricultural industries. In the case of AQI user fees, those international travelers or conveyances who may carry agricultural pests or diseases from abroad are required to pay for AQI program activities.

Generating revenues to operate public programs by charging users is widely practiced by Federal, State and local government agencies, and is based on the premise that the beneficiaries or users of a public system, and not the public at large, should pay for its operation. User fees can be an equitable way of matching program costs to program users or beneficiaries.

Composition of Proposed Fees

Computation of AQI user fees is based on direct program delivery costs, program support costs, Agency-level support costs, anticipated user fee administrative costs, and reserve fund costs.

Direct Program Costs

Direct program costs include, but are not limited to: Salary and benefits for inspectors, canine officers, supervisory and clerical staff, uniform allowances, local travel expenses, and specialized equipment purchases.

Program Support Costs

Program support costs include all expenditures necessary to maintain regional and headquarters support staffs and offices, including APHIS program staff, detection methods development, plant risk assessments, and automatic data processing (ADP) support.

Agency-level Costs

In addition to salary and benefit costs, Agency-level support costs include, but are not limited to: Recruitment and development, legislative and public affairs, regulatory enforcement, communications, postage, budget and accounting services, and the cost for USDA's National Finance Center to provide payroll, purchasing, and other related financial services.

Administrative Costs

The FACT Act, as amended, allows the Agency to recover administrative costs that the Agency incurs as a direct result of developing, collecting, and monitoring AQI user fees.

The Reserve Fund

The FACT Act allows for a reasonable balance in the AQI User Fee Account. The reserve serves several purposes. The reserve insures that the Agency has access, through the AQI User Fee Account, to funds for normal operating expenses. Second, the reserve fund will insure that the Agency has sufficient

operating funds in cases of bad debt, carrier insolvency, or fluctuations in activity volumes. Further, in the July 1997 final rule, we explained that it is also necessary to maintain a reasonable reserve balance in the AQI account in order to account for fees earned for providing AQI services in a given fiscal year that were not received until after that fiscal year ended.

Regulatory Flexibility Analysis

The effects of increased fees on small entities in each of the affected industries are discussed separately below. The proposed fee changes will also affect international airline passengers arriving at ports in the customs territory of the United States; however, passengers are not included in this analysis because the Regulatory Flexibility Act does not cover individuals.

Commercial Vessels

We are proposing to amend the scheduled user fees for inspecting commercial vessels by increasing the fees by $3.75 in FY 2000, by $3.25 in FY 2001, and by $0.25 in FY 2002. APHIS inspects vessels of 100 net tons or more arriving from all foreign ports, except Canada. Typically, APHIS inspects (and charges) dry cargo vessels operating between the United States and foreign ports. At the beginning of 1996 there were 192 U.S. dry cargo vessels.

Bureau of the Census data compiled by the Small Business Administration (SBA) in 1995 show that the affected industry, U.S. commercial vessels engaged in deep sea foreign transportation of freight, was composed mostly of small firms (less than 500 employees, according to the SBA definition). In 1995, there were 125 firms engaging in deep sea transportation of freight and 111 of them, or 89 percent of the affected industry, employed less than 500 employees. Also in 1995, the average or typical small U.S. firm engaged in deep sea transportation of freight had roughly 31 employees, a payroll of less than $1.6 million, and annual receipts of $28 million. Data on number of dry cargo vessels per firm or firms exclusively operating dry cargo vessels are not available.

Anecdotal information suggests that many of the companies that are subject to AQI inspections are not U.S. firms. Further, it is unclear how many of the 125 U.S. firms would actually be affected by the increase in AQI user fees, and how many of the affected firms would be small entities. We do know that total daily operating costs for dry cargo vessels idle in port average between $23,600 and $26,800. The proposed user fee increases of $3.75 in FY 2000, $3.25 in FY 2001, and $0.25 in FY 2002 are very insignificant fractions of daily operating costs, suggesting that the proposed fee revision will not have a significant economic impact on small firms operating vessels.

Commercial Trucks

APHIS inspects trucks entering the United States from Mexico. It is unclear how many of these trucks entering the United States from Mexico are owned and operated by U.S. firms. According to a recent General Accounting Office report, roughly 11,000 trucks cross the border each week day (a total of 3,113,091 in FY 1996) from Mexico into the United States. The bulk (93 percent) of northbound truck traffic comes through seven major customs ports: Otay Mesa, California; Calexico, California; Nogales, Arizona; El Paso, Texas; Laredo, Texas; McAllen, Texas; and Brownsville, Texas. Many of these trucks are owned and operated by Mexican firms. At present, trucks from Mexico are limited to commercial zones along the border and many make multiple daily crossings. Mexican brokers tend to control much of the truck traffic at some border locations. Reliable data on future traffic patterns are not available.

It is unclear how many U.S. trucking firms would be affected by the proposed increase in AQI user fees. Anecdotal evidence from APHIS employees indicates that many of the AQI truck decals, which are good for multiple inspections, are being purchased by U.S. trucking firms operating in Texas, California, and Arizona. 1995 Bureau of the Census data show that the overwhelming majority of trucking firms in these States would be considered small firms by SBA standards (less than $18.5 million in receipts annually). SBA data also show that the typical small trucking firm in one of these border States had 10 employees and earned a little less than $1 million in receipts annually.

If we assume that any small U.S. trucking firm that regularly transports freight from Mexico would purchase an APHIS truck decal, which is good for an unlimited number of entries during the calendar year, the proposed increase in user fees could cost a small firm, at most, an additional $5 per truck or an estimated $55 per firm in FY 2000; and $10 per truck or an estimated $110 per firm in FY 2001 and FY 2002. This estimate is based on the assumption that a small firm owns a maximum of 11 trucks. There are no official statistics on the fleet size of small trucking firms either for selected border States, or for the United States as a whole. This assumption is based on private sector trucking industry data on 256,223 U.S. trucking firms representing a combined fleet of over 2.3 million vehicles. This data shows that 91 percent of firms own 11 or fewer trucks.

SBA data show that the typical small trucking firm in Arizona, California, or Texas has annual receipts of $932,000. We therefore believe that the proposed increase in cost, as explained above ($110 for the average small firm), would not result in a significant new burden on small commercial trucking firms.

Loaded Commercial Railroad Cars

There are four U.S. railroad companies currently transporting goods across the U.S.-Mexican border. Two of these railroad companies meet the SBA criteria for small entities (fewer than 1,500 employees). As of 1991, the smaller railroad companies transported between 960 and 2,000 loaded rail cars into the United States from Mexico annually. Data on operating expenses and profit margins for these companies are not available; but proposed user fees would not increase in FY 2000 and FY 2002, and would only increase by $0.25 in FY 2001, suggesting that there would not be a significant economic impact on these two small U.S. railroad companies.

Commercial Airlines

We are proposing to amend the scheduled user fees for inspecting commercial aircraft by increasing the fees by $3.75 in FY 2000, $3.50 in FY 2001, and $3.00 in FY 2002. International scheduled and unscheduled (chartered) air passenger, air cargo, and air courier carriers arriving at U.S. customs ports are subject to AQI inspections. Bureau of the Census data compiled by the SBA show that there were a total of 6107 firms in the U.S. air transportation industry in 1995, and that more than 5893 (or more than 96.5 percent) would have met the SBA criteria for small entity (employing fewer than 1500 employees). The typical small firm in the air transportation industry had 15 employees, an annual payroll of $398 thousand, and estimated annual receipts of $2.1 million.

APHIS regulations affect international flights, many of which are operated by foreign-owned firms. Those U.S. air transport firms that do not operate international flights are not subject to the proposed rule. Agency records show that, in 1995, only 123 of the 6107 firms in the air transportation industry were subject to AQI inspections because they

operated international flights. This data suggests that the increased user fees will not affect a substantial number of small air transportation companies. Even if all 123 U.S. airline firms were small entities (which they are not), the proposed fee revision would be applicable to only 2 percent of small firms in the industry. Using information on the number of firms inspected, the number of projected inspections, and the assumption that firms subject to inspection are distributed by size in a fashion consistent with the industry as a whole, we can develop very rough estimates of impact on small firms.

Each of the 123 U.S. companies would have had an airplane inspected between 1600 and 1700 times per year if inspections were prorated equally between large and small firms. In practice, small firms with fewer aircraft would probably have substantially fewer annual inspections, so we are overestimating the impact of fee revisions on small firms. Given the assumptions above, the increased fees listed above would translate into additional costs per firm of between $5,000 and $6,000 per year, which are less than three tenths of one percent of estimated annual receipts for the average small air transportation firm.

Given the data, assumptions, and calculations above, it is reasonable to conclude that proposed fee revisions will not have significant economic impact on a substantial number of small air transportation firms.

Other Costs and Benefits

Additional reporting costs to private airlines associated with revising user fees are likely to be very small because mechanisms are already in place for collecting fees. There should be no additional recordkeeping costs for ticketing agents and tour operators, who are not involved in remitting fees and are not expected to remit fees in future. Further there will be no additional reporting burdens on vessel, aircraft, rail car, and truck operators as a result of the proposed changes in user fees.

The benefit of user fees is the shift in the payment of services from taxpayers as a whole to those persons who are receiving the government services. While taxes may not change by the same amount as the change in user fee collections, there is a related shift in appropriations, which allows tax dollars to be applied to other programs that benefit the public in general.

The administrative cost involved in obtaining these savings would be minimal. APHIS already has a user fee program and a mechanism for collecting user fees in place, and since this proposal would simply update existing user fees, increases in administrative costs would be small. Because the savings are sufficiently large, and the administrative costs would be small, it is likely that the net gain in reducing the burden on taxpayers as a whole would outweigh the cost of administering the revisions of the user fees.

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

Executive Order 12372

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

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

List of Subjects in 7 CFR Part 354

Exports, Government employees, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Travel and transportation expenses.

Accordingly, we propose to amend 7 CFR part 354 as follows:

PART 354—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS; AND USER FEES

1. The authority citation for part 354 would continue to read as follows:

Authority: 7 U.S.C. 2260; 21 U.S.C. 136 and 136a; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(c).

2. Section 354.3 would be amended by revising the tables in paragraphs (b)(1), (c)(1), (d)(1), (e)(1), and (f)(1) to read as follows:

§ 354.3 User fees for certain international services.

* * * * *

(b) * * *

(1) * * *

Effective dates	Amount
October 1, 1998 through September 30, 1999	454.50
October 1, 1999 through September 30, 2000	465.50
October 1, 2000 through September 30, 2001	474.50
October 1, 2001 through September 30, 2002	480.50

* * * * *

(c) * * *

(1) * * *

Effective dates	Amount
October 1, 1998 through September 30, 1999	4.00
October 1, 1999 through September 30, 2000	4.25
October 1, 2000 through September 30, 2001	4.50
October 1, 2001 through September 30, 2002	4.75

* * * * *

(d) * * *

(1) * * *

Effective dates	Amount
October 1, 1998 through September 30, 1999	6.50
October 1, 1999 through September 30, 2000	6.75
October 1, 2000 through September 30, 2001	7.00
October 1, 2001 through September 30, 2002	7.00

* * * * *

(e) * * *

(1) * * *

Effective dates	Amount
October 1, 1998 through September 30, 1999	59.75
October 1, 1999 through September 30, 2000	64.00
October 1, 2000 through September 30, 2001	64.75
October 1, 2001 through September 30, 2002	65.25

* * * * *

(f) * * *

(1) * * *

Effective dates	Amount
October 1, 1998 through September 30, 1999	2.00
October 1, 1999 through September 30, 2000	3.00
October 1, 2000 through September 30, 2001	3.00
October 1, 2001 through September 30, 2002	3.10

* * * * *

3. In § 354.3, paragraph (c)(3)(i) would be amended by removing the words '', *except,* that through September 30, 1997, the amount to be paid is $40.00''.

Done in Washington, DC, this 30th day of July 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–20113 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 207, 607, and 807

[Docket No. 98N–1215]

Foreign Establishment Registration and Listing; Reopening of Comment Period

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Food and Drug Administration (FDA) is reopening for 60 days the comment period for the proposed rule that appeared in the **Federal Register** of May 14, 1999 (64 FR 26330). The proposed rule would require foreign establishments whose products are imported or offered for import into the United States to register with FDA and to identify a U.S. agent. The proposal would also describe some of the agent's responsibilities. FDA is taking this action in response to a request from the Canadian Embassy.

DATES: Written comments by October 8, 1999.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Office of Policy, Planning, and Legislation (HF–23), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–3380.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 14, 1999 (64 FR 26330), FDA published a proposed rule that would require foreign establishments whose products are imported or offered for import into the United States to register with FDA. The proposal would also require foreign establishments to identify a U.S. agent and would describe some of the agent's responsibilities. FDA issued the proposed rule in order to implement section 417 of the Food and Drug Administration Modernization Act of 1997. Interested persons were given until July 28, 1999, to comment on the proposed rule.

On July 23, 1999, the Government of Canada requested an extension of the comment period, stating that the proposed requirement could present significant cost and compliance burdens to small and medium-sized Canadian establishments. The Canadian Government requested the extension so that it could: (1) Ensure that affected Canadian establishments are aware of the proposal and (2) prepare informed comments. The requested extension was 60 days.

The agency considered the Canadian Government's request and because the request was submitted too late to permit an extension of the comment period the agency is reopening the comment period until October 8, 1999.

Interested persons may submit to the Dockets Management Branch (address above) written comments on the proposed rule. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. A copy of the proposed rule and received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 1, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–20363 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 870, 888, and 890

[Docket No. 99N–2210]

Cardiovascular, Orthopedic, and Physical Medicine Diagnostic Devices; Reclassification of the Cardiopulmonary Bypass Accessory Equipment, Goniometer Device, and the Electrode Cable Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to reclassify the cardiopulmonary bypass accessory equipment device that involves an electrical connection to the patient, the goniometer device, and the electrode cable from class I into class II. FDA is also proposing to exempt these devices from the premarket notification requirements. This classification is being proposed on FDA's own initiative based on new information. This action is being taken to establish sufficient regulatory controls that will provide reasonable assurance of the safety and effectiveness of these devices.

DATES: Written comments by November 8, 1999. See section IX of this document for the proposed effective date of a final rule based on this document.

ADDRESSES: Written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, rm. 1061, 5630 Fishers Lane, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Heather S. Rosecrans, Center for Devices and Radiological Health (HFZ–404), Food and Drug Administration,9200 Corporate Blvd., Rockville, MD 20850, 301–594–1190.

SUPPLEMENTARY INFORMATION:

I. Background (Regulatory Authorities)

The act (21 U.S.C. 301 *et seq.*), as amended by the 1976 amendments (Public Law 94–295), the SMDA (Public Law 101–629), and the FDAMA (Public Law 105–115), established a comprehensive system for the regulation of medical devices intended for human use. Section 513 of the act (21 U.S.C. 360c) established three categories (classes) of devices, depending on the regulatory controls needed to provide reasonable assurance of their safety and effectiveness. The three categories of devices are class I (general controls), class II (special controls), and class III (premarket approval).

Under section 513 of the act, devices that were in commercial distribution before May 28, 1976 (the date of enactment of the 1976 amendments), generally referred to as preamendments devices, are classified after FDA has: (1) Received a recommendation from a device classification panel (an FDA advisory committee); (2) published the panel's recommendation for comment, along with a proposed regulation classifying the device; and (3) published a final regulation classifying the device. FDA has classified most preamendments devices under these procedures.

Devices that were not in commercial distribution prior to May 28, 1976, generally referred to as postamendments devices, are classified automatically by statute (section 513(f) of the act (21 U.S.C. 360c(f)) into class III without any FDA rulemaking process. Those devices

remain in class III and require premarket approval, unless and until: (1) The device is reclassified into class I or II; (2) FDA issues an order classifying the device into class I or II in accordance with new section 513(f)(2) of the act, as amended by the FDAMA; or (3) FDA issues an order finding the device to be substantially equivalent, under section 513(i) of the act (21 U.S.C. 360c(i)), to a predicate device that does not require premarket approval. The agency determines whether new devices are substantially equivalent to previously offered devices by means of premarket notification procedures in section 510(k) of the act (21 U.S.C. 360(k)) and part 807 of the regulations (21 CFR part 807).

A preamendments device that has been classified into class III may be marketed, by means of premarket notification procedures, without submission of a premarket approval application (PMA) until FDA issues a final regulation under section 515(b) of the act (21 U.S.C. 360e(b)) requiring premarket approval.

Reclassification of classified preamendments devices is governed by section 513(e) of the act (21 U.S.C. 360c(e)). This section provides that FDA may, by rulemaking, reclassify a device (in a proceeding that parallels the initial classification proceeding) based upon ''new information.'' The reclassification can be initiated by FDA or by the petition of an interested person. The term ''new information,'' as used in section 513(e) of the act, includes information developed as a result of a reevaluation of the data before the agency when the device was originally classified, as well as information not presented, not available, or not developed at that time. (See, e.g., *Holland Rantos* v. *United States Department of Health, Education, and Welfare*, 587 F. 2d 1173, 1174 n.1 (D.C. Cir. 1978); *Upjohn* v. *Finch*, 422 F.2d 944 (6th Cir. 1970); *Bell v. Goddard*, 366 F.2d 177 (7th Cir. 1966).).

Reevaluation of the data previously before the agency is an appropriate basis for subsequent regulatory action where the reevaluation is made in light of newly available regulatory authority (see *Bell* v. *Goddard*, supra, 366 F.2d at 181; *Ethicon, Inc.* v. *FDA*, 762 F. Supp. 382, 389–91 (D.D.C. 1991)), or in light of changes in ''medical science.'' (See *Upjohn* v. *Finch*, supra, 422 F.2d at 951.) Regardless of whether data before the agency are past or new data, the ''new information'' upon which reclassification under section 513(e) of the act is based must consist of ''valid scientific evidence,'' as defined in section 513(a)(3) of the act (21 U.S.C. 360c(a)(3)) and 21 CFR 860.7(c)(2). (See, e.g., *General Medical Co.* v. *FDA*, 770 F.2d 214 (D.C.Cir. 1985); *Contact Lens Assoc.* v. *FDA*, 766 F.2d 592 (D.C. Cir.), *cert. denied*, 474 U.S. 1062 (1985)). FDA relies upon ''valid scientific evidence'' in the classification process to determine the level of regulation for devices. For the purpose of reclassification, the valid scientific evidence upon which the agency relies must be publicly available. Publicly available information excludes trade secret and/or confidential commercial information, e.g., the contents of a pending premarket approval application. (See section 520 of the act (21 U.S.C. 360j(c)).

II. Regulatory History of Devices

In accordance with section 513(e) of the act and 21 CFR 860.130(a)(1), based on new information with respect to the devices, FDA, on its own initiative, is proposing to reclassify the following devices from class I, to class II: (1) Cardiopulmonary bypass accessory equipment, when intended to be used in the cardiopulmonary bypass circuit to support, adjoin, or connect components, or to aid in the setup of the extracorporeal line; (2) the goniometer device, which is an ac-powered device, when intended to evaluate joint function by measuring and recording ranges of motion, acceleration, or forces exerted by a joint; and (3) the electrode cable device, which is a electrode cable device composed of strands of insulated electrical conductors laid together around a central core and intended for medical purposes to connect an electrode from a patient to a diagnostic machine.

III. Device Description

FDA is maintaining the following device descriptions and intended uses:

(1) The cardiopulmonary bypass accessory equipment are devices that have no contact with blood and are intended in the cardiopulmonary bypass circuit to support, adjoin, or connect components or to aid in the setup of the extracorporeal line, e.g., an oxygenator mounting bracket or system-priming equipment. FDA is reclassifying into class II only cardiopulmonary bypass accessory equipment that involves an electrical connection to the patient. Other accessory equipment remains in class I.

(2) The goniometer is an ac-powered device intended to evaluate joint function by measuring and recording ranges of motion, acceleration, or forces exerted by a joint.

(3) The electrode cable device is a device composed of strands of insulated electrical conductors laid together around a central core and intended for medical purposes to connect an electrode from a patient to a diagnostic machine.

IV. Risk to Health

After several incidents were reported to FDA, pertaining to the risk of patient exposure to macro shock or electrocution, FDA took action to address the problem. A summary of the incidences was published in a final rule that established a performance standard for electrode lead wires and patient cables (62 FR 25477, May 9, 1997). Industry also took steps to prevent electrode lead wires from being connected to electrical power sources; a public conference sponsored by Health Industry Manufacturers Association and the American Hospital Association, held on July 15, 1994, provided a forum for device users, manufacturers, and other health care professionals to offer and hear comments for FDA's consideration during the rulemaking process.

V. Summary of Reasons for Reclassification

Based on new information with respect to the devices and in accordance with section 513 (e) of the act and 21 CFR 860.130(a)(1), FDA, on its own initiative, is proposing to reclassify the cardiopulmonary bypass accessory equipment devices that involve an electrical connection to the patient, the goniometer ac-powered device, and the electrode cable device from class I into class II. The agency is taking this action because the new information shows that these products present a degree of health risk to the patient that cannot be addressed by class I general controls. The agency established a performance standard for electrode lead wires and patient cables to prevent electrical connections between patients and electrical power sources. FDA believes the cardiopulmonary bypass accessory equipment, the ac-powered goniometer, and the electrode cable should be reclassified into class II because special controls in addition to general controls, provide reasonable assurance of safety and effectiveness of the device, and there is sufficient information to establish special controls to provide such assurance.

VI. Summary of Data Upon Which the Reclassification is Based

FDA believes that, in order to eliminate the risk of macro shock and electrocution in the future, a mandatory performance standard must apply to all electrode lead wires and patient cables intended for use with medical devices.

Based on the available information, FDA believes that the special controls discussed below are capable of providing reasonable assurance of the safety and effectiveness of the cardiopulmonary bypass accessory equipment that involves an electrical connection to the patient, the goniometer device, and the electrode cable with regard to the identified risks to health of these devices.

VII. Special Controls

In addition to general controls, FDA believes that the special controls identified in this document are adequate to control the risks to health described for these devices. (1) On May 9, 1997, FDA issued a final rule establishing a performance standard for electrode lead wires and patient cables. The agency determined that the performance standard is needed to prevent electrical connections between patients and electrical power sources. (2) Based on the available information, FDA also identified a guidance document entitled, ''Guidance on the Performance Standard for Electrode Lead Wires and Patient Cables.'' The guidance provides information on electrocution hazards posed by unprotected patient electrical connectors. The guidance is intended to help affected parties understand the steps needed to achieve compliance with the performance standard for electrode lead wires and patient cables.

Since May 11, 1998, electrode lead wires or patient cables have been required to comply with the ECG Cables and Lead Wires, ANSI/AAMI EC 53–1995 standard if they are intended for use with any of the following devices:

(1) Breathing frequency monitors,

(2) Ventilatory effort monitors (Apnea detectors),

(3) Electrocardiographs (ECG's),

(4) Radio frequency physiological signal transmitters and receivers,

(5) Cardiac monitors,

(6) Electrocardiograph electrodes (including pre-wired ECG electrodes),

(7) Patient transducer and electrode cables (including connectors),

(8) Medical magnetic tape recorders (e.g. Holter monitors),

(9) Arrhythmia detectors and alarms,

(10) Telephone Electrocardiograph transmitters and receivers.

Manufacturers and users had an additional 2 years to prepare for the second phase of implementation of the standard. Beginning on May 9, 2000, any electrode lead wire or patient cable lead intended for use with any medical device must comply with the standard.

The performance standard incorporates the specific requirements of international standard, IEC–60601, clause 56.3(c), which requires leads to be constructed in such a manner as to preclude patient contact with hazardous voltages or, for certain devices, contact with electrical ground. Design changes and labeling changes need to be considered by manufacturers and importers of these devices.

Adapters can be used to convert devices already in the marketplace so they can accept electrode wires and patient cables that comply with the new performance standard.

VIII. Exemption from Premarket Notification

A. FDA is proposing to exempt these devices from premarket notification.

On November 21, 1997, the President signed into law FDAMA (Public Law 105–115). Section 206 of FDAMA, in part, added a new section 510(m) to the act (21 U.S.C. 360(m). Section 510(m)(1) of the act requires FDA, within 60 days after enactment of FDAMA, to publish in the **Federal Register** a list of each type of class II device that does not require a report under section 510(k) of the act (21 U.S.C. 360(k)) to provide reasonable assurance of safety and effectiveness. Section 510(m) of the act further provides that a 510(k) will no longer be required for these devices upon the date of publication of the list in the **Federal Register**. FDA published that list in the Federal Register of January 21, 1998 (63 FR 3142).

Section 510(m)(2) of the act provides that 1 day after the date of publication of the list under section 510(m)(1) of the act, FDA may exempt a device on its own initiative or upon petition of an interested person, if FDA determines that a 510(k) is not necessary to provide reasonable assurance of the safety and effectiveness of the device.

FDA has determined that, for the devices proposed for class II in this rule, the special controls along with general controls other than premarket notification will provide reasonable assurance of the safety and effectiveness of these devices. Therefore, FDA is proposing to exempt these devices from the premarket notification requirements subject to the applicable limitations on exemptions.

B. Certain cardiopulmonary bypass equipment will remain in class I

FDAMA also added a new section 510(l) to the act which provides that a class I device is exempt from the premarket notification requirements under section 510(k) of the act, unless the device is intended for a use which is of substantial importance in preventing impairment of human health or it presents a potential unreasonable risk of illness or injury. FDA refers to the devices that meet these criteria as ''reserved.''

In the **Federal Register** of February 2, 1998 (63 FR 5387), FDA published a list of devices it considered reserved and that require premarket notification and a list of devices it believed met the exemption criteria in FDAMA. FDA invited comments on the February 2, 1998, notice.

In the **Federal Register** of November 12, 1998 (63 FR 63222), after reviewing the comments submitted on the February 2, 1998, **Federal Register** notice, FDA proposed to designate which devices require premarket notification, and which are exempt, subject to limitations, under notice and comment rulemaking proceedings under new section 510(l). One comment on the proposed rule stated that, for cardiopulmonary bypass accessory equipment, the ''reserved'' designation should be limited to accessory equipment that involves an electrical connection to the patient. FDA agrees with this comment and intends to change the final rule on exemptions from premarket notification to adopt this comment. In this proposed rule, FDA is stating that cardiopulmonary bypass accessory equipment that does not involve electrical connection to the patient is a class I device and is exempt from the premarket notification requirements.

IX. Effective Date

FDA proposes that any final rule that may issue based on this proposal become effective 30 days after its date of publication in the **Federal Register**.

X. Environmental Impact

The agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

XI. Analysis of Impacts

FDA has examined the impacts of the proposed rule under Executive Order 12866, and the Regulatory Flexibility Act (5 U.S.C. 601–612) (as amended by subtitle D of the Small Business Regulatory Fairness Act of 1996 (Public Law 104–121)), and the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory

approaches that maximize net benefits (including potential economic, environmental, public health and safety and other advantages, distributive impacts, and equity). The agency believes that this proposed rule is consistent with the regulatory philosophy and principles identified in the Executive Order. In addition, the proposed rule is not a significant regulatory action as defined by the Executive Order and so is not subject to review under the Executive Order.

The Regulatory Flexibility Act requires agencies to analyze regulatory options that would minimize any significant impact of a rule on small entities. Based on the May 9, 1997 (62 FR 25477), **Federal Register**, a final rule was issued establishing a performance standard for electrode lead wires and patient cables, which included and applied to the cardiopulmonary bypass accessory equipment that involves an electrical connection to the patient, the goniometer, and the electrode cable. The FDA's analysis determined that the imposition of the performance standard would not have a significant economic impact on a substantial number of small entities. This reclassification, if finalized, will have no economic effect other than the imposition of this standard. In addition, the proposed rule, if finalized, will not impose costs of $100 million or more on either the private sector or state, local, and tribal governments in the aggregate, and therefore a summary statement or analysis under section 202 (a) of the Unfunded Mandates Reform Act of 1995 is not required.

XII. Paperwork Reduction Act of 1995

FDA has tentatively determined that this proposed rule contains no collections of information. Therefore, clearance from the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

XIII. Submission of Comments

Interested persons may, on or before November 8 1999, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Parts 870, 888, and 890

Medical Devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR parts 870, 888, and 890 be amended as follows:

PART 870—CARDIOVASCULAR DEVICES

1. The authority citation for 21 CFR part 870 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

2. Section 870.4200 is revised to read as follows:

§ 870.4200 Cardiopulmonary bypass accessory equipment

(a) *Identification*. Cardiopulmonary bypass accessory equipment is a device that has no contact with blood and that is used in the cardiopulmonary bypass circuit to support, adjoin, or connect components, or to aid in the setup of the extracorporeal line, e.g., an oxygenator mounting bracket or system-priming equipment.

(b) *Classification*. (1) Class I. The device is classified as class I if it does not involve an electrical connection to the patient. The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 870.9.

(2) Class II (special controls). The device is classified as class II if it involves an electrical connection to the patient. The special controls are as follows:

(1) The performance standard under part 898 of this chapter and

(2) The guidance document entitled, ''Guidance on the Performance Standard for Electrode Lead Wires and Patient Cables.'' The device is exempt from the premarket notification procedures in subpart E of part 807 of this chapter subject to § 870.9.

PART 888—ORTHOPEDIC DIAGNOSTIC DEVICES

3. The authority citation for 21 CFR part 888 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

4. Section 888.1500 is amended by revising paragraph (b) to read as follows:

§ 888.1500 Goniometer.

* * * * *

(b) Classification. Class II (special controls). The special controls consist of:

(1) The performance standard under part 898 of this chapter and

(2) The guidance entitled, ''Guidance on the Performance Standard for Electrode Lead Wires and Patient Cables.'' This device is exempt from the premarket notification procedures of subpart E of part 807 of this chapter subject to § 888.9.

PART 890—PHYSICAL MEDICINE PROSTHETIC DEVICES

5. The authority citation for 21 CFR part 890 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 371.

6. Section 890.1175 is amended by revising paragraph (b) to read as follows:

§ 890.1175 Electrode cable.

* * * * *

(b) Classification. Class II (special controls). The special controls consist of:

(1) The performance standard under part 898 of this chapter and

(2) The guidance document entitled, ''Guidance on the Performance Standard for Electrode Lead Wires and Patient Cables.'' This device is exempt from the premarket notification procedures of subpart E of part 807 of this chapter subject to § 890.9.

Dated: July 25, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–20357 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–106527–98]

RIN 1545–AW22

Capital Gains, Partnership, Subchapter S, and Trust Provisions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to sales or exchanges of interests in partnerships, S corporations, and trusts. The proposed regulations interpret the look-through provisions of section 1(h), added by section 311 of the Taxpayer Relief Act of 1997 and amended by sections 5001 and 6005(d) of the Internal Revenue Service Restructuring and Reform Act of 1998, and explain the rules relating to the division of the holding period of a

partnership interest. The proposed regulations affect partnerships, partners, S corporations, S corporation shareholders, trusts, and trust beneficiaries.

DATES: Written comments must be received by November 8, 1999. Requests to speak and outlines of topics to be discussed at the public hearing scheduled for November 18, 1999, must be received by October 28, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–106527–98), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:DOM:CORP:R (REG–106527–98), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC. Alternatively, taxpayers may submit comments electronically via the Internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS Internet site at http://www.irs.ustreas.gov/tax__regs/regslist.html. The public hearing will be held in room 3411, Internal Revenue Building, 1111 Constitution Avenue, NW, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Jeanne Sullivan (202) 622–3050; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita VanDyke (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)).

Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the IRS, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collections of information should be received by October 8, 1999. Comments are specifically requested concerning:

Whether the proposed collections of information are necessary for the proper performance of the functions of the IRS, including whether the collections will have a practical utility;

The accuracy of the estimated burden associated with the proposed collections of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collections of information may be minimized, including through application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

The collections of information in these proposed regulations are in § 1.1(h)–1(e). This information is required by the IRS to implement section 311 of the Taxpayer Relief Act of 1997, as amended by the Internal Revenue Service Restructuring and Reform Act of 1998. The collections of information are required to provide information to the IRS regarding the capital gain attributable to collectibles and section 1250 property held by a partnership when a partner sells or exchanges an interest in that partnership and the capital gain attributable to collectibles when a shareholder sells or exchanges an interest in an S corporation or a trust beneficiary sells or exchanges an interest in a trust. This information will be used to verify compliance with section 1(h) and to determine that the tax on capital gains has been computed correctly. The collection of information is mandatory. The likely respondents are individuals and businesses.

Respondent taxpayers provide information by attaching a statement to the appropriate tax return. The burden for this requirement is reflected in the burden estimates for: Form 1040, U.S. Individual Income Tax Return; Form 1065, U.S. Partnership Return of Income; Form 1041, U.S. Income Tax Return for Estates and Trusts; and Form 1120S, U.S. Income Tax Return for an S Corporation. The estimated burden of information collection for the statement required is 10 minutes.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

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.

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) relating to taxation of capital gains in the case of sales or exchanges of interests in partnerships, S corporations, and trusts. The Taxpayer Relief Act of 1997, Public Law 105–34, 111 Stat. 788, 831 (1997 Act), amended section 1(h) of the Internal Revenue Code to reduce the maximum statutory tax rates for long-term capital gains of individuals in general. Certain technical corrections and other amendments to section 1(h) were enacted as part of the Internal Revenue Service Restructuring and Reform Act of 1998, Public Law 105–206, 112 Stat. 685, 787, 800 (1998 Act).

Section 1(h) provides that intermediate level rates apply to long-term capital gains from certain transactions, such as sales or exchanges of collectibles, section 1202 stock (with respect to a portion of the gain), and section 1250 property with gain attributable to straight-line depreciation. Section 1(h)(11) provides authority to the Secretary to issue such regulations as are appropriate to apply these rules in the case of sales or exchanges by pass-thru entities and of interests in pass-thru entities. This document provides rules for sales or exchanges of interests in partnerships, S corporations, and trusts. This document also provides rules relating to dividing the holding period of a partnership interest.

Explanation of Provisions

In general, prior to the 1997 Act, individuals were taxed on capital gains at the same rate as ordinary income, except that the rate for net capital gain was capped at 28 percent. The 1997 Act provided for lower maximum rates of taxation on gain from the sale or exchange of certain types of property. As amended by the 1998 Act, section 1(h) currently provides for maximum capital gains rates on the sale or exchange of certain types of property in three categories: 20-percent rate gain, 25-percent rate gain, and 28-percent rate gain. Twenty percent rate gain is net capital gain from the sale or exchange of capital assets held for more than one year, reduced by the sum of 25-percent rate gain and 28-percent rate gain. Twenty-five percent rate gain is limited to unrecaptured section 1250 gain. Unrecaptured section 1250 gain is the amount of long-term capital gain (not otherwise treated as ordinary income) which would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were

100 percent, reduced by any net loss in the 28-percent rate gain category.Twenty-eight percent rate gain is capital gains and losses from the sale or exchange of collectibles (as defined in section 408(m) without regard to section 408(m)(3)) held for more than one year, a portion of the gain attributable to the sale of section 1202 stock, and capital gains and losses determined under the rules of section 1(h)(13), reduced by net short-term capital loss for the taxable year and any long-term capital loss carryover under section 1212(b)(1)(B).

Collectibles Gain and Unrecaptured Section 1250 Gain

The sale or exchange of an interest in a partnership with a long-term holding period generally will result in capital gain in the 20-percent rate gain category to the extent that section 751(a) is not applicable. Section 751(a) generally provides that an amount received in exchange for a partnership interest, to the extent attributable to unrealized receivables and inventory, shall be considered as an amount realized from the sale or exchange of property other than a capital asset. Section 1250 property is treated as an unrealized receivable for purposes of section 751 to the extent of the amount that would be treated as gain to which section 1250(a) would apply.

The sale or exchange of stock in an S corporation with a long-term holding period generally will result in gain or loss in the 20-percent rate gain category, unless an exception to capital gain treatment applies. Certain of those exceptions are provided in sections 304, 306, 341, and 1254.

The sale or exchange of an interest in a trust with a long-term holding period generally will result in gain or loss in the 20-percent rate gain category. However, if the transferor is treated as the owner of the portion of the trust attributable to an interest under sections 673 through 679, the transferor is treated as transferring an undivided interest in the assets of the trust rather than an interest in the trust itself.

Effective for taxable years ending after May 6, 1997, when an interest in a partnership, an S corporation, or a trust held for more than one year (or more than 18 months during certain periods in 1997) is sold or exchanged, section 1(h) provides special treatment for ''collectibles gain'' in property held by a partnership, S corporation, or trust and for ''section 1250 capital gain'' in property held by a partnership. Specifically, section 1(h)(6)(B) provides that any gain from the sale of an interest in a partnership, S corporation, or trust which is attributable to unrealized appreciation in the value of collectibles shall be treated as gain from the sale or exchange of a collectible, applying rules similar to section 751(a) to determine the amount of the gain. In addition, under section 1(h)(7)(A) (in conjunction with sections 751(a) and (c)), the amount of long-term capital gain (not otherwise treated as ordinary income under section 751(a)) that would be treated as ordinary income under section 751(a) if section 1250 applied to all depreciation (section 1250 capital gain) must be taken into account in computing unrecaptured section 1250 gain when an interest in a partnership (with a holding period of more than one year, or more than 18 months during certain periods in 1997) is sold or exchanged. See H. Rep. No. 105–356, 105th Cong. 1st Sess. (1997), at 16, fn. 11; S. Rep. No. 105–174, 105th Cong. 2d Sess. (1998), at 149, fn. 65.

The proposed regulations provide guidance with respect to the application of these rules to a sale or exchange of an interest in a partnership, S corporation, or trust holding assets with collectibles gain and a partnership holding assets with section 1250 capital gain. Generally, the amount of such gain is determined by reference to the gain that would be allocated to the selling partner, shareholder, or beneficiary (to the extent attributable to the portion of the transferred interest that is subject to long-term capital gain) if the partnership, S corporation, or trust had sold all of its collectibles or if the partnership had sold all of its section 1250 property in a fully taxable transaction immediately before the transfer of the partnership, S corporation, or trust interest. Special rules are provided where the partner, S corporation shareholder, or trust beneficiary recognizes less than all of the gain upon the sale or exchange of its interest.

In addition, for purposes of applying section 1(h)(7)(B), which provides that a taxpayer's unrecaptured section 1250 gain cannot exceed the taxpayer's net section 1231 gain, gain from the sale of a partnership interest that results in section 1250 capital gain is not treated as section 1231 gain even if section 1231 could apply to the disposition of the underlying partnership property. Although section 1(h)(7) (in combination with section 751) applies a limited look-thru rule for purposes of determining the capital gain rate applicable to the sale of a partnership interest, no similar look-thru rule applies for purposes of applying section 1231. Anomalous results would follow if section 1250 capital gain derived from the sale of a partnership interest were treated as section 1231 gain for purposes of applying the limitation in section 1(h)(7)(B) but not for purposes of actually applying section 1231.

Determination of Holding Period in a Partnership

In view of the long-established principle that a partner has a single basis in a partnership interest (see Rev. Rul. 84–53 (1984–1 C.B. 159)), there is some confusion under current law as to how the principles of section 1223 apply to the sale of an interest, or a portion of an interest, in a partnership. The proposed regulations provide rules relating to the allocation of a divided holding period with respect to an interest in a partnership. These rules generally provide that the holding period of a partnership interest will be divided if a partner acquires portions of an interest at different times or if an interest is acquired in a single transaction that gives rise to different holding periods under section 1223. The holding period of a portion of a partnership interest shall be determined based on a fraction that is equal to the fair market value of the portion of the partnership interest to which the holding period relates (determined immediately after the acquisition) over the fair market value of the entire partnership interest. A selling partner may use the actual holding period of the portion of a partnership interest sold if the partnership is a ''publicly traded partnership'' (as defined under section 7704(b)), the partnership interest is divided into identifiable units with ascertainable holding periods, and the selling partner can identify the portion of the interest transferred. Otherwise, the holding period(s) of the transferred interest must be divided in the same ratio as the holding period(s) of the partner's entire partnership interest.

These proposed regulations do not contain a specific anti-abuse rule regarding holding periods. However, there may be situations where taxpayers will attempt to undertake abusive transactions using the rules in these regulations. For instance, taxpayers may attempt to shift gain from property with a short-term holding period to property with a long-term holding period by contributing the short-term property to a partnership and selling the partnership interest. Because the basis of a partnership interest cannot be segregated to a portion of an interest, basis in the portion of a partnership interest with a long-term holding period could reduce gain attributable to the portion of a partnership interest with a short-term holding period in situations

where such interest was recently received in exchange for contributed short-term capital gain property. In appropriate situations, the IRS may attack such abusive transactions under a variety of judicial doctrines, including substance over form or step transaction, or under § 1.701–2 of the regulations.

Proposed Effective Date

The amendments are proposed to be effective for all transfers of interests in a partnership, S corporation, or trust and for all distributions from a partnership on or after the date the regulations are published as final regulations in the **Federal Register**.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to section 7805(f), this notice of proposed rulemaking will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business. It is hereby certified that the collection of information in these regulations will not have a significant economic impact on a substantial number of small entities. This certification is based on the facts that: (1) the time required to prepare and file the statement is minimal (currently estimated at 10 minutes per statement); and (2) it is anticipated that, as a result of these regulations, small entities will file no more than one statement per year. Furthermore, taxpayers will have to respond to the requests for information contained in § 1.1(h)–1(e) only if there is a sale or exchange of an interest in a partnership, an S corporation, or a trust that holds certain property. Therefore, a Regulatory Flexibility Analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury request comments on the clarity of the proposed rule and how it may be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for November 18, 1999, beginning at 1 p.m. in room 3411 of the Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons who wish to present oral comments at the hearing must request to speak and submit written comments and an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by October 28, 1999. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information. The principal author of these proposed regulations is Jeanne Sullivan, Office of the Assistant Chief Counsel (Passthroughs and Special Industries). However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

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

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

PAR. 2. SECTION 1.1(H)–1 IS ADDED TO READ AS FOLLOWS:

§ 1.1(h)–1 Capital gains look-through rule for sales or exchanges of interests in a partnership, S corporation, or trust.

(a) *In general.* When an interest in a partnership held for more than one year is sold or exchanged, the transferor may recognize ordinary income (e.g., section 751(a)), collectibles gain, section 1250 capital gain, and residual long-term capital gain or loss. When stock in an S corporation held for more than one year is sold or exchanged, the transferor may recognize ordinary income (e.g., sections 304, 306, 341, 1254), collectibles gain, and residual long-term capital gain or loss. When an interest in a trust held for more than one year is sold or exchanged, a transferor who is not treated as the owner of the portion of the trust attributable to the interest sold or exchanged (sections 673 through 679) (a non-grantor transferor) may recognize collectibles gain and residual long-term capital gain or loss.

(b) *Look-through capital gain*—(1) *In general.* Look-through capital gain is the share of collectibles gain allocable to an interest in a partnership, S corporation, or trust, plus the share of section 1250 capital gain allocable to an interest in a partnership, determined under paragraphs (b)(2) and (3) of this section.

(2) *Collectibles gain and collectibles loss*—(i) *Definitions.* For purposes of this section, *collectibles gain* and *collectibles loss* mean gain or loss, respectively, from the sale or exchange of a collectible (as defined in section 408(m) without regard to section 408(m)(3)) that is a capital asset held for more than 1 year, but only to the extent such gain is taken into account in computing gross income, and such loss is taken into account in computing taxable income.

(ii) *Share of collectibles gain allocable to an interest in a partnership, S corporation, or trust.* When an interest in a partnership, S corporation, or trust held for more than one year is sold or exchanged in a transaction in which all realized gain is recognized, the transferor shall recognize as collectibles gain the amount of net collectibles gain (but not net collectibles loss) that would be allocated to that partner (taking into account any remedial allocation under § 1.704–3(d)), shareholder, or beneficiary (to the extent attributable to the portion of the partnership interest, S corporation stock, or trust interest transferred that was held for more than one year) if the partnership, S corporation, or trust transferred all of its collectibles in a fully taxable transaction immediately before the transfer of the interest in the partnership, S corporation, or trust. If less than all of the realized gain is recognized upon the sale or exchange of an interest in a partnership, S corporation, or trust, the same methodology shall apply to determine the collectibles gain recognized by the transferor, except that the partnership, S corporation, or trust shall be treated as transferring only a proportionate amount of each of its collectibles determined as a fraction that is the amount of gain recognized in the sale or exchange over the amount of

gain realized in the sale or exchange. With respect to the transfer of an interest in a trust, this paragraph applies only to transfers by non-grantor transferors (as defined in paragraph (a) of this section).

(3) *Section 1250 capital gain*—(i) *Definition.* For purposes of this section, *section 1250 capital gain* means the long-term capital gain (not otherwise treated as ordinary income) that would be treated as ordinary income if section 1250(b)(1) included all depreciation and the applicable percentage under section 1250(a) were 100 percent.

(ii) *Share of section 1250 capital gain allocable to interest in partnership.* When an interest in a partnership held for more than one year is sold or exchanged in a transaction in which all realized gain is recognized, there shall be taken into account under section 1(h)(7)(A)(i) in determining the partner's unrecaptured section 1250 gain the amount of section 1250 capital gain that would be allocated (taking into account any remedial allocation under § 1.704–3(d)) to that partner (to the extent attributable to the portion of the partnership interest transferred that was held for more than one year) if the partnership transferred all of its section 1250 property in a fully taxable transaction immediately before the transfer of the interest in the partnership. If less than all of the realized gain is recognized upon the sale or exchange of an interest in a partnership, the same methodology shall apply to determine the section 1250 gain recognized by the transferor, except that the partnership shall be treated as transferring only a proportionate amount of each section 1250 property determined as a fraction that is the amount of gain recognized in the sale or exchange over the amount of gain realized in the sale or exchange.

(iii) *Limitation with respect to net section 1231 gain.* In determining a transferor partner's net section 1231 gain (as defined in section 1231(c)(3)) for purposes of section 1(h)(7)(B), the transferor partner's allocable share of section 1250 capital gain in partnership property shall not be treated as section 1231 gain, regardless of whether the partnership property is used in the trade or business (as defined in section 1231(b)).

(c) *Residual long-term capital gain or loss.* The amount of residual long-term capital gain or loss recognized by a partner, shareholder of an S corporation, or beneficiary of a trust on account of the sale or exchange of an interest in a partnership, S corporation, or trust shall equal the amount of long-term capital gain or loss that the partner would recognize under section 741, that the shareholder would recognize upon the sale or exchange of stock of an S corporation, or that the beneficiary would recognize upon the sale or exchange of an interest in a trust (pre-look-through long-term capital gain or loss) minus the amount of long-term capital gain determined under paragraph (b) of this section (look-through capital gain).

(d) *Special rule for tiered entities.* In determining whether a partnership, S corporation, or trust has collectibles gain and whether a partnership has section 1250 capital gain, such partnership, S corporation, or trust shall be treated as owning its proportionate share of the property of any partnership, S corporation, or trust in which it owns an interest, either directly or indirectly through a chain comprised exclusively of such entities.

(e) *Notification requirements.* Rules similar to those that apply to the partners and the partnership under section 751(a) shall apply in the case of sales or exchanges of interests in a partnership, S corporation, or trust that holds property with collectibles gain and in the case of sales or exchanges of interests in a partnership that holds property with section 1250 capital gain. See § 1.751–1(a)(3).

(f) *Examples.* The following examples illustrate the requirements of this section:

Example 1. Collectibles gain. (i) *A* and *B* are equal partners in a personal service partnership (*PRS*). *B* transfers *B*'s interest in *PRS* to *T* for $15,000 when *PRS*'s balance sheet (reflecting a cash receipts and disbursements method of accounting) is as follows:

	Assets	
	Adjusted basis	Market value
Cash	$3,000	$3,000
Loans owed to partnership	10,000	10,000
Collectibles	1,000	3,000
Other capital assets	6,000	2,000
Capital assets	7,000	5,000
Unrealized receivables	0	14,000
Total	$20,000	$32,000
	Liabilities and capital	
Liabilities	$2,000	$2,000
Capital:		
A	9,000	15,000
B	9,000	15,000
Total	$20,000	$32,000

(ii) At the time of the transfer, *B* has held the interest in *PRS* for more than one year, and none of the property owned by *PRS* is section 704(c) property. The total amount realized by *B* is $16,000, consisting of the cash received, $15,000, plus $1,000, *B*'s share of the partnership liabilities assumed by *T*. See section 752. *B*'s basis for the partnership interest is $10,000 ($9,000 plus $1,000, *B*'s share of partnership liabilities). *B*'s undivided one-half interest in *PRS* includes a one-half interest in the partnership's unrealized receivables and a one-half interest in the partnership's collectibles.

(iii) If *PRS* were to sell all of its section 751 property in a fully taxable transaction immediately prior to the transfer of *B*'s partnership interest to *T*, *B* would be allocated $7,000 of ordinary income from the sale of *PRS*'s unrealized receivables. Therefore, *B* will recognize $7,000 of ordinary income with respect to the unrealized receivables. The difference between the amount of capital gain or loss that the partner would realize in the absence of section 751 ($6,000) and the amount of ordinary income or loss determined under § 1.751–1(a)(2) ($7,000) is the partner's capital gain or loss on the sale of the partnership interest under section 741. In this case, the transferor has a $1,000 pre-look-through long-term capital loss.

(iv) If *PRS* were to sell all of its collectibles in a fully taxable transaction immediately prior to the transfer of *B*'s partnership interest to *T*, *B* would be allocated $1,000 of collectibles gain from the sale of the collectibles. Therefore, *B* will recognize $1,000 of collectibles gain on account of the collectibles held by *PRS*.

(v) The difference between the transferor's pre-look-through long-term capital gain or loss (−$1,000) and the look-through capital gain determined under this section ($1,000) is the transferor's residual long-term capital gain or loss on the sale of the partnership interest. Under these facts, *B* will recognize a $2,000 residual long-term capital loss on account of the sale or exchange of the interest in *PRS*.

Example 2. Special allocations. Assume the same facts as in *Example 1*, except that under the partnership agreement, all gain from the sale of the collectibles is specially allocated to *B*, and *B* transfers *B*'s interest to *T* for $16,000. All items of income, gain, loss, or deduction of *PRS*, other than the collectibles gain, are divided equally between *A* and *B*. Under these facts, *B*'s pre-look-through long-term capital gain would be $0. If *PRS* were to sell all of its collectibles in a fully taxable transaction immediately prior to the transfer of *B*'s partnership interest to *T*, *B* would be allocated $2,000 of collectibles gain from the sale of the collectibles. Therefore, *B* will recognize $2,000 of collectibles gain on account of the collectibles held by *PRS*. *B* also will recognize $7,000 of ordinary income (determined under § 1.751–1(a)(2)) and a $2,000 long-term capital loss on account of the sale of *B*'s interest in *PRS*.

Example 3. Net collectibles loss ignored. Assume the same facts as in *Example 1*, except that the collectibles held by *PRS* have an adjusted basis of $3,000 and a fair market

value of $1,000, and the other capital assets have an adjusted basis of $4,000 and a fair market value of $4,000. If *PRS* were to sell all of its collectibles in a fully taxable transaction immediately prior to the transfer of *B*'s partnership interest to *T*, *B* would be allocated $1,000 of collectibles loss. Because none of the gain from the sale of the interest in *PRS* is attributable to unrealized appreciation in the value of collectibles held by *PRS*, the net loss in collectibles held by *PRS* is not recognized at the time *B* transfers the interest in *PRS*. *B* will recognize $7,000 of ordinary income (determined under § 1.751–1(a)(2)) and a $1,000 long-term capital loss on account of the sale of *B*'s interest in *PRS*.

Example 4. Collectibles gain in an S corporation. (i) A corporation (*X*) has always been an S corporation and is owned by individuals *A*, *B*, and *C*. In 1996, *X* invested in antiques. Subsequent to their purchase, the antiques appreciated in value by $300. *A* owns one-third of the shares of *X* stock and has held that stock for more than one year. *A*'s adjusted basis in the *X* stock is $100. If *A* were to sell all of the *X* stock to *T* for $150, *A* would realize $50 of pre-look-through long-term capital gain.

(ii) If *X* were to sell its antiques in a fully taxable transaction immediately before the transfer to *T*, *A* would be allocated $100 of collectibles gain on account of the sale. Therefore, *A* will recognize $100 of collectibles gain (look-through capital gain) on account of the collectibles held by *X*.

(iii) The difference between the transferor's pre-look-through long-term capital gain or loss ($50) and the look-through capital gain determined under this section ($100) is the transferor's residual long-term capital gain or loss on the sale of the S corporation stock. Under these facts, *A* will recognize $100 of collectibles gain and a $50 residual long-term capital loss on account of the sale of *A*'s interest in *X*.

(g) *Effective date.* This section applies to transfers of interests in partnerships, S corporations, and trusts that occur on or after the date these regulations are published as final regulations in the **Federal Register**.

Par. 3. Section 1.1223–3 is added to read as follows:

§ 1.1223–3 Rules relating to the holding periods of partnership interests.

(a) *In general.* A partner shall have a divided holding period in an interest in a partnership if:

(1) The partner acquired portions of an interest at different times; or

(2) The partner acquired portions of the partnership interest in exchange for property transferred at the same time but resulting in different holding periods determined under section 1223.

(b) *Accounting for holding periods of an interest in a partnership.* The portion of a partnership interest to which a holding period relates shall be determined by reference to a fraction that is the fair market value of the portion of the partnership interest received in the transaction to which the holding period relates over the fair market value of the entire partnership interest (determined immediately after the transaction).

(c) *Sale or exchange of all or a portion of an interest in a partnership*—(1) *Sale or exchange of entire interest in a partnership.* If a partner sells or exchanges the partner's entire interest in a partnership, any capital gain or loss recognized shall be divided between long-term and short-term capital gain or loss in the same proportions as the holding period of the interest in the partnership is divided between the portion of the interest held for more than one year and the portion of the interest held for one year or less.

(2) *Sale or exchange of a portion of an interest in a partnership.* (i) If the ownership interest in a publicly traded partnership (as defined under section 7704(b)) is divided into identifiable units with ascertainable holding periods, and the selling partner can identify the portion of the partnership interest transferred, the selling partner may use the actual holding period of the portion transferred.

(ii) If a partner has a divided holding period in a partnership interest, and paragraph (c)(2)(i) of this section does not apply, then the holding period of the transferred interest shall be divided between long-term and short-term capital gain or loss in the same proportions as the long-term and short-term capital gain or loss that the transferor partner would realize if the entire interest in the partnership were transferred in a fully taxable transaction immediately before the actual transfer.

(d) *Distributions*—(1) *In general.* A partner's holding period in a partnership interest is not affected by distributions from the partnership.

(2) *Character of capital gain or loss recognized as a result of a distribution from a partnership.* If a partner is required to recognize capital gain or loss as a result of a distribution from a partnership, then the capital gain or loss recognized shall be divided between long-term and short-term capital gain or loss in the same proportions as the long-term and short-term capital gain or loss that the distributee partner would realize if such partner's entire interest in the partnership were transferred in a fully taxable transaction immediately before the distribution.

(e) *Examples.* The provisions of this section are illustrated by the following examples:

Example 1. Division of holding period—contribution of money and a capital asset. (i) *A* contributes $5,000 of cash and *a* nondepreciable capital asset *A* has held for two years to a partnership (*PRS*) for *a* 50% interest in *PRS*. *A*'s basis in the capital asset is $5,000, and the fair market value of the asset is $10,000. After the exchange, *A*'s basis in *A*'s interest in *PRS* is $10,000, and the fair market value of the interest is $15,000. *A* received one-third of the interest in *PRS* for *a* cash payment of $5,000 ($5,000/$15,000). Therefore, *A*'s holding period in one-third of the interest received (attributable to the contribution of money to the partnership) begins on the day after the contribution. *A* received two-thirds of the interest in *PRS* in exchange for the capital asset ($10,000/$15,000). Accordingly, pursuant to section 1223(1), *A* has a two-year holding period in two-thirds of the interest received in *PRS*.

(ii) Six months later, when *A*'s basis in *PRS* is $12,000 (due to *a* $2,000 allocation of partnership income to a), *A* sells the interest in *PRS* for $15,000. Assuming *PRS* holds no inventory or unrealized receivables (as defined under section 751(c)) and no collectibles or section 1250 property, *a* will realize $3,000 of capital gain. As determined above, one-third of *A*'s interest in *PRS* has *a* holding period of one year or less, and two-thirds of *A*'s interest in *PRS* has *a* holding period equal to two years and six months. Therefore, one-third of the capital gain will be short-term capital gain, and two-thirds of the capital gain will be long-term capital gain.

Example 2. *Division of holding period—contribution of money, section 1231 property, and other property.* In exchange for *a* 30% interest in *a* partnership (*ABC*), *A* contributes to *ABC* $50,000 cash and equipment used in a trade or business and held for more than one year with a fair market value of $100,000 and an adjusted basis of $40,000. The equipment has a recomputed basis under section 1245 of $60,000. Accordingly, a portion of the equipment equal in value to $20,000 is section 1245 property that is not section 1231 property. See § 1.1245–6(a). *A*'s partnership interest has a fair market value of $150,000, a basis of $90,000, and a divided holding period. *A* received 46.67% ($70,000/$150,000) of the interest in *ABC* in exchange for property that is neither a capital asset nor section 1231 property (that is, cash of $50,000 and a portion of the equipment attributable to section 1245 recapture in an amount equal to $20,000). Therefore, *A*'s holding period for 46.67% of *A*'s interest begins on the day after the exchange of the property for the partnership interest. *A* received 53.33% ($80,000/$150,000) of *A*'s interest in *ABC* in exchange for section 1231 property.

Accordingly, *A*'s holding period for 53.33% of *A*'s interest includes *A*'s holding period for the section 1231 property.

Example 3. *Division of holding period when capital account is increased by contribution. A, B, C, and D* are equal partners in a partnership (*PRS*), and the fair market value of a 25% interest in *PRS* is $90x. *A*, *B*, *C*, and *D* each contribute an additional $10x to partnership capital, thereby increasing the fair market value of each partner's interest to $100x. As a result of the contribution, each partner has a new holding period in the portion of the partner's

interest in *PRS* that is attributable to the contribution. That portion equals 10% ($10x/$100x) of each partner's interest in *PRS*.

Example 4. Sale or exchange of a portion of an interest in a partnership. (i) *A* contributes $5,000 in cash and a capital asset with a fair market value of $5,000 and a basis of $2,000 to a partnership (*PRS*) in exchange for an interest in *PRS*. At the time of the contribution, *A* had held the contributed property for two years. Six months later, when *A*'S basis in *PRS* is $7,000, *A* transfers one-half of *A*'S interest in *PRS* to *T* for $6,000 at a time when *PRS*'s balance sheet (reflecting a cash receipts and disbursements method of accounting) is as follows:

	Assets	
	Adjusted basis	Market value
Cash	$5,000	$5,000
Unrealized Receivables	0	6,000
Capital Asset 1	3,000	8,000
Capital Asset 2	2,000	5,000
Capital Assets	5,000	13,000
Total	$10,000	$24,000

(ii) Although at the time of the transfer *A* has not held A's interest in *PRS* for more than one year, 50% of the fair market value of *A*'S interest in *PRS* was received in exchange for property with a long-term holding period. Therefore, 50% of *A*'S interest in *PRS* has a long-term holding period.

(iii) If *PRS* were to sell all of its section 751 property in a fully taxable transaction immediately before *A*'S transfer of the partnership interest, *A* would be allocated $3,000 of ordinary income. One-half of that amount ($1,500) is attributable to the portion of *A*'S interest in *PRS* transferred to *T*. Accordingly, *A* will recognize $1,500 ordinary income and $1,000 ($2,500 -$1,500) of capital gain on account of the transfer to *T* of one-half of *A*'S interest in *PRS*. Fifty percent ($500) of that gain is long-term capital gain and 50% ($500) is short-term capital gain.

Example 5. Sale or exchange of a portion of an interest in a partnership. (i) The facts are the same as in *Example 4*, except that capital asset 1 is a collectible that was purchased by *PRS* more than one year earlier. If capital asset 1 were sold or exchanged in a fully taxable transaction immediately before *A*'s transfer of the partnership interest, *A* would be allocated $2,500 of collectibles gain. Fifty percent of that amount ($1,250) is attributable to the portion of *A*'s interest in *PRS* sold to *T*. The collectibles gain allocable to the portion of the transferred interest in *PRS* with a long-term holding period is $625 (50% of $1,250). Accordingly, *A* will recognize $625 of collectibles gain on account of the transfer of one-half of the interest in *PRS*.

(ii) The difference between the amount of pre-look-through long-term capital gain or loss ($500) and the look-through capital gain ($625) is the amount of residual long-term capital gain or loss that *A* will recognize on account of the transfer of one-half of the interest in *PRS*. Under these facts, *A* will recognize a residual long-term capital loss of $125 and a short-term capital gain of $500.

Example 6. Sale of units of interests in partnership. A publicly traded partnership (*PRS*) has ownership interests that are segregated into identifiable units of interest. *A* owns 10 limited partnership units in *PRS* for which *A* paid $10,000 three years ago. Later, *A* purchases five additional units for $10,000 at a time when the fair market value of each unit has increased to $2,000. *A*'s holding period for one-third ($10,000/$30,000) of the interest in *PRS* begins on the day after the purchase of the five additional units. Less than one year later, *A* sells five units of ownership in *PRS* for $11,000. At the time, *A*'s basis in the 15 units of *PRS* is $20,000, and *A*'s capital gain on the sale of 5 units is $4,333 (amount realized of $11,000—one-third of the adjusted basis or $6,667). For purposes of determining the holding period, *A* can designate the specific units of *PRS* sold. If *A* properly identifies the five units sold as five of the ten units for which *A* has a long-term holding period, the capital gain realized will be long-term capital gain.

Example 7. Disproportionate distribution. In 1997, *A* and *B* each contribute cash of $50,000 to form and become equal partners in a partnership (*PRS*). Sometime later, *A* receives a distribution worth $22,000 from *PRS*, which reduces *A*'s interest in *PRS* to 36%. After the distribution, *B* owns 64% of *PRS*. The holding periods of *A* and *B* in their interests in *PRS* are not affected by the distribution.

Example 8. Gain or loss as a result of a distribution. In 1996, *A* contributes property with a basis of $10 and a fair market value of $10,000 in exchange for an interest in a partnership (*ABC*). In 1999, when *A*'s interest in *ABC* is worth $12,000, *A* contributes $6,000 cash in exchange for an additional interest in *ABC*, bringing the fair market value of *A*'s interest to $18,000. The holding period of *A*'s interest in *ABC* is determined immediately after that exchange. *A*'s holding period in one-third of *A*'s interest in *ABC* ($6,000 cash contributed over the $18,000 value of the entire interest) begins on the day after the cash contribution. (*ABC* holds no inventory or unrealized receivables.) Later in 1999, *ABC* makes a cash distribution to *A* of $10,000. *A*'s basis in *ABC* immediately before the distribution is $6,010. Accordingly, *A* must recognize $3990 of capital gain as a result of the distribution. See section 731(a)(1). One-third of the capital gain recognized as a result of the distribution is short-term capital gain, and two-thirds of the capital gain is long-term capital gain. After the distribution, *A*'s basis in the interest in *PRS* is $0, and the holding period for the interest in *PRS* continues to be divided in the same proportions as before the distribution.

(f) *Effective date.* This section applies to transfers of partnership interests and distributions of property from a partnership that occur on or after the date final regulations are published in the **Federal Register**.

Par. 4. Section 1.741–1 is amended by adding paragraphs (e) and (f) to read as follows:

§ 1.741–1 Recognition and character of gain or loss on sale or exchange.

* * * * *

(e) For rules relating to the capital gain or loss recognized when a partner sells or exchanges an interest in a partnership that holds appreciated collectibles or section 1250 property with section 1250 capital gain, see § 1.1(h)–1.

(f) For rules relating to dividing the holding period of an interest in a partnership, see § 1.1223–3.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–20368 Filed 8–6–99; 8:45 am]

BILLING CODE 4830–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[Region 2 Docket No. NY 32–194b, FRL–6414–2]

Approval and Promulgation of State Plans for Designated Facilities; New York

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve the State Plan submitted by New York to implement and enforce the Emission Guidelines (EG) for existing Hospital/Medical/Infectious Waste Incinerators (HMIWI). The EG require states to develop plans to reduce toxic air emissions from all HMIWIs. In the final rules section of this **Federal Register**, EPA is approving New York's HMIWI State Plan as a direct final rule without prior proposal because the Agency views this as a noncontroversial action and anticipates no relevant adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If EPA receives no adverse comments to that direct final rule, EPA will not take action on this proposed rule. If EPA receives adverse comments, EPA will withdraw the direct final rule and it will not take effect. EPA will address all public comments received in a subsequent final rule based on this proposed rule. The EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received on or before September 8, 1999.

ADDRESSES: All comments should be addressed to: Raymond Werner, Acting Chief, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

Copies of the State submittal are available at the following addresses for inspection during normal business hours:

Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10007–1866.

New York State Department of Environmental Conservation, Division of Air Resources, 50 Wolf Road, Albany, New York 12233.

FOR FURTHER INFORMATION CONTACT: Ted Gardella or Craig Flamm, Air Programs Branch, Environmental Protection Agency, Region 2 Office, 290 Broadway, 25th Floor, New York, New York 10278, (212) 637–3892 or (212) 637–4021, respectively.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule which is published in the rules section of this **Federal Register**.

Dated: July 23, 1999.

William J. Muszynski,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20306 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 97

[FRL–6416–7]

Notice of Availability of Unit-Specific Information for Affected Sources Under the Section 126 and Proposed Section 110 FIP Rulemakings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is making available to the public three sets of data relating to our proposed Federal NO__ Budget Trading Program. We proposed the program in rulemakings under sections 126 and 110 of the Clean Air Act. The program aims to reduce interstate transport of ozone by controlling emissions of nitrogen oxides (NO__). NO__ emissions significantly contribute to violations of the National Ambient Air Quality Standard for ozone in downwind states. This document is a notice of availability and request for comment on the following data related to the allocation of NO__ allowances under the Federal NO__ Budget Trading Program: electric generation data from May through September for the years 1995 through 1998, for electric generating units (EGUs); heat input data from May through September for the year 1998 for all EGUs reporting under EPA's Acid Rain Program; heat input data from May through September for the years 1997 and 1998 and heat rate data for EGUs not reporting under EPA's Acid Rain Program; and heat input data for May through September for the year 1995 for certain non-electric generating units (non-EGUs). We may use these data in the future to allocate NO__ allowances under the Federal NO__ Budget Trading Program. Therefore, EPA is providing an opportunity for public comment on these data.

Readers should note that we will only consider comments about the data discussed in this notice and are not soliciting comments on any other topic. In particular, we are not reopening the comment period for the October 21, 1998 proposed rule on the section 126 rulemaking or the October 21, 1998 proposed rule on the section 110 Federal Implementation Plans (FIPs) through this Notice of Data Availability. Neither are we soliciting comments on inventory data for 1995 and 1996 that we used to develop Statewide emission budgets.

DATES: Comments on the data will be accepted through September 8, 1999.

ADDRESSES: You may submit comments to the Air and Radiation Docket and Information Center (6102), Docket Nos. A–97–43 (section 126 rulemaking) and A–98–12 (section 110 FIP rulemaking), U.S. Environmental Protection Agency, 401 M Street SW, room M–1500, Washington, DC 20460, telephone (202) 260–7548. Identify your comments with these docket numbers. Submit two originals or exact duplicates of your comments to each docket. Please submit your comments on paper, not in electronic format. We request this so that we do not receive multiple versions of the same comment that might contradict each other.

Documents relevant to this action are available for inspection at the Air Docket and Information Center, at the above address, between 8:00 a.m. and 5:30 p.m., Monday though Friday, excluding legal holidays. A reasonable copying fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: General questions concerning today's action and technical questions concerning electrical generation data should be addressed to Margaret Sheppard, Acid Rain Division, EPA, Mail Code 6204 J, 401 M Street SW, Washington, D.C. 20460, telephone 202–564–9163, email address sheppard.margaret@epa.gov. For technical questions concerning heat input data, contact Kevin Culligan at telephone 202–564–9172, email address culligan.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

Outline:

1. *What is today's action?*
2. *Where can I get the data?*
3. *How are these data related to the proposed Section 126 and Section 110 FIP NO_X* allowance allocations?
4. *Why is EPA requesting comment on these data?*
5. *What data are EPA making available for review and comment?*
6. *What things is EPA not requesting comment on?*
7. *What are the sources of EPA's data?*
   a. Electric generation data for utilities
   b. Heat input data for EGUs
   c. Electric generation and heat input data for non-utility generators
   d. Heat input for non-EGUs
8. What other data sources did EPA consider?
9. What supporting documentation do I need to provide with my comments?
10. How is this action related to the Section 126 and proposed Section 110 FIP rulemakings?
11. How is this action related to the NO_X SIP Call?

1. What is Today's Action?

Today, we are making available data on heat input and electrical generation for units that could potentially be affected by a Federal action under section 126 or by a FIP under section 110 of the Clean Air Act. The purpose of making the data available for comment is to ensure that we have accurate information to help us develop NO_X allowance allocations for the Federal NO_X Budget Trading Program. For example, the data referenced by this document could be used as the basis for NO_X emission allowance allocations to be finalized under the section 126 rulemaking. Also, a number of Northeastern States have stated that they intend to submit SIPs in response to EPA's NO_X SIP Call by September 30, 1999. Data referenced in this notice could aid States in developing NO_X allowance allocations for their SIPs.

2. Where Can I Get the Data?

These data are available in files on the Regional Transport of Ozone webpage at http://www.epa.gov/ttn/rto/. You will find links to the data under ''What's New'' and under the ''Related Documents and Data'' subheadings

under the ''Transport FIPs'' and ''Section 126 Petitions'' headings on the Regional Transport of Ozone webpage. The files are in a compressed file labeled ''allodata.zip''; this compressed file contains three files labeled ''egufinal.txt,'' ''zegout.txt,'' and ''nonegu.txt.'' In addition, these data are in Docket Nos. A–97–43 (section 126 rulemaking) and A–98–12 (section 110 FIP rulemaking). We describe the contents of these data files below under section 5, ''What data are EPA making available for review and comment?'.

3. How Are These Data Related to the Proposed Section 126 and Section 110 FIP NO_X Allowance Allocations?

In the section 126 and section 110 FIP proposed rulemakings (63 FR 56291 and 63 FR 56393, October 21, 1998), we requested comment on appropriate ways to allocate NO_X allowances for the Federal NO_X Budget Trading Program. We also proposed three different methods for allocating NO_X allowances for EGUs using the following data:

a. Heat input data during May through September (the ozone season) for the years 1995 through 1997 for fossil fuel-fired units.

b. Estimated electric generation for fossil fuel-fired units during May through September for the years 1995 through 1997. We calculated electric generation using the historical heat input data in million British thermal units (mmBtu) and heat rate data in kilowatt hours (kWh) per Btu.

c. Estimated electric generation for all electricity generators during May through September for the years 1995 through 1997. We calculated electric generation for fossil fuel-fired units using the historical heat input and heat rate data. This option differed from the second option because it also included allocations for electric generating plants that do not burn fuel, such as nuclear and hydroelectric power plants. For electric generating plants that did not burn fuel, we used electric generation data calculated using outputs from the Integrated Planning Model (IPM). (IPM is an economic model used by industry and government. EPA used this model to estimate the costs and emission reductions that would result from controlling NO_X emissions under the NO_X SIP call. *See* 63 FR 57356, October 27, 1998.)

During the public comment periods for the proposed section 126 and section 110 FIP rulemakings, commenters suggested that we rely on additional, and in some cases different, sources of data than those we proposed for the allocations for EGUs. In particular, commenters suggested using data for 1998 and using electric generation data from the Energy Information Administration (EIA).

In the proposed section 126 and section 110 FIP rulemakings, we also proposed one method for allocating NO_X allowances for large non-EGUs (that is, units with a maximum design heat input greater than 250 mmBtu/hr). For this notice, non-EGUs are only fossil-fuel fired industrial boilers and turbines. We proposed using heat input data for non-EGUs during May through September for the year 1995. Commenters suggested that we use more than one year's worth of data to allocate NO_X allowances for non-EGUs, but they did not suggest where we could find other data.

4. Why is EPA Requesting Comment on These Data?

We are soliciting comment to ensure that we can use current, high quality data for allocating NO_X allowances, regardless of the methodology we will choose for the allocation. We are requesting comments on unit-specific output data for EGUs from May through September for the years 1995 through 1998. We also are requesting comments on unit-specific heat input data for all EGUs for May through September for the year 1998. We request comments submitting data for EGUs that do not report under the Acid Rain Program for May through September for the years 1997 and 1998. Finally, we are requesting comment on unit-specific heat input data for non-EGUs from May through September for the year 1995. Where the heat input from May through September for the year 1995 is not representative of a non-EGU's operation over the last several years, we also will take comments providing us with heat input data from May through September for the years 1996, 1997, and/or 1998. We may use the data referenced in this document for allocating allowances. As explained further below in the section entitled, ''What supporting documentation do I need to provide with my comments?'', EPA expects to change the data in response to comment only if the commenter provides appropriate supporting documentation.

5. What Data are EPA Making Available for Review and Comment?

We are providing data for units and generators in the following states which may be subject to the Federal NO_X Budget Trading Program under a section 126 action or under a FIP: Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin. We are making the following data available for review:

a. EGU electric generation data from May through September for the years 1995 through 1998, which we may use in an electricity output-based allocation. In addition, there are heat rate data that we used to calculate the electric generation for non-utility generators. We request comment on these heat rate values. See section 7, ''What are the sources of EPA's data?'', subsection c. for further discussion about how we used heat rate data to determine electric generation.

b. Heat input data for May through September for the year 1998 for all EGUs reporting under the Acid Rain Program, which we may use in a heat input-based allocation. We do not have heat input data for EGUs that are not reporting under the Acid Rain Program for 1998, and we have only limited data for these units for 1997. We are recording zero heat input for these units for those years where the data are not available. We request comment on heat input data from May through September for the years 1997 and 1998, which EPA could use for the heat input-based allocation for specific EGUs that are not reporting under the Acid Rain Program.

c. Heat input data for May through September for the year 1995 for non-EGUs, which we may use in a heat input-based allocation. If you find that the heat input for your unit during May through September for the year 1995 is not representative of your unit's operation over the last several years, then you may comment and provide us heat input data for May through September for the years 1996, 1997, and/or 1998. See section 4, ''What supporting documentation do I need to provide with my comments?'' for details on the supporting information you should provide.

The data files include information for fossil fuel-fired units which are listed in our updated emission inventory and for electric generators that do not burn fuel for which we previously proposed output-based allocations under the Federal NO_X Budget Trading Program. During preparation of the proposed NO_X allowance allocations, we did not have a reliable source of nameplate capacity data for generators that do not burn fuel. Recently, we have obtained reliable nameplate capacity data for more of these generators from EIA that we could use to identify whether or not generators are greater than 25 MWe. Thus, we also request comments on nameplate capacity of electric generators that do not burn fuel.

You will find the data in three files:

• ''eguburn.txt''—This data file contains unit and source identification information, nameplate capacity, identification of which units are reporting under the Acid Rain Program, heat rate, electric generation data, and heat input data for fossil fuel-fired EGUs serving generators with a nameplate capacity greater than 25 MWe.

• ''egunonox.txt''— This data file contains generator and source identification information, nameplate capacity, source of energy, and electric generation data for electric generators that do not burn fuel.

• ''nonegu.txt''— This data file contains unit and source identification information and heat input data for fossil fuel-fired non-EGUs with a maximum design heat input greater than 250 mmBtu/hr.

See section 2 above, ''Where can I get the data?'' for the location of the data on the Internet.

6. What Things EPA Not Requesting Comment on?

We are soliciting comment only on the data presented through this document. We are not requesting comment on any other issue or data. For example, we are not requesting comment on:

• The October 21, 1998 proposed section 126 rule.

• The October 21, 1998 proposed section 110 FIP rule.

• Issues related to the Statewide emission budgets and to the 1995 and 1996 emission inventories (e.g., heat input values for EGUs for 1995 and 1996, or NO_X emission values for non-EGUs for 1995).

• The May 14, 1999 updated emission inventory.

• Allocation methods for EGUs or non-EGUs in the proposed Federal NO_X Budget Trading Program.

• The April 30, 1998 final section 126 rule.

• The June 14, 1999 interim final and proposed section 126 rules.

Please note that we have not made any decision on the methodology for allowance allocations. We solicited comment on the appropriate allocation methodology in the proposed section 126 and section 110 FIP rulemakings and are considering the comments we have received.

7. What are the Sources of EPA's Data?

a. Electric Generation Data for Utilities

Electric utilities reported electric generation data to the Energy Information Administration (EIA) on EIA form 759. We obtained net electric generation data in megawatt hours (MWh) for the ozone season (May through September) during the years 1995 through 1998, for each utility power plant that submitted EIA form 759. These data are available through the EIA's webpage at ftp://ftp.eia.doe.gov/pub/electricity/.

We apportioned the plant-level net electric generation data in EIA Form 759 to each unit at the plant. For electric generators that did not burn fuel, we generally divided the plant-level generation using each generator's portion of the total nameplate capacity of all generators at the plant. For certain plants, we found that generator-specific nameplate capacity data were unclear. In these cases, we apportioned the data from EIA form 759 to each generator at the plant equally. These plants included nuclear power plants, hydroelectric plants, and other facilities that did not combust fuel to generate electricity. For generators at plants that did not combust fuel for which data from EIA form 759 are not available, EPA used generation calculated using IPM. The data file includes this average value for the ozone season during all four years (1995 through 1998) for these units.

For fossil fuel-fired units, generally we divided the plant-level generation in EIA form 759 using each unit's portion of the plant's total heat input during the ozone season. We describe this calculation further below. For plants at which we had heat input data for some units but were uncertain about the heat input data for other units at the plant, we apportioned the data from EIA form 759 data on the basis of each unit's nameplate capacity. This situation arose generally in 1997 and 1998 for plants which had some units reporting under the Acid Rain Program and some units that were not reporting under the Acid Rain Program.

b. Heat Input Data for EGUs

To apportion plant-level electric generation data to individual units for 1995 and 1996, we used the heat input in the May 14, 1999 updated inventory (*see* 64 FR 28250). For units that reported emissions and heat input data under the Acid Rain Program, these heat input data came from reports submitted to EPA to demonstrate compliance under the Acid Rain Program. For units that did not report emissions and heat input data under the Acid Rain Program, we collected heat input data while developing our May 14, 1999 updated inventory. Values in the May 14, 1999 updated inventory were either reported to the Agency by sources or by State environmental agencies. The heat input data for the ozone seasons during 1995 and 1996 have been subject to multiple public reviews. Thus, we are not requesting further comments on these data.

To apportion plant-level electric generation data to individual units for 1997, we are using heat input data that we used to develop proposed NO_X allowance allocations in the October 21, 1998 proposed section 126 and section 110 FIP rulemakings. We modified these heat input values in response to comments. You can find an explanation of the changes we made to the heat input data in the response to comments document in the docket for the NO_X SIP Call (Docket No. A–96–56). We based most of the heat input data for the 1997 ozone season upon the data reported to us under the Acid Rain Program. In addition, for some EGUs that did not report under the Acid Rain Program, we used heat input values for 1997 which we received in public comments in connection with the May 14, 1999 updated inventory. (We did not use heat input data for the year 1997 to establish emission budgets.) EPA again requests comment on heat input data for the 1997 ozone season for sources that do not report under the Acid Rain Program.

For May through September of 1998, we used the heat input reported by sources for compliance purposes under the Acid Rain Program. Under the Acid Rain Program, the designated representative for the affected source has certified the data in these reports as accurate. Because we do not have heat input data for units that are not reporting under the Acid Rain Program, we include heat input values of zero for them in the data files for 1998. See the discussion below for ''electric generation data for non-utility generators.'' We used the 1998 heat input data both:

• To apportion electric generation data to units within a plant; and

• To create the separate set of 1998 heat input data that we are offering for comment in today's action.

c. Electric generation and heat input data for non-utility generators

We do not have measured electric generation data for non-utility generators. Although EIA gathers generation data from these units, EIA kept those plant-specific data confidential for 1995 through 1997. Although EIA will be making the 1998 generation data publicly available, it has not yet done so.

Where commenters provided heat rate or heat input information for their non-utility units, we used those values instead to calculate electric generation. Commenters could have provided comments on heat input data or heat

rate data with their comments on the October 21, 1998 proposed section 126 and section 110 FIP rules or could have provided comments on heat input data with their comments on the October 27, 1998 version of the emission inventory used to develop State NO_X emission budgets under the final NO_X SIP Call rule. If commenters did not provide heat rate information for their non-utility units, then we used the generic heat rate value used in the Integrated Planning Model (IPM) for the unit type and nameplate capacity (for these heat rate values, *see* the October 21, 1998 proposed section 126 rule, 63 FR 56316). In cases where commenters did not send us heat input information, we used calculated average values for heat input from IPM for 1995 and 1996 (the years that could be used to calculate States' emission budgets). This means that in some cases, you will see the same heat input for 1995 and 1996 and no heat input or generation for 1997 or 1998 in EPA's data files. We then used the heat rate and heat input values from IPM to calculate generation values for 1995 and 1996 at these units. We also did this for 1997 if a commenter provided 1997 heat input data for a non-utility unit. We have not included 1998 heat input values or 1998 generation values in the data file for these units.

For non-utility generators that did not burn fuel, such as hydroelectric plants, we used IPM to calculate average values for generation for the ozone seasons from 1995 through 1997. In the data file for the generators that did not burn fuel, this average electric generation for each generator is the generation value for each of the four ozone seasons from 1995 through 1998.

d. Heat Input Data for non-EGUs

For heat input data for non-EGUs, we used data for 1995 developed from the October 27, 1998 version of the emission inventory used to develop State NO_X emission budgets under the final NO_X SIP call rule. We also used data submitted during multiple public comment periods on the inventory underlying the NO_X SIP call and section 126 actions. The last public comment period was open from October 27, 1998 to February 22, 1999 and resulted in the May 14, 1999 updated inventory. *See* 64 FR 26298.

7. What Other Data Sources Did EPA Consider?

We also considered using unit-specific generation data reported to EIA on EIA form 767. A commenter provided this data for many units which were listed in the October 27, 1998 version of the emission inventory used to develop State NO_X emission budgets under the final NO_X SIP call rule. Form 767 is for steam-electric generators with a nameplate capacity of 10 MWe or more. It does not apply to turbines or combined cycle systems. We did not use the data from EIA form 767 because we did not have these data for turbines, combined cycle systems, or units added to EPA's May 14, 1999 updated inventory based on comments received during the October 27, 1998 to February 22, 1999 public comment period. In addition, data from EIA form 767 are not yet available for 1998.

In order to treat all unit types consistently and in order to use the same approach for all years from 1995 through 1998 for as many units as possible, we instead chose to use data from EIA form 759. However, we would consider comments that provide data from EIA form 767 for specific units as a way of apportioning generation from the plant level, as reported on EIA form 759, rather than using heat input or nameplate capacity. We recognize that the electric generation data from EIA form 767 is a measured value and thus provides a more precise and more accurate electric generation value than using heat input or nameplate capacity to apportion generation from the plant level. However, we also note that the electric generation data from EIA form 767 are not available at all for many units and are not available for 1998 for any unit at this time. You can find the unit-level data from EIA form 767 that a commenter provided to the Agency for most fossil fuel-fired boilers in the file ''eguout.xls'' on the Regional Transport of Ozone webpage in the same locations as for the data files mentioned above under section 2, ''Where can I get the data?''.

8. What supporting documentation do I need to provide with my comments?

While we will consider all comments we receive during the public comment period on the topics for comment in this notice, we expect to change the data in response to comment only if the commenter sends appropriate supporting documentation. Therefore, you should send supporting documentation from prior to the date this document was signed with your comments if you want us to change or add data for electric generation or heat input. Please submit your comments and supporting documentation on paper, not in electronic format. We request this so that we do not receive multiple versions of the same comment that might contradict each other.

For electric generation data from EGUs (May through September, 1995–1998), we will accept data that was already reported to EIA. For utilities, we will accept copies of EIA form 767 for all steam generating units at a source. If you have already submitted a new or revised EIA form 759 to EIA, also send a copy with any comment to EPA. For non-utility generators, we will accept data the source used to report on EIA form 867 for the years 1995 through 1997 or EIA form 860B for the year 1998. If the form requires annual generation data, you will also need to include an explanation and documentation for apportioning the annual generation to the ozone season (May 1 through September 30). If you own or operate an EGU and you want to use data other than what you previously reported to EIA, you should:

- State the source of the new data;
- Thoroughly explain and document why the data reported previously was incorrect; and
- Explain why the new data is more accurate.

For heat input data for units that do not report under the Acid Rain Program, including non-EGUs, we will consider corroborating data. This would include fuel purchase records or information reported to a State environmental agency or a State utility commission.

In general, we do not expect to change heat input data for units reporting under the Acid Rain Program since the source's designated representative under the Acid Rain Program has already submitted the heat input data and certified their accuracy for compliance purposes. However, we will consider changes if the source's designated representative provides evidence that we improperly calculated heat input at the unit level, where the heat input was actually measured at another location (such as a common stack). We will also consider changing heat input data for a unit reporting under the Acid Rain Program if the source's designated representative demonstrates that the data we are providing for comment here do not agree with the data reported to EPA for compliance with the Acid Rain Program. You should explain why the data values in EPA's data file(s) are incorrect and document and explain the new data values. *See* Table 1 below.

TABLE 1.—SUPPORTING DOCUMENTATION YOU SHOULD SEND TO EPA WITH YOUR COMMENTS

If you have this source type:	and you are commenting on this type of data:	Then you should submit this documentation:
EGU boiler reporting under the Acid Rain Program.	electrical generation.	(May-Sept. of 1995, 1996, 1997, or 1998) • Updated EIA form 759 or EIA form 767.
	heat input	(May-Sept. 1998) • Explanation and documentation of why heat input was incorrect and • Explanation of new values.
EGU turbine or combined cycle unit reporting under the Acid Rain Program.	electrical generation.	(May-Sept. 1995, 1996, 1997, or 1998) • Updated EIA form 759.
	heat input	(May-Sept. 1998) • Explanation and documentation of why heat input was incorrect and • Explanation of new values.
EGU non-utility generator (not reporting under the Acid Rain Program).	electrical generation.	(May-Sept. 1995, 1996, or 1997) • EIA form 867 and • Explanation and documentation for apportioning the annual generation to the ozone season or (May-Sept. 1998) • EIA form 860B.
	heat input	(May-Sept. 1998) • Fuel purchase records or • Information reported to a State environmental agency or a State utility commission.
Non-EGU	heat input	(May-Sept. 1995 [1]) • Fuel purchase records or • Information reported to a State environmental agency or a State utility commission.

[1] If heat input during May through September for the year 1995 is not representative of your unit's operation over the last several years, then you may provide us heat input data for May through September for the years 1996, 1997, and/or 1998 with the same type of supporting documentation.

9. How is this action related to the Section 126 and proposed Section 110 FIP rulemakings?

On October 21, 1998, in accordance with section 126, we proposed action on the petitions filed by eight Northeastern States seeking relief from the transport of NO_X across State boundaries. *See* 63 FR 56291. NO_X is one of the main precursors of ground-level ozone. We also proposed FIPs that may be needed if any State fails to revise its State Implementation Plan (SIP) to comply with the NO_X SIP call. *See* 63 FR 56393, October 21, 1998. In these actions, we proposed to control emissions from large boilers, turbines, and combined cycle systems through the Federal NO_X Budget Trading Program.

The Federal NO_X Budget Trading Program is a multi-state NO_X air pollution control and emission reduction program. We proposed the Federal trading program in part 97 as a way to reduce the interstate transport of ozone and NO_X. We are developing this program to control NO_X emissions cost-effectively from large stationary sources. These large sources, mostly power plants and industrial boilers and turbines, significantly contribute to violations of the National Ambient Air Quality Standards for ozone in States downwind of the sources.

The section 126 and section 110 FIP Notices of Proposed Rulemaking are contained in the rulemaking dockets. They are also currently available on EPA's Website at http://www.epa.gov/ttn/rto under ''Section 126 Petitions'' and ''Transport FIPs.''

On April 30, 1999 we issued a final section 126 action that determined that portions of the petitions are approvable based on their technical merits (64 FR 28250, May 5, 1999). We deferred making final findings under section 126, which would trigger control requirements for sources, pending certain actions by States and EPA with respect to the NO_X SIP call. We also delayed finalizing the details of the Federal NO_X Budget Trading Program. On May 14, 1999, the District of Columbia Circuit Court of Appeals remanded the 8-hour National Ambient Air Quality Standard for ozone, which formed part of the underlying technical basis for EPA's determinations on certain section 126 petitions. In a separate action, the same court granted a motion to stay the SIP submission deadline for the NO_X SIP call. This action, in effect, also stays the potential for a related FIP. In addition, the court action impacts the section 126 final rule, because we had linked our final findings under section 126 with the NO_X SIP call schedule.

In light of the court rulings, we issued an interim final rule (64 FR 33956, June 24, 1999). The interim final rule temporarily stays the April 30, 1999 Section 126 rule while we conduct notice-and-comment rulemaking to modify certain aspects of that rule. On June 24, 1999, we also issued a proposed rule, which proposed to:

(1) indefinitely stay the portion of the April 30, 1999 rule that relied on the 8-hour ozone standard, and

(2) remove the automatic trigger mechanism for making section 126 findings that was linked with the NO_X SIP call deadlines; instead, we would simply take an independent action making the findings in a final rule (64 FR 33962). Under this new schedule, we will move forward with the portion of the section 126 rulemaking that is based on the 1-hour ozone standard. We intend to finalize the Federal NO_X Budget Trading Program and allowance allocations for sources that will be subject to section 126 control requirements at the same time that we make the section 126 findings. In the June 24, 1999 proposal, we indicated that we expected to issue the section 126 final rule by November 30, 1999 or soon thereafter. We also would use the Federal NO_X Budget Trading Program

for certain source categories if we ultimately issue a FIP in conjunction with the NO_X SIP call.

10. How is This Action Related to the NO_X SIP Call?

This action is not directly related to the NO_X SIP Call, but is related indirectly. The data could be used to determine NO_X allowance allocations if we issue a FIP because a State fails to respond adequately to the NO_X SIP Call. States could also use the data to prepare NO_X allowance allocations for their SIPs. Some Northeastern States have stated that they intend to submit SIPs in response to EPA's NO_X SIP Call by September 30, 1999.

Dated: July 30, 1999.

Robert Perciasepe,

Assistant Administrator for Air and Radiation.

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BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6413–6]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to delete the Smuggler Mountain Superfund site from the National Priorities List; request for comments.

SUMMARY: The Environmental Protection Agency, Region 8 announces its intent to delete the Smuggler Mountain Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this proposed 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) of 1980, as amended. EPA and the State of Colorado (State) have determined that the Site as remediated poses no significant threat to public health or the environment and, therefore, further remedial measures pursuant to CERCLA are not appropriate.

DATES: Comments concerning this Site may be submitted on or before September 8, 1999.

ADDRESSES: Comments may be mailed to: Armando Saenz, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop EPR–SR, Denver, Colorado 80202–2466.

Comprehensive information on this Site is available through the public docket which is available for viewing at the Smuggler Mountain Superfund Site information repositories at the following locations:

Superfund Records Center, U.S. Environmental Protection Agency, Region 8, 999 18th Street, 5th Floor, Denver, Colorado 80202–2466, (303) 312–6473. Hours of operation are 8:00 AM to 4:30 PM.

Aspen/Pitkin Environmental Health Department, 130 S. Galena Street, Aspen, Colorado 81611, (970) 920–5070. Hours of operation are 8 AM to 5 PM.

FOR FURTHER INFORMATION CONTACT: Armando Saenz, Remedial Project Manager, U.S. Environmental Protection Agency, Region 8, 999 18th Street, Suite 500, Mail Stop EPR–SR, Denver, Colorado 80202–2466, (303) 312–6559.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion
V. Summary

I. Introduction

The Environmental Protection Agency (EPA), Region 8 announces its intent to delete the Smuggler Mountain Superfund Site (Site) located in Aspen, Colorado from the National Priorities List (NPL), appendix B of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300, and requests comments on this deletion. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as a list of these sites. As described in § 300.425(e)(3) of the NCP, sites deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

EPA will accept comments on this proposed deletion for thirty days following publication of this document in the **Federal Register**.

Section II of this document explains the criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Smuggler Mountain Superfund Site and explains how the Site meets the deletion criteria. Section V summarizes this document.

II. NPL Deletion Criteria

Section 300.425(e) of the NCP provides that releases may be deleted from the NPL where no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the state, whether any of the following criteria have been met:

(i) Responsible parties or other parties have implemented all appropriate response actions required;

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further action by responsible parties is appropriate; or

(iii) The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking remedial measures is not appropriate.

Even if a site is deleted from the NPL, where hazardous substances, pollutants, or contaminants remain at the site above levels that allow for unlimited use and unrestricted exposure, EPA will conduct a five-year review of the site five years after the initiation of the remedial action to ensure that the site remains protective of public health and the environment. A statutory five-year review was completed at this site on November 11, 1997. In the case of this Site, the selected remedy is protective of human health and the environment. A subsequent five-year review will be completed prior to November 11, 2002. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without the application of the Hazard Ranking System.

III. Deletion Procedures

The following procedures were used for the intended deletion of this Site: (1) EPA Region 8 has recommended deletion of the Smuggler Site and has prepared the relevant documents; (2) The State of Colorado has concurred with EPA's intent to delete the Smuggler Site; (3) Concurrent with this Notice of Intent to Delete, a notice has been published in local newspapers and has been distributed to appropriate Federal, State and local officials, and other interested parties announcing the commencement of a 30-day public comment period on EPA's Notice of Intent to Delete; and, (4) The Region has made all relevant documents available in the Regional Office and local Site information repositories.

Deletion of the Site from the NPL does not in itself create, alter, or revoke any

individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist Agency management. As mentioned in section II of this document, § 300.425(e)(3) of the NCP states that the deletion of a Site from the NPL does not preclude eligibility for future response actions should future Site conditions warrant such action.

Prior to deletion of this Site, EPA's Regional Office will accept and evaluate public comments on EPA's Notice of Intent to Delete before making a final decision to delete. If necessary, the Agency will prepare a Responsiveness Summary to address any significant comments received.

A deletion occurs when the Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the notice.

IV. Basis for Intended Site Deletion

The following summary provides EPA's rationale for recommending deletion of the Smuggler Mountain Superfund Site.

A. Site Background

The Smuggler Mountain Superfund Site is located in northeastern Aspen, Pitkin County, Colorado. It is in the Roaring Fork River valley, on the southwestern flank of Smuggler Mountain. The Site is largely developed, containing large and small condominiums, mobile home parks, a tennis club and numerous single family residences. The Site was placed on the National Priorities List (NPL) on June 10, 1986 (51 FR 21073).

Soil analyses in the early 1980's, conducted first by residents and later by EPA and the Potentially Responsible Parties (PRP's), identified concentrations of lead as high as 46,000 parts per million (ppm), well above EPA's cleanup level of 1,000 ppm. Elevated levels of cadmium were also found in the soils of the site. The sources of the lead and cadmium are the waste rock and tailings (mine wastes) from the mines on Smuggler Mountain. These wastes are exposed, covered or mixed with native soils across the site.

The Site has been divided into two study areas or Operable Units (OUs)—OU1 and OU2. OU1 is mainly a residential area on the northeastern edge of the town of Aspen and covers approximately 300 acres. OU2 includes the mine site on the upward slope of Smuggler Mountain just north of OU1 and covers approximately 25 acres.

Three mine waste dumps, containing an estimated 22,000 cubic yards of mine wastes, are located on the mine site. Potential future mining activities at OU 2 are expected to produce as much as 2,100 cubic yards of additional waste rock per year. These wastes will be placed on the existing dumps. The mine site dumps can accommodate the projected quantities of waste for the projected life of the mine without significantly changing the character of the dumps.

B. Early Actions Performed

A number of investigations have been undertaken at the site. An EPA Field Investigation Team sampled the site in 1983. This study was the result of a request by Pitkin County to characterize any human or environmental threat posed by abandoned mine tailings in the northeast quarter of the Aspen townsite.

Another study was sponsored by Western Slope Development Company on behalf of the Hunter Creek Condominiums, and a plan for surface covering and revegetation was developed for the areas surrounding the development (1985). Similar studies were conducted by other condominium developments in the area. In July 1985, discussions were held between a number of potentially responsible parties and EPA resulting in a Remedial Investigation/Feasibility Study (RI/FS). The RI/FS was conducted by Fred C. Hart Associates, Inc.

C. Remedial Investigation/Feasibility Study (RI/FS)

The RI/FS Report was finished and released in March 1986. Environmental protection goals and remedial objectives used to analyze potential remedial alternatives called for an isolation of the source of the contamination (lead in mine wastes) to prevent direct contact and the distribution of windblown dusts. The recommended remedial action from the selection of two alternatives was surface sealing (capping) and grading. An RI/FS Addendum for OU 2 was issued on May 7, 1986, to characterize the nature and extent of contamination and determine the appropriate extent of remedy at the Smuggler-Durant Mine Site.

The contaminants of concern at the Smuggler site are primarily lead and cadmium in soils. Lead and cadmium are hazardous substances within the meaning of CERCLA section 101(14), 42 U.S.C. 9604(14). Potential and/or actual routes of exposure are direct ingestion of contaminated soils and inhalation of wind blown dust.

There are no surface water sources on or flowing through the area. Nor are there any significant gullies entering or leaving the area. Thus, there is little opportunity for exposure to potentially contaminated runoff. Additionally, there are no known threatened or endangered wildlife or plant species inhabiting the site.

D. ROD & ESD Findings & Cleanup Activities Performed

In September 1986, a Record of Decision (ROD) was issued that divided the Site into two OUs. The OU 1 remedy was modified by several Explanations of Significant Differences (ESDs), the last of which was dated June, 1993. OU 1 is mostly residential. The remedy selected in the ROD was solely for OU 1, but OU 2 was briefly discussed. The mine site (OU 2) is not developed for residential use, but does include the Smuggler Mine on Smuggler Mountain. OU 2 is an ongoing mining operation and operations are expected to continue for the next 25–30 years and perhaps indefinitely. The remedy selection for OU 2 was documented in an Action Memorandum.

Operable Unit 1. During the OU1 Remedial Design (RD), additional technical information showed that the OU 1 remedy was not implementable due to the unexpectedly high volume of soils. The ROD was modified in the March 1989 ESD. This ESD described a plan to remove the top two feet of soils containing more than 1,000 ppm lead in the residential areas, an additional on-site repository for the extra volume of soil, and institutional controls to ensure the permanence of the remedy. However, the Aspen community found this remedy unacceptable and the plan was put on hold pending further investigation.

The Aspen community submitted an alternative proposal to EPA which resulted in a second ESD issued in May 1990. The May 1990 ESD included a greater reliance on Institutional Controls (ICs) and removal of 6 inches of contaminated soil in the Hunter Creek and Centennial Condominium areas. For individual properties, the protective cover of clean soil, placed over contaminated areas, would be reduced from two feet to a geotextile liner overlain with one foot of clean soil. Pitkin County adopted ICs in May, 1991, but they were repealed based upon citizen concerns about the need for any remedy at all.

EPA issued a Minor Modification to the remedy in October of 1991 that recognized that landowners could implement land use controls rather than local government. The modification provided for implementation of ICs by the adoption and enforcement of local ordinances by Pitkin County or the City of Aspen, by compliance with EPA approved Operation and Maintenance

plans by private parties or by the use of EPA's enforcement authority.

Some citizens contended that the cleanup, with heavy equipment and dust, would be more hazardous than living with the health risk at the Site. To address the community's concerns, an independent panel, called a Technical Advisory Committee (TAC), was convened in October of 1992. The TAC included six nationally recognized lead experts and three technical advisors. It released a final report in January 1993. The June 1993 ESD was based on the TAC report.

The June 1993 ESD modified the ROD and previous ESDs. The OU 1 actions were to be implemented through a Partial Consent Decree with Pitkin County filed with the United States District Court for the District of Colorado on March 24, 1995, for civil action No. 89–C–1802. The final OU 1 remedy selected and ultimately implemented was: (1) The Pitkin County Health Department agreed to a blood lead surveillance program for young children and implemented an indoor dust sampling program over a two year period; (2) The berm area was to be capped with clean soil and revegetated. Other common-use areas of exposed mine waste, including Mollie Gibson Park, were to be covered, revegetated and monitored; (3) Vegetable gardens were required to be planted in at least 12 inches of clean soil; and (4) The Aspen/Pitkin Environmental Health Department was required to evaluate site construction projects or land use changes to determine whether they present a threat of soil exposure to young children.

The ESD also stated that groundwater monitoring would cease and that a ground-water corrective action was not necessary. Site conditions suggested that the groundwater contamination identified earlier was due to the high natural metals content in the soils, or the result of well materials and ultimately not a health threat.

EPA was also to make a final determination regarding remediation of the OU 1 residential soils based on EPA's review of completed lead speciation, bioavailability, and blood lead monitoring studies. Please see the ''Monitoring Results'' section.

Operable Unit 2. An Engineering Evaluation/Cost Analysis (EE/CA) was conducted for OU2 to determine the necessary removal actions. The EE/CA was completed on January 25, 1995 and stated the following removal objectives: abate the threat of direct contact with lead contaminated soils and waste rock in mine waste dumps; abate the threat of inhalation of contaminated dust; abate the threat of migration of contamination via air and surface water; and attain applicable or relevant and appropriate requirements (ARARS).

The removal actions, outlined in an Action Memorandum dated April 19, 1995, were eventually made part of an Administrative Order on Consent with the mine owners in May 1995. An Action Memorandum was used because of the simplicity of the response action. The removal action selected in the OU2 Action Memorandum included the following: (1) Regrading a part of mine dump #2 to drain back into the mountain; (2) Cribbing the unstable, if any, portions of the toe of Dump #2. (This has turned out to be unnecessary.); (3) Regrading the lower parking area to drain back into the mountain; (4) Controlling dust emissions from dirt roads and the parking area by periodic spraying of a magnesium chloride dust suppressant solution; and (5) Extending the existing fence to restrict entry to the lower portion of the mine site. All of the work was completed by September 1996, except for the second activity. The toe of Dump #2 was not unstable, therefore cribbing was not necessary.

E'. Protectiveness

Monitoring Results. Under the OU 1 June 1993 ESD, EPA was to make a final determination regarding remediation of the OU 1 residential soils based on EPA's review of completed lead speciation, bioavailability, and blood lead monitoring studies. The results of the soil bioavailability study may be found in the May 1996 preliminary report, ''Bioavailability Of Lead In Soil Samples From The Smuggler Mountain NPL Site Aspen, Colorado.'' This study showed that bioavailability of predominately lead carbonate was near the EPA default of 30% (absolute) which further substantiated the need for a blood lead assessment to help ascertain potential future risks.

In 1996, the Pitkin County Health Department's contractor, the University of Cincinnati (UC), and EPA Region 8 designed a biological and environmental sampling study to identify blood lead levels in children associated with lead levels found in the children's play environment. This biomonitoring study was recommended by the TAC and included in the 1993 ESD. Children between the ages of 1 and 7 years were identified who lived in the more contaminated yards, and venous blood samples were obtained. At the same time the biological samples were obtained, environmental samples were taken (indoor and exterior dust, soil, water, and hand-wipes from the children).

To complete the requirement of identifying all pertinent facts surrounding the demographic element for the study, a survey was created to document all variables that might affect the results found in the blood study. In other words, all major sources and factors that might impact the blood lead levels found in the children were identified.

The schedule of events focused on obtaining the biological and environmental samples in the late Summer and early Fall of 1996 (and was partially repeated in the early Fall of 1997). This was done to optimize the time when the children had been exposed to their outside environment, and to maximize the level of lead they had obtained throughout the summer.

The final report summarizing the results of the blood lead study and incorporating data from previous studies was completed in October 1998. The report, titled ''Blood Lead Surveillance and Exposure of Young Children to Elevated Soil Lead at the Smuggler Superfund Site, Aspen, CO—Final Report,'' was prepared by UC.

Additional analyses of the study were conducted by EPA Region 8 toxicologist. These findings can be found in a report titled ''Further Assessment of Risks from Exposure to Lead in Soils at the Smuggler Superfund Site, Aspen, CO, Using a Weight of Evidence Approach,'' EPA Region 8, Denver, CO, May 1999 (Gerry Henningsen, Region 8 Toxicologist).

Both reports conclude that children living on the Site are not at unacceptable risk due to exposure to lead in the soil. Although environmental lead levels are slightly elevated, and the EPA IEUBK modeling indicates some potential risk to children who are in contact with this lead, repeated screening of children shows no impact of this exposure on blood lead levels of children at the Site. Consequently, EPA has concluded that further remediation of the OU 1 soils is not needed to adequately protect human health.

O&M Assurances. The OU 1 Operations and Maintenance Plan (O&M Plan) is represented in its entirety by the Institutional Controls (ICs) enacted for OU1 under the Consent Decree. After the signing of the Consent Decree, Pitkin County proposed amendments to the Pitkin County Code to enact ICs (Land Use Restrictions) for the Site. These ICs were reviewed and approved by EPA and enacted by the City of Aspen and Pitkin County to restrict the movement of contaminated soils in and from the Site and to aid in preserving the

integrity of the remedy constructed at the Site.

With the OU 1 Consent Decree, The Aspen/Pitkin Environmental Health Department has assured EPA and the State that all necessary ICs are in full force and effect within the Site boundary. The Consent Decree also includes reopeners in the event that the County were to repeal or disregard these ordinances. A Five-year Review conducted by EPA and completed on November 7, 1997, confirmed that these controls are in force and that the program is working.

A recent amendment to the OU 2 AOC has provided EPA and the State with indefinite O&M assurances. As stated in the AOC Amendment, the O&M Plan, as defined by the EE/CA, Action Memorandum and original workplan, will provide for maintenance of runoff control, dust control, restricted site access and site reclamation measures. This O&M Plan will become effective upon the termination of the permit with the Colorado Mined Land Reclamation Board and will be implemented by the PRP, Wright and Preusch Mining, LTD.

F. Community Relations

Community outreach at the Smuggler Mountain Superfund Site included: timely information about the Superfund process, ongoing communications, and opportunities for community participation in the decision-making process for the Site remedy. Specific activities included monitoring community concerns, preparation and mailing of fact sheets, coordination of community meetings and providing communication between EPA, the community and Pitkin County (and the other PRPs). EPA's outreach efforts to meet community needs and interests resulted in integral participation by the Aspen community and periodic revision(s) to the Site remedy.

V. Summary

The responsible parties have implemented all appropriate response actions required to sufficiently protect human health and the environment. Reports on lead speciation, bioavailability, and blood lead monitoring studies have concluded that children living on the Site are not at unacceptable risk due to exposure to lead in the soil. Also, this Site meets all the site completion requirements as specified in Close Out Procedures for National Priorities List Sites (OSWER Directive 9320.2–09). Further, O&M of the Site is assured via the OU 1 Consent Decree and the OU 2 AOC and AOC Amendment.

Because hazardous substances will remain at the site, EPA will conduct periodic inspections of the site to ensure that the remedy remains protective of human health and the environment. EPA is required to conduct such reviews under section 121(c) of CERCLA and the NCP.

EPA, with the concurrence of the State of Colorado, has determined that all appropriate response actions required by CERCLA at the Smuggler Mountain Site have been completed, and that no further cleanup by responsible parties is appropriate.

Dated: July 27, 1999.

Jack W. McGraw,

Acting Regional Administrator, Region 8.

[FR Doc. 99–20199 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 99–1525, MM Docket No. 99–265, RM–9660]

Digital Television Broadcast Service; Monroe, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Noe Corporation, licensee of station KNOE–TV, NTSC Channel 9, Monroe, Louisiana, seeking the substitution of DTV Channel 7 for its assigned DTV Channel 55. DTV Channel 7 can be allotted to Monroe in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates 32–11–45 N. and 92–04–10 W. As requested, we also propose to modify KNOE–TV's authorization to specify operation on DTV Channel 7 at Monroe, Louisiana, with a power of 5.0 (kW) and a height above average terrain (HAAT) of 519 meters.

DATES: Comments must be filed on or before September 24, 1999, and reply comments on or before October 12, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW, Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Robert B. Jacobi, Esq., Cohn and Marks, 1920 N Street, NW, Suite 300, Washington, DC, 20036 (Counsel for Noe Corporation).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 99–265, adopted July 30, 1999, and released August 3, 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.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Digital Television Broadcasting.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 99–20389 Filed 8–6–99; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE89

Endangered and Threatened Wildlife and Plants; Withdrawal of Proposed Rule To List the Plant Rumex orthoneurus (Chiricahua Dock) as Threatened

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; withdrawal.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), withdraw the proposed rule to list the plant *Rumex orthoneurus* (Chiricahua dock or Blumer's dock) as a threatened species under the Endangered Species Act of

1973, as amended (Act). We find that the available information does not support the listing of this species as threatened. Although threats to some populations of this plant may persist, these threats are not sufficiently widespread to pose a significant risk to *R. orthoneurus* within the foreseeable future. Recent genetic research and survey efforts indicate that *R. orthoneurus* has a much larger distribution than previously thought. We, therefore, find that *R. orthoneurus* does not meet the definition of a threatened or endangered species.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 2321 W. Royal Palm Rd., Suite 103, Phoenix, Arizona 85021.

FOR FURTHER INFORMATION CONTACT: Dave Harlow, Field Supervisor, Arizona Ecological Services Field Office (see **ADDRESSES** section) (telephone 602–640–2720, ext. 244; facsimile 602–640–2730).

SUPPLEMENTARY INFORMATION:

Background

On April 1, 1998, we published in the **Federal Register** a proposed rule to list Chiricahua dock *Rumex orthoneurus* as threatened (63 FR 15813). An herbaceous, robust perennial within the Polygonaceae family, *R. orthoneurus* is known from the mountains of Arizona, New Mexico, and Mexico. Plants grow to 1 meter (m) (3.3 feet (ft)) in height with inflorescence stalks up to 2 m (6.6 ft) in height on more vigorous specimens. The large oblong to oblong-lanceolate basal leaves are up to 50 centimeters (cm) (19.7 inches (in)) long, and 18 cm (7.1 in) wide. Characteristics differentiating this plant from other members in its genus include woody rhizomes (a rootlike horizontal stem, as opposed to taproots) on mature plants which appear banded, the color of which can vary (Robert Bellsey, University of Arizona, pers. comm. 1999); lateral leaf veins almost perpendicular to the middle vein of the leaf (but that are often at less than right angles); and a lack of callosities or swellings on the valves or midribs of fruiting capsules (Dawson 1979, Phillips *et al.* 1980, Coronado National Forest 1993).

Rumex orthoneurus occurs in moist, loamy soils within riparian and wetland habitats, and in cienegas (desert wetlands), springs, and streams. It is also known to occur in the drier headwaters of some areas (Robert Bellsey, University of Arizona, pers. comm. 1999). *R. orthoneurus* is found at elevations primarily between 2,000 and 3,500 m (approximately 6.500–11,500 ft). While many sites are in open meadows or along streams with open canopies, *R. orthoneurus* frequently occurs in shaded forests. Surrounding habitats are generally mixed conifer forest. The dominant species associated with *R. orthoneurus* include sneeze weed (*Helenium hoopesii*), larkspur (*Delphinium andesicola*), monkeyflower (*Mimulus* spp.) and various sedges (*Carex* spp.) (Phillips *et al.* 1980).

Rumex orthoneurus is distributed in areas scattered throughout Arizona and New Mexico, and is known to occur at two locations in the State of Sonora, Mexico. In Arizona, the plant is present on the Coronado, Apache-Sitgreaves, Coconino, and Tonto National Forests. On the Coronado National Forest, *R. orthoneurus* occurs in the Chiricahua and Huachuca mountains in Cochise County, and the Pinaleño Mountains in Graham County. On the Apache-Sitgreaves National Forests, *R. orthoneurus* is located in the White Mountains in Apache County and along the north side of the Mogollon Rim in Coconino County. On the Coconino National Forest, *R. orthoneurus* was recently found in the San Francisco Peaks and Barbershop Canyon in Coconino County. On the Tonto National Forest, *R. orthoneurus* occurs in the Sierra Ancha Mountains in Gila County, and was introduced in the south drainage of the Mogollon Rim (also in Gila County).

In New Mexico, *Rumex orthoneurus* is distributed on the Santa Fe, Lincoln, Gila, and Carson National Forests. On the Santa Fe National Forest, *R. orthoneurus* was recorded in Mora County, including the Pecos Wilderness. *R. orthoneurus* was found in Catron and Grant counties on the Gila National Forest, including the Gila Wilderness Area. Plants are documented in numerous locations on the Carson National Forest, and specimens were recently collected from the Lincoln National Forest.

Recent genetic work has clarified the distinction between *Rumex orthoneurus* and the closely related species, *R. occidentalis.* Bellsey (1998, in prep.) compared DNA among *R. orthoneurus, R. occidentalis,* and *R. obtusifolius* (a species known to be distantly related to *R. orthoneurus*) using the Random Amplified Polymorphic DNA (RAPD) technique. Bellsey discovered that the presumed *R. orthoneurus* from Arizona were significantly different from *R. occidentalis,* and that all three species shared less than 15% of the RAPD markers. The genetic analyses resulted in classification of the White and Gila mountains populations as *R. orthoneurus* and not *R. occidentalis,* which they resemble morphologically. Morphological characteristics of specimens from the Carson and Lincoln National Forests now indicate that they are *R. orthoneurus* and not *R. occidentalis,* (Robert Bellsey, University of Arizona, pers. comm. 1999). However, genetic analysis has yet to be performed on these plants.

Summary of Comments and Recommendations

In the proposed rule we requested all interested parties to submit factual reports or information that might contribute to development of a final rule. We also contacted all appropriate Federal agencies, State agencies, county and city governments, scientific organizations, and other interested parties and requested comments.

In accordance with our peer review policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we solicited expert opinions of three appropriate and independent specialists regarding the proposed rule. We invited these peer reviewers to comment during the public comment period upon the specific assumptions and conclusions regarding the proposed listing. In response to our solicitation one reviewer provided comments that we considered in the preparation of this notice.

We published newspaper notices inviting public comment in the Silver City Daily Press (Silver City, NM) on April 7, 1998; the Arizona Republic (Phoenix, AZ), Tucson Citizen (Tucson, AZ), and Arizona Daily Star (Tucson, AZ) on April 9, 1998; and the White Mountain Independent (Pinetop, AZ), Sierra Vista Herald (Sierra Vista, AZ), Albuquerque Journal (Albuquerque, NM), Albuquerque Tribune (Albuquerque, NM), and Santa Fe New Mexican (Sante Fe, NM), on April 10, 1998. The comment period closed on July 30, 1998.

To provide for a requested public hearing, encourage participation from the public in the species listing process, and to await the submission of current species status information, we reopened and extended the comment period from July 30, 1998 until October 1, 1998 (63 FR 40389; July 29, 1998). We also held informational meetings with interested parties about the proposed rule in Silver City, NM on August 18, 1998.

We received 37 comments (e.g., letters, phone calls, facsimiles, and oral testimony) from individuals or agency or group representatives concerning the proposed rule to list *Rumex*

orthoneurus. Seven people provided comments supporting the proposed listing of the species, 13 people opposed the proposed listing, and 17 people provided informational comments. Several commenters provided additional information that we incorporated into this withdrawal, along with other clarifications. We organized all opposing and technical comments into five specific issues, and these along with our response are summarized below.

Issue 1—Known Distribution of Rumex orthoneurus

Comment: Several commenters stated that listing is not warranted because the plant has a much wider distribution than previously thought.

Service Response: Our knowledge of *Rumex orthoneurus* distribution has increased considerably since the proposed rule. At the time of the proposed rule, although *R. orthoneurus* was thought to occur in New Mexico and east-central Arizona, data from only 10 sites in southeastern Arizona were available to evaluate the status of the plant. We have since become aware of approximately 134 additional *R. orthoneurus* locations (non-introduced), many of which contain high numbers of plants with low levels of threats. See Factor A of ''Summary of Factors Affecting the Species'' section for additional information.

Comment: Several commenters stated that *Rumex orthoneurus* inhabits areas inaccessible to cattle, and thus is not exposed to threats from grazing.

Service Response: Although it is true that *Rumex orthoneurus* is located in some areas that are inaccessible to cattle, the plant is also located in many areas where cattle roam freely. In those areas, cattle grazing is documented to have substantial detrimental effects on smaller populations of the plant. Despite this, the range of *R. orthoneurus* is much larger than previously thought, and many populations have low levels of threats.

Comment: One commenter suggested that listing is warranted because the previous known range at the time of the proposed rule constitutes a significant portion of the species' range.

Service Response: At the time of the proposed rule, site-specific information was available for 10 *Rumex orthoneurus* locations. Although we were aware that the species occurred in other areas, data were not available for those sites. We have current information from approximately 134 additional sites containing natural populations of *R. orthoneurus.* The size of populations within these sites ranges from just a few individuals to tens of thousands.

Site-specific information is available for four National Forests in Arizona and three National Forests in New Mexico (excluding the Lincoln National Forest). The plant is also known to occur in Mexico. Impacts to the plant in southeast Arizona (the previously known sites) continue, and these populations are important to the genetic variation of the species. However, conservation strategies for most southeast Arizona populations are already established and in place (See Factors A and D of the ''Summary of Factors Affecting the Species'' section) and threats within the balance of its range are not severe enough to threaten the continued existence of the species. Changes in our assessment of the level of threats to the plant are the result of new information indicating a larger known distribution of the plant, higher densities of populations, and diminished levels of overall threats stemming from the discovery of new populations.

Issue 2—Adaptability and Resiliency of Rumex orthoneurus

Comment: Several commenters stated that physiological adaptations such as asexual reproduction and dormancy during drought allow the plant to survive disturbance and stochastic (randomly occurring natural) events. Other commenters suggested that perceived declines in plant abundance may not be real because plants that are not visible one year may sometimes reappear in subsequent years.

Service Response: We recognize that *Rumex orthoneurus* may be tolerant of certain disturbance events because of its physiological adaptations. We are also aware that the plant has regenerated in areas where it appeared to have been destroyed. However, threats such as grazing, wildfire, water diversion, and recreation are known to cause irreparable damage to *R. orthoneurus* and the riparian areas it inhabits. These threats can cause stream-bank erosion, head-cutting (streambed erosion that migrates upstream resulting in channel destabilization and accelerated streambank erosion), and soil compaction, all from which the plant has difficulty recovering despite its physiological characteristics.

Water is a primary vector of seed dispersal for *Rumex orthoneurus.* Thus, if the plant is extirpated from upstream reaches, there is a lower probability that it can re-colonize those areas. Furthermore, unabated grazing can reduce plants to 1–2 cm (less than 1 in.) in height, when they are otherwise able to grow up to 1 m (3.3 ft) tall. This prevents the plant from producing flowering stalks, which are necessary for sexual reproduction and the mixing of genetic material from unique individuals. The reduction of plant size also hampers the plant's ability to generate vital nutrients from photosynthesis, as the surface area of the plant is diminished by approximately two orders of magnitude. If the plant is forced to remain in this retarded growth form continuously, it may be destroyed. However, these threats, although they are in certain locations significant, are not manifested to a significant degree throughout the range of *R. orthoneurus.* Consequently, we find that listing is not warranted at this time (see Factor A of the ''Summary of Factors Affecting the Species'' section).

Issue 3—Fire as a Threat

Comments: Numerous commenters stated that fire is not a threat to the plant, because fire can thin vegetation and allow *Rumex orthoneurus* to colonize and grow in riparian areas where other woody plant species are encroaching.

Service Response: Wildfires are detrimental to *R. orthoneurus,* especially when they result in increased stream sedimentation and the scouring of drainages. The resultant soil loss can translate into long term, if not permanent, loss of habitat for *R. orthoneurus.* In the Tonto National Forest, wildfire has caused the extirpation of two introduced populations, and the potential for wildfire on National Forest lands remains a threat to *R. orthoneurus.* Despite this, wildfire is largely an isolated event, and for the vast majority of known *R. orthoneurus* populations, there is no indication of it being a significant threat.

Issue 4—Genetic Diversity of Populations

Comment: One commenter indicated that because *Rumex orthoneurus* populations from each mountain range are unique genetically, that maintaining these populations and their genetic diversity is important to the overall health of the species.

Service Response: Because *R. orthoneurus* can reproduce asexually, a population with many plants may actually be just a few individuals that developed from rhizomes. Asexual reproduction in *R. orthoneurus* may limit the level of diverse genetic information in some populations. Thus, preserving populations from each mountain range is important in

maximizing the genetic variation available to the overall gene pool of the species.

Summary of Factors Affecting the Species

We must consider five factors described in section 4(a)(1) of the Act when determining whether to list a species. These factors, and their application to our decision to withdraw the proposal to list Chiricahua dock (*Rumex orthoneurus* Rech F.), are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range.

The proposed rule (63 FR 15813) identified livestock grazing, recreation, water development and diversion, road construction and maintenance, logging, mining and associated activities, and wildfire as causing the loss and degradation of riparian and cienega habitat for *Rumex orthoneurus*. In the proposed rule, we identified some populations as extirpated because of these activities. It was believed that the extirpation of some natural populations in the Chiricahua and Huachuca mountains were possibly caused by water development and diversion, grazing, and mining activities. Frequent road maintenance in the Pinaleño Mountains was found to regularly impact one population. The Tonto National Forest (1993) noted evidence of soil compaction and unstable banks at the Workman Creek sites in the Sierra Ancha Mountains caused by recreational activities. In the Coronado National Forest (1993) Conservation Strategy for the Chiricahua Dock, the Forest Service addressed the possible extirpation of the type locality (the location where the plant was originally described) as a result of water diversions. Hodges attributed impacts to *R. orthoneurus* at Hospital Flat (Pinaleño Mountains) to trampling by recreationists and damming of the creek (David Hodges, Southwest Center for Biological Diversity, pers. comm. 1995).

At the time of the proposed rule, grazing was thought to impact *Rumex orthoneurus* at the system, population, and individual plant levels, as grazed populations often do not produce seeds. Also at the time of the proposed rule, it was thought that continued grazing could eventually preclude the plant's continued existence due to a lack of seed production, compacted soils discouraging seedling establishment, severe trampling of plants and underground rhizomes, and destabilization of streambanks resulting in habitat loss. At the time we prepared the proposed rule, the population at Ramsey Canyon in the Huachuca Mountains was thought to be extirpated by grazing, which took place in the early 1900s (Van Devender 1980). The species is now known to occur in three different areas in upper Ramsey Canyon. The available information at the time of the proposed rule, indicated that virtually all reported occurrences of *R. orthoneurus* on the Apache-Sitgreaves National Forests were adversely affected by grazing activities. However, many newly discovered occurrences of *R. orthoneurus* on the Apache-Sitgreaves National Forests are not being adversely affected by livestock grazing, and because we have found many plant locations to be free of grazing, we cannot conclude that impacts to *R. orthoneurus* are occurring range-wide by this threat.

The proposed rule also cited Phillips *et al.* (1980), who reported a proposed uranium mining and milling operation as a threat to the Workman Creek population of *Rumex orthoneurus* in the Sierra Ancha Mountains. Plans called for the construction of a campsite, and the development of the bowl area of Carr Mountain (the watershed for the site) into a uranium mill. Although the Workman Creek drainage remains available for mineral entry, and mining continues to be a potential threat in that area, logging and mining operations are not widely documented as having adverse effects on *R. orthoneurus* populations. Finally the proposed rule identified that wildfire in the Tonto National Forest caused the extirpation of two introduced populations, and the decline of a third. Although wildfire continues to be a threat to some populations of the Chiricahua dock, its effects are localized.

While grazing, recreation, wildfire, and water diversions can adversely affect the plant in some areas, recent genetic research (see ''Background'' section) and survey efforts indicate that *Rumex orthoneurus* has a much larger distribution than previously thought, and not all populations are imperiled by the above threats.

Our decision to propose *Rumex orthoneurus* as a threatened species was based on the best scientific information available to us at the time of the proposed rule, and consisted of information from only 10 sites in southeastern Arizona (most with only a few individuals). *Rumex orthoneurus* is now known from approximately 144 sites in Arizona and New Mexico, and at least two sites in the State of Sonora, Mexico, within the forest reserve ''Sierra de los Ajos.'' Numbers of plants at sites containing *R. orthoneurus* range from just a few to tens of thousands of individuals. In Arizona, on the Coronado National Forest, *R. orthoneurus* occurs at 12 sites as natural populations in the Chiricahua, Pinaleñ]o, and Huachuca mountains. There are four introduced sites in the Chiricahua mountains, most of which are either stable or increasing in number. Originally, plants from the White (AZ), Mogollon (NM), and San Francisco (NM) mountains were thought to be *R. occidentalis*. However, recent research indicates that plants in these mountains are, in fact, *R. orthoneurus* (see ''Background'' section; Mount and Logan 1993, Friar *et al.* 1994, Bellsey and Mount 1995, Bellsey 1998, in prep.).

On the Apache-Sitgreaves National Forests, *Rumex orthoneurus* is located in the White Mountains and along the north side of the Mogollon Rim. A total of 67 sites, many with thousands of plants, are documented thus far, and many areas have yet to be surveyed. Current genetic information, has revealed that four sites in the San Francisco Peaks on the Coconino National Forest currently support *R. orthoneurus*. A fifth site was discovered in Barbershop Canyon (Coconino National Forest), a site previously surveyed without *R. orthoneurus* detections (Barbara Phillips, Coconino National Forest, pers. comm. 1999). Additional locations are suspected to contain *R. orthoneurus*, but lack surveys. Four sites containing natural populations of *R. orthoneurus* were found on the Tonto National Forest in the Sierra Ancha Mountains and receive some protection, and many other sites contain introduced populations in the south drainage of the Mogollon Rim.

In New Mexico, the presence of *Rumex orthoneurus* is documented from recent survey efforts (Bellsey, pers. comm. 1999) on the Carson, Santa Fe, Lincoln, and Gila National Forests. On the Carson National Forest, 2 days of cursory surveys conducted from a vehicle found seven locations containing *R. orthoneurus*. On the Santa Fe National Forest, *R. orthoneurus* presence was recorded during approximately 4 days of surveys for Arizona willow (*Salix arizonica*). This effort resulted in the detection of 14 locations, many of which contain tens of thousands of plants. At the time of the proposed rule, *R. orthoneurus* was thought to be extinct on the Lincoln National Forest, but specimens were recently collected whose morphological characteristics indicate the plants are *R. orthoneurus* (Bellsey, pers. comm. 1999). The vast majority of habitat on these forests still remain unsurveyed.

Surveys and genetic analysis of *R. orthoneurus* specimens indicate that there are 34 sites containing natural populations on the Gila National Forest.

In contrast to the proposed rule, we are now aware of so many sites (many with low levels of threats), that despite the threats stated in the proposed rule, we cannot conclude that *Rumex orthoneurus* is threatened throughout all or a significant portion of its range.

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a significant threat at the present time.

C. Disease or Predation

The primary predation threat to *Rumex orthoneurus* is from livestock or wild ungulate grazing due to its high palatability and occurrence in wetland habitats attractive to herbivores. Permitted grazing occurs at *R. orthoneurus* sites in the White Mountains on the Apache-Sitgreaves National Forests and at sites on the Tonto National Forest. The Gila Wilderness has not permitted grazing since 1952 (Paul Boucher, Gila National Forest, pers. comm. 1997), and grazing by cattle has not occurred since 1947 on *R. orthoneurus* sites in the Pinaleño Mountains (Coronado National Forest 1993). Sites on the Coconino and the Apache-Sitgreaves National Forests are affected by wild ungulates. There is documentation of both cattle and elk grazing at *R. orthoneurus* sites in the Carson and Santa Fe National Forests.

Despite the documented grazing on most of the forests where *Rumex orthoneurus* is found, the plant is protected in many areas by exclosures (barriers to exclude animals), by management efforts, or by virtue of its location. At the time of the proposed rule, there was reason to believe that grazing was a much more serious threat to *R. orthoneurus* because known sites were fairly small, and the proportion of sites affected was thought to be high. New information indicates that there are numerous secure sites with hundreds, thousands, or tens of thousands of plants. In some cases, sites are considered secure because population sizes are large, and in others grazing is absent or of little consequence (i.e., grazing periods are brief or there are few ungulates). In addition to the information that many sites appear secure, the proportion of affected sites decreased as we became aware of more non-threatened sites. These positive developments for the status of *R. orthoneurus* lead us to conclude that listing is no longer warranted.

D. The Inadequacy of Existing Regulatory Mechanisms

Many Federal and State laws and regulations can protect *Rumex orthoneurus* and its habitat. However, Federal and state agency discretion allowed under these laws still permits adverse effects on listed and rare species. *Rumex orthoneurus* is not included in either of the three Appendices of the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), and it is unlikely to require the trade protections of CITES.

The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 *et seq.*) and National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*) direct Federal agencies to prepare programmatic-level management plans to guide long-term resource management decisions. Forest plans generally include a commitment to maintain viable populations of all native wildlife, fish and plant species within the Forest's jurisdiction. However, such general commitments do not, in themselves, preclude adverse effects to rare species by any National Forest.

The Coronado and Tonto National Forests developed assessments with management strategies for *Rumex orthoneurus* in 1993. To date, cattle grazing is somewhat limited on *R. orthoneurus* sites in both forests. The Tonto National Forest has taken extensive measures to keep cattle and recreation out of riparian areas inhabited by *R. orthoneurus*. The Forest has closed roads where vehicles and hikers could impact the plant, and they have moved gates to redirect traffic to areas not occupied by *R. orthoneurus*. Although the Coronado National Forest has a conservation strategy which has limited livestock grazing, some sites are grazed by horses, and recreation is still a problem at many sites. The Apache-Sitgreaves Forests are implementing a monitoring program in 1999 (John Bedell, Apache-Sitgreaves National Forest, *in litt.* 1999), and the Carson National Forest has designated funds for additional surveys in 1999 (Dick Braun, Carson National Forest, pers. comm. 1999). Management strategies were not developed for sites at other National Forests or the Ft. Huachuca Army Post.

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. Sec. 4321–4370a) requires Federal agencies to consider the environmental impacts of their actions. The NEPA requires Federal agencies to describe a proposed action, consider alternatives, identify and disclose potential environmental impacts of each alternative, and involve the public in the decision-making process. It does not require Federal agencies to select the alternative having the least significant environmental impact. The NEPA does not prohibit a Federal action agency from choosing an action that will adversely affect listed or candidate species provided these effects were known and identified in a NEPA document.

The wetland habitats supporting *Rumex orthoneurus* have a degree of protection under section 404 of the Clean Water Act and under Federal Executive Orders 11988 (Floodplain Management) and 11990 (Protection of Wetlands). These authorities can only protect *R. orthoneurus* indirectly and have not curtailed population decline, extirpation, or habitat losses for *R. orthoneurus* in some locations.

Under the Lacey Act (16 U.S.C. 3371 *et seq.*), as amended in 1982, it is unlawful for any person to import, export, sell, receive, acquire, purchase, or engage in interstate or foreign commerce in any species taken, possessed, or sold in violation of any law, treaty, or regulation of the United States, any Tribal law, or any law or regulation of any state. The Lacey Act can provide a degree of protection to *Rumex orthoneurus* to the extent that the species is protected by Arizona State law (described below).

The Arizona Native Plant Law (A.R.S. Chapter 7, Article 1) protects *Rumex orthoneurus* as ''highly safeguarded.'' A permit from the Arizona Department of Agriculture (ADA) must be obtained to legally collect this species from public or private lands in Arizona. Permits may be issued for scientific and educational purposes only. It is unlawful to destroy, dig up, mutilate, collect, cut, harvest, or take any living ''highly safeguarded'' native plant from private, State, or Federal land without a permit. However, private landowners and Federal and State agencies may clear land and destroy habitat after giving the ADA sufficient notice to allow plant salvage. Damage to plants and habitat occur under the Arizona Native Plant Law.

Despite the potential inadequacies in existing regulatory mechanisms, we find insufficient evidence that the existing levels of threats to *Rumex orthoneurus* warrant its listing as a threatened or endangered species under the Act. In light of the expanded numbers and distribution of *R. orthoneurus*, the potential inadequacies of these regulatory mechanisms is no longer a significant factor.

E. Other Natural or Manmade Factors Affecting Its Continued Existence

At the time of the proposed rule, a high proportion of known *Rumex orthoneurus* populations occurred as small sites in isolated mountain ranges. *Rumex orthoneurus* was thought to be vulnerable to chance extirpations because of the perceived low numbers of individuals in mostly scattered, isolated populations.

Any loss of such sites would have resulted in a significant curtailment of the species' range, and may have affected the species' ability to sustain itself over time. Wildfire was also thought to pose a significant threat, as it could be catastrophic to smaller, confined populations.

We now know that *Rumex orthoneurus* is well distributed in areas of Arizona and New Mexico. Many sites where *R. orthoneurus* is found contain thousands of plants. The present distribution and abundance of *R. orthoneurus* precludes a finding that listing the plant is warranted because chance, localized extirpations would not necessarily result in a significant curtailment of the species' range. Additionally, although wildfire can be detrimental to localized populations, wildfire is largely an isolated event. For the vast majority of known *R. orthoneurus* populations, there is no indication that wildfire is a significant threat. We find no indication of any other natural or manmade factors affecting the continued existence of *R. orthoneurus*.

Finding and Withdrawal

Based on our review and consideration of the best scientific and commercial information available, we find that *Rumex orthoneurus* does not meet the definition of a threatened or endangered species and that its listing as a threatened species is not warranted. Recent genetic research (see Background section) and survey efforts indicate that *R. orthoneurus* has a much larger distribution than previously thought (see Factor A of the ''Summary of Factors Affecting the Species'' section), and not all populations are imperiled. Although mining and logging activities are suspected of affecting *R. orthoneurus*, the impacts of such activities are not widely documented, and wildfire is localized in its impacts on the plant. We can no longer conclude that *R. orthoneurus* is impacted throughout its range by the remaining threats of livestock and wildlife grazing in a manner that would threaten its continued existence.

Recognizing the need to ensure the continued existence of *Rumex orthoneurus*, the Forest Service established numerous monitoring and survey programs. Conservation strategies for the Tonto and Coronado National Forests were in place in 1993. In 1999, the Apache-Sitgreaves National Forests initiated a monitoring program (John Bedell, Apache-Sitgreaves National Forests, *in litt.* 1999), and the Carson National Forest has budgeted for additional survey efforts (Dick Braun, Carson National Forest, pers. comm. 1999). Due to the current distribution and associated level of threats to *R. orthoneurus*, we find that there is not substantial evidence to indicate that *R. orthoneurus* is threatened under the Act (likely to become endangered within the foreseeable future throughout all or a significant portion of its range).

References Cited

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Coronado National Forest. 1993. Conservation strategy for Chiricahua dock (*Rumex orthoneurus*). U.S. Department of Agriculture, Forest Service. Tucson, Arizona. 24 pp.

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Friar, E., H. Nam, and D. Mount. 1994. *Lilium parryi, Rumex orthoneurus* genetic study. University of Arizona, Tucson, Arizona. 16 pp.

Mount, D. and B. Logan. 1993. Genetic analysis of *Rumex orthoneurus* and *Rumex occidentalis* species by the RAPD marker technique. University of Arizona, Tucson, Arizona. 15 pp.

Phillips, A. M. III, L. T. Green III, and J. Mazzoni. 1980. Amendment to the status report on *Rumex orthoneurus*. Unpublished report to U.S. Department of Interior, Fish and Wildlife Service, Albuquerque, NM. 15 pp.

Tonto National Forest. 1993. A conservation assessment for Blumer's dock (*Rumex orthoneurus*). Unpublished report. U.S. Department of Agriculture, Forest Service, Phoenix, Arizona. 26 pp.

Author: The primary author of this withdrawal notice is Darrin Thome, Arizona Ecological Services Field Office (see **ADDRESSES** section).

Authority: The authority for this action is section 4(b)(6)(B)(ii) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: July 28, 1999.

John G. Rogers,

Acting Director, Fish and Wildlife Service.

[FR Doc. 99–20404 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 648

[I.D. 063099A]

RIN 0648–AI78

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Atlantic Herring Fishery; Atlantic Herring Fishery Management Plan; Correction

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

ACTION: Notice of availability of a fishery management plan; correction.

SUMMARY: On July 27, 1999, NMFS published a notice of availability (NOA) announcing that the New England Fishery Management Council had submitted the Atlantic Herring Fishery Management Plan for Secretarial review. Under its stated Management Measures of Concern, the NOA contained an error in its description of restrictions on the size of domestic fishing and processing vessels that would be prohibited from fishing for Atlantic herring in the exclusive economic zone (EEZ). This document corrects the error.

DATES: Comments must be received on or before September 27, 1999.

FOR FURTHER INFORMATION CONTACT: E. Martin Jaffe, Fishery Policy Analyst, 978–281–9272.

SUPPLEMENTARY INFORMATION:

Background

The NOA for the Atlantic Herring FMP was published on Tuesday, July 27, 1999 (64 FR 40542). The NOA described restrictions on the size of domestic fishing and processing vessels. One measure would prohibit domestic vessels greater than or equal to 165 ft (50.3m) in length, or > 750 gross registered tons (GRT) (680.4 mt), or > 3,000 horsepower from fishing for Atlantic herring in the EEZ, but would allow domestic vessels > 165 ft (50.3m), or > 750 GRT (680.4 mt) to process herring if U.S. at-sea processing is

specified in a given year. However, the NOA inadvertently indicated that only domestic vessels greater than 165 ft (50.3m) in length, rather than equal to or greater than 165 ft (50.3m) in length, would be prohibited from fishing for Atlantic herring in the EEZ.

Correction

Accordingly, the publication on July 27, 1999, of the NOA (I.D. 063099A), which was the subject of document FR Doc. 99–19171, is corrected as follows:

On page 40543, in column 2, under the heading, ''Restrictions on the Size of Domestic Fishing and Processing Vessels'', the second line of the first sentence is corrected to read as follows:

''domestic vessels greater than or equal to 165 ft (50.3m) in''

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

Dated: August 3, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–20432 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

(I.D. 073099E)

Mid-Atlantic Fishery Management Council; Public Hearings

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

ACTION: Public hearings, request for comments.

SUMMARY: The Mid-Atlantic Fishery Management Council will hold public hearings to allow for input on its Draft Tilefish Fishery Management Plan (FMP) and the Draft Environmental Assessment and Draft Regulatory Impact Review for this FMP. This FMP is designed to eliminate overfishing and rebuild the tilefish resource to the biomass that would support maximum sustainable yield (MSY) through a constant harvest strategy within a 10-year rebuilding period.

DATES: Written comments will be accepted through September 7, 1999. See **SUPPLEMENTARY INFORMATION** for dates and times.

ADDRESSES: Send comments to Daniel T. Furlong, Executive Director, Mid-Atlantic Fishery Management Council, 300 S. New Street, Dover, DE 19904.

The hearings will be held in Rhode Island, New York and New Jersey. See **SUPPLEMENTARY INFORMATION** for locations of the hearings.

FOR FURTHER INFORMATION CONTACT: Daniel T. Furlong, Executive Director of the Mid-Atlantic Fishery Management, 302–674–2331, ext. 19.

SUPPLEMENTARY INFORMATION:

Background

This FMP is proposed to eliminate overfishing and rebuild the tilefish resource to the biomass that would support the MSY through a constant harvest strategy within a 10-year rebuilding period. The projection associated with the preferred alternative would allow for total allowable landings of 1.76 million lb (798 mt) with a 50 percent probability of achieving the biomass target at the end of 10 years. The default alternative assumes a total allowable level of catch of 1.412 million lb (640 mt) with a 75 percent probability of reaching the target biomass at the end of 10 years. Commercial quotas and a time period closure are included as options in the FMP. The commercial quota would be divided into full-time, part-time, and incidental categories. A limited access program would be applied to the full-time and part-time quota categories.

The Council established a control date for the possible limitations of entrants into this fishery of June 15, 1993, published at 58 FR 33081, June 15, 1993. The Council's preferred alternative for the full-time category would require that a vessel had landed more than 50,000 lb (22.68 mt) in any 1 year between 1988 and 1993 as well as landed at least 25,000 lb (11.34 mt) per year for any 2 years between 1994 and 1998. To qualify as a part-time participant, the preferred option indicates that a vessel had to land at least 10,000 lb (4.536 mt) in any year between 1988 and June 15, 1993. The preferred alternative would add a closure to the directed (part-time and full-time vessels) tilefish fishery for a 1 calendar month period from May through September.

Recreational fisheries management measures are addressed in the FMP as framework measures, so that no specific measures are proposed for implementation immediately upon approval of the FMP. Identification and description of essential tilefish habitat are included in the FMP as are management measures to minimize adverse gear impacts to that habitat. The preferred alternative to minimize adverse gear impacts is to prohibit directed tilefish fishing with bottom tending mobile gear and require that gear fishing in statistical areas 616 and 537 between bottom depths of 300 and 850 ft (91 and 259 m) must be modified to reduce impacts on bottom habitat.

Hearings

The dates, times and locations of the hearings are scheduled as follows:

1. Monday, August 23, 1999, 7:00–10:00 p.m. - Crown Plaza at the Crossings (old Holiday Inn), 801 Greenwich Avenue, Warwick, RI, telephone 401–732–6000.

2. Tuesday, August 24, 1999, 7:00–10:00 p.m. - Ramada Inn, Exit 72, Long Island Espressway & Route 25, Riverhead, NY, telephone 516–369–2200.

3. Wednesday, August 25, 1999, 7:00–10:00 p.m. - Sheraton Atlantic City West, 6841 Black Horse Pike (Route 40), Atlantic City West, NJ, telephone 609–272–0200.

The hearings will be tape recorded with the tapes filed as the official transcript of the hearings.

Special Accommodations

These hearings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Joanna Davis at the Mid-Atlantic Council at least 5 days prior to the hearing date.

Dated: August 3, 1999.

Bruce C. Morehead,

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

[FR Doc. 99–20434 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register

Vol. 64, No. 152

Monday, August 9, 1999

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Forest Pest Outbreaks; Declaration of Emergency Because of Forest Pest Outbreaks

Whereas, serious infestations of southern pine beetle are present in many parts of the United States, and

Whereas, these pests are capable of causing loss of tree growth, increased tree mortality, increased fire hazard, and loss of production on large segments of Federally and privately owned forest land,

Now, therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat. 953 (7 U.S.C. 147b), I declare that there is an emergency which threatens segments of agricultural production industries of this country, particularly the wood and forest products industries, and I authorize the transfer and use of such sums as may be necessary from appropriations or other funds available to the agencies or corporations of the Department of Agriculture for the conduct of programs to reduce forest resource damage causes by these forest insects and diseases.

Effective Date: This declaration of emergency shall become effective July 20, 1999.

Dan Glickman,

Secretary of Agriculture.

[FR Doc. 99–20446 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of New Privacy Act System of Records.

SUMMARY: Notice is hereby given that USDA proposes to create a new Privacy Act system of records, USDA/NOO–1, entitled ''The USDA Voluntary Minority Farm Register.''.

EFFECTIVE DATE: This notice will be adopted without further publication in the **Federal Register** on September 20, 1999, unless modified by a subsequent notice to incorporate comments received from the public. Although the Privacy Act requires only that the portion of the system which describes the ''routine uses'' of the system be published for comment, USDA invites comment on all portions of this notice. Comments must be received by the contact person listed below on or before September 8, 1999.

FOR FURTHER INFORMATION CONTACT: Rich Allen, Associate Administrator, NASS, Room 4117 South Building, 1400 Independence Avenue, SW, Washington DC, 20250, Telephone: (202) 720–4333.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, USDA is creating a new system of records to be maintained by the USDA Office of Outreach. The Voluntary Minority Farm Register is a listing of minority owners and operators of farmland.

The purpose of the Voluntary Minority Farm Register is to establish a baseline for the amount of farmland owned by minority land owners in order to help the USDA set goals to halt the reduction in minority-owned farm land, monitor the loss of minority owned farms, and locate minority farmers for the purpose of informing them of USDA and other programs that may benefit them. The concept was generated by Recommendation #28 of the Report of the Civil Rights Action Team to the Secretary of Agriculture entitled Civil Rights at the United States Department of Agriculture, dated February 1997.

The Voluntary Minority Farm Register will be administered by the Office of Outreach. A specific register sign-up form will be issued in Spanish and English. Informational registration materials will be distributed to Community Based Organizations, educational institutions, and government agencies assisting minorities with land retention and acquisition to ensure the program is widely publicized and accessible to all.

A ''Report on New System,'' required by 5 U.S.C. 552a(r), as implemented by OMB Circular A–130, was sent to the Chairman, Committee on Government Affairs, United States Senate, the Chairman, Committee on Government Reform and Oversight, House of Representatives, and the Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget on July 30, 1999.

Signed at Washington, DC, on July 30, 1999.

Dan Glickman,

Secretay of Agriculture.

USDA/NOO–1

SYSTEM NAME:

USDA Voluntary Minority Farm Register.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

USDA Office of Outreach, 1400 Independence Avenue, Washington, D.C.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Minority farmland owners and operators who voluntarily request to be included on the Register.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system includes name, address, race/ethnic coding provided by the individual, and farmland acreages owned and operated for each individual who requested to be included on the Register. Acreage data are extracted from Farm Service Agency records for the requesting individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 2501 of Public Law 101–624 (the 1990 Farm Bill), entitled Outreach and Assistance for Socially Disadvantaged Farmers and Ranchers, provides authority for the USDA to enter into special arrangements to aid limited resource and under-served farmers. The Voluntary Minority Farm Register was one specific action requested during Civil Rights Action Team Public Meetings and documented in the Civil Rights Action Team Report of February 1997.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Records in the system will be disclosed and distributed to Community Based Organizations, educational institutions, and government agencies assisting minorities with land retention

and acquisition. The purpose of such releases is to ensure that the program of outreach and assistance for socially disadvantaged farmers and ranchers is widely publicized and accessible to all.

(2) USDA will disclose information in the system to a court or adjudicative body in a proceeding when: (a) The agency or any component thereof; or (b) any employee of the agency in his or her official capacity; or (c) any employee of the agency in his or her individual capacity where the agency has agreed to represent the employee; or (d) the United States Government is a party to litigation or has an interest in such litigation, and by careful review, determines that the records are both relevant and necessary to the litigation and the use of such records is therefore deemed by the agency to be for a purpose compatible with the purpose for which the agency collected the records.

(3) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, disclosure may be made to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prospective responsibility of the receiving entity.

(4) USDA will disclose information in the system to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the written request of the constituent about whom the record is maintained.

(5) Records from this system of records may be disclosed to the National Archives and Records Administration or to the General Service Administration for records management inspections conducted under 44 U.S.C. 2904 and 2906.

(6) USDA will disclose information in the system to agency contractors, grantees, experts, consultants or volunteers who have been engaged by the agency to assist in the performance of a service related to this system of records and who need to have access to the records in order to perform the activity. Recipients shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records will be stored by the USDA Office of Outreach as electronic files; from time to time portions may be converted to and maintained in paper format.

RETRIEVABILITY:

Files will be referenced by county location of farmland.

SAFEGUARDS:

Records, both paper and electronic, are accessible only to authorized personnel and are maintained in offices that are locked during non-duty hours. Organizations requesting access to the Voluntary Minority Farm Register records for specific farmland retention related activities must make application to the USDA Office of Outreach, outlining their proposed use of the records. If the proposal is approved, the Office of Outreach will create the appropriate print or electronic files to meet the request. In case of requests for names and addresses in just a few counties, an alternative access procedure may be used in which the USDA Office of Outreach informs USDA County Service Centers what organizations have been approved. In those cases, an approved organization can obtain printed files at the appropriate county offices.

RETENTION AND DISPOSAL:

The current Voluntary Minority Farm Register will be recreated at biennial intervals, in order to update name and address information and to ensure the inclusion of any changes in farmland ownership recorded in Farm Service Agency records. A letter will be sent to all Register participants. The letter will clarify that there is no need for action if name, address or farmland circumstances have not changed. A master file of each generation of the Voluntary Minority Farm Register will be kept in locked file cabinets until 6 years after creation and then destroyed by shredding or burning in accordance with approved record retention schedules.

SYSTEM MANAGER(S) AND ADDRESS:

Office of the Director, Office of Outreach, USDA, James L. Whitten Building, 1400 Independence Avenue, SW, Washington, DC 20250.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records from the system manager.

RECORD ACCESS PROCEDURES:

Any individual who has volunteered to be included on the Voluntary Minority Farm Register may gain access to register records which pertain to him or her by submitting a written request to the system manager or by visiting his or her local USDA Service Center and submitting a written request.

CONTESTING RECORD PROCEDURES:

Any individual may contest a record in the Register that pertains to him or her by submitting pertinent written information to the system manager.

RECORD SOURCE CATEGORIES:

Information in this system comes only from the individuals who voluntarily sign up for the Register.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 99–20445 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 99–058–1]

National Wildlife Services Advisory Committee; Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of meeting.

SUMMARY: We are giving notice of a meeting of the National Wildlife Services Advisory Committee.

PLACE, DATE, AND TIME OF MEETING: The meeting will be held at the USDA Center at Riverside in the Conference Center, 4700 River Road, Riverdale, MD 20737. The meeting will be held on August 24–25, 1999, from 8 a.m. to 5 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Martin Mendoza, Jr., Director, Operational Support Staff, WS, APHIS, 4700 River Road Unit 87, Riverdale, MD 20737–1234; (301) 734–7921.

SUPPLEMENTARY INFORMATION: The National Wildlife Services Advisory Committee (Committee) advises the Secretary of Agriculture concerning policies, program issues, and research needed to conduct the Wildlife Services (WS) program. The Committee also serves as a public forum enabling those affected by the WS program to have a voice in the program's policies.

The meeting will focus on operational and research activities and will be open to the public. Due to time constraints, the public will not be able to participate in the Committee's discussions. However, written statements concerning meeting topics may be filed with the Committee before or after the meeting by sending them to Mr. Martin Mendoza at the address listed under **FOR FURTHER INFORMATION CONTACT**, or may be filed at the meeting. Please refer to Docket No. 99–058–1 when submitting your statements.

This notice of meeting is given pursuant to section 10 of the Federal Advisory Committee Act.

Done in Washington, DC, this 4th day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–20443 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Forest Service

Forestwide Noxious Weed Control, EIS, Beaverhead-Deerlodge National Forest, Beaverhead, Madison, Jefferson, Silver Bow, Granite, and Powell Counties, MT

AGENCY: Forest Service, USDA.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an environmental impact statement to document the analysis and disclose the environmental impacts of mechanical, manual, biological, ground-based chemical, and aerial chemical noxious weed control methods across the Beaverhead-Deerlodge National Forest.

The proposed action authorizes treatment of 37,762 acres; 15,082 acres by aerial application of chemicals, 22,640 acres by ground-based application of chemicals, 34 acres by biological methods, and 6.6 acres by mechanical methods. The objectives of the proposal are to: Protect the biodiversity of the Beaverhead-Deerlodge National Forest by preventing or limiting the spread of noxious weeds; eliminate new invaders before they become established; reduce known and potential weed seed sources; prevent or limit the spread of established weeds into areas containing little or no infestation; and protect sensitive and unique habitats.

DATES: Initial comments concerning the scope of the analysis should be received in writing no later than September 15, 1999.

ADDRESSES: The responsible official is Mike Paterni, acting Forest Supervisor, Beaverhead-Deerlodge National Forest, 420 Barrett Street, Dillon, MT 59725. Send written comments to the responsible official.

FOR FURTHER INFORMATION CONTACT: Diane Petroni, Interdisciplinary Team Leader, also at the Supervisor's Office in Dillon, or phone: (406) 683–3900.

SUPPLEMENTARY INFORMATION: Aerial application of herbicides would be authorized to treat about 40% of the identified infestations. An integration approach would be used to treat all infestations, including biological, mechanical, and ground-based chemical control methods. New infestations would be evaluated to determine if the site fits within the scope of the EIS and then prioritized for treatment. Sites selected for control would be treated using the parameters established and the analysis conducted in this EIS. Treatment of additional sites would be based on a site type stratification process which defined each site by landscape position, soil type and depth, habitat type or community, slope, and aspect. Pretreatment surveys would be conducted to determine management objectives for the site, special considerations (sensitive plants, presence of live water, threatened and sensitive fish, etc.), recommended treatment methods, and other site-specific information.

The project areas are located throughout the Beaverhead-Deerlodge National Forest. The scope of this proposal is limited to noxious weed control measures on known infestations and new infestations as they are identified, and related mitigation requirements within the Beaverhead-Deerlodge National Forest.

Public participation is important to this analysis. Part of the goal of public involvement is to identify additional issues and to refine the general, tentative issues. A scoping notice describing the project was mailed to those who requested information about noxious weed control on the Beaverhead-Deerlodge National Forest. Coordination with Montana Department of Environmental Quality/Water Quality Division will occur regarding effects to water quality. The United States Fish and Wildlife Service will be consulted concerning effects to threatened and endangered species.

Preliminary issues identified by Forest Service specialists include effects to soils, water quality, and potential public concerns about aerial application of herbicides. The analysis will consider all reasonably foreseeable activities, including actions on lands adjacent to the National Forest.

People may visit with Forest Service officials at any time during the analysis and prior to the decision. Two periods are specifically designated for comments on the analysis: (1) During the scoping process and (2) during the draft EIS period.

During the scoping process, the Forest Service is seeking additional information and comments from Federal, State and local agencies and other individuals or organizations who may be interested in or affected by the proposed action. The agency invites written comments and suggestions on this action, particularly in terms of identification of issues and alternative development.

The draft EIS should be available for review in May, 2000. The final EIS is scheduled for completion in September, 2000.

The comment period on the draft EIS will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement 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 CFR 1503.3 in addressing these points.

The responsible official will make the decision on this proposal after considering comments and responses, environmental consequences discussed in the final EIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be document in a Record of Decision.

Dated: July 30, 1999.

Mike Paterni,

Acting Forest Supervisor.

[FR Doc. 99–20438 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Revised Land and Resource Management Plan, Caribou National Forest, ID

AGENCY: Forest Service.

ACTION: Notice of intent to prepare an environmental impact statement in conjunction with revision of the Land and Resource Management Plan for the Caribou National Forest, located in Bannock, Bear Lake, Bingham, Bonneville, Caribou, Franklin, Oneida, and Power counties, Idaho; Box Elder and Cache counties, Utah; and Lincoln County, Wyoming.

SUMMARY: The Department of Agriculture, Forest Service will prepare an Environmental Impact Statement in conjunction with a revision of the Land and Resource Management Plan (hereinafter referred to as Forest Plan) for the Caribou National Forest.

This notice describes the needs ''for change'' identified to date in the current Forest Plan to be revised, environmental issues considered, estimated dates for filing the Environmental Impact Statement, information concerning public participation, and the names and addresses of the agency officials who can provide additional information. The purpose of the notice is to begin the scoping phase of public involvement in the revision process.

DATES: Comments concerning the intent to prepared a revised Forest Plan should be received in writing by October 2, 1999. The agency expects to file a Draft Environmental Impact Statement in the Spring of 2000 and a Final Environmental Impact Statement in the Spring of 2001.

ADDRESSES: Send written comments to: Jerry Reese, Forest Supervisor, Caribou National Forest, 250 South 4th Avenue, Pocatello, Idaho 83201.

FOR FURTHER INFORMATION CONTACT: Paul Oakes, Planning Team Leader, Caribou National Forest (208) 236–7500.

Responsible official: Jack Blackwell, Intermountain Regional Forester, at 324 25th Street, Ogden, UT 84401.

SUPPLEMENTARY INFORMATION: Pursuant to part 36 Code of Federal Regulations (CFR) 219.10(f) and (g), the Regional Forester for the Intermountain Region gives notice of the agency's intent to prepare an Environmental Impact Statement for the revision of the Caribou National Forest Land and Resource Management Plan. According to 36 CFR 219.10(g), Land and Resource Management Plans shall ordinarily be revised on a 10- to 15-year cycle. The existing Forest Plan for the Caribou National Forest was approved on September 27, 1985.

The Regional Forester gives notice that the Caribou National Forest is beginning an environmental analysis and decision-making process for the proposed programmatic action to revise the Caribou Forest Plan. Opportunities will be provided to discuss the Forest Plan revision with the public. The public is invited to help identify issues that will be considered in defining the range of alternatives in the Environmental Impact Statement.

Forest plans describe the long-term direction for managing National Forests. Agency decisions in these plans do the following:

- Establish multiple-use goals and objectives (36 CFR 219.11);
- Establish forest-wide management requirements (standards and guidelines);
- Establish management areas and management area direction through the application of management prescriptions;
- Identify lands not suited for timber production (36 CFR 219.3);
- Establish monitoring and evaluation requirements; and
- Recommend areas for official designation of wilderness.

The authorization of project-level activities on the Forest occurs through project, or site-specific, decision-making. Project-level decisions must comply with National Environmental Policy Act (NEPA) procedures and must include a determination that the project is consistent with the Forest Plan.

Linkage to the Interior Columbia Basin Ecosystem Management Project

The northern portion of the Caribou National Forest is within the area of land covered by the Interior Columbia Basin Ecosystem Management Project (ICBEMP). Two sources of information from the ICBEMP will influence the development of the Forest Plan: (1) The integrated science assessment and (2) the Interior Columbia Basin Ecosystem Management Project Final Environmental Impact Statement (ICBEMP FEIS) and Record of Decision.

The integrated science assessments contain information that provide context at a broad, multiple-state area scale. The information on forestlands, rangelands, aquatic and hydrologic integrity, ecosystem pathways and disturbance patterns, and the current and projected conditions of fish, wildlife and plant species were used to help identify need for change topics. This information will continue to be used in defining the extent of the need for change and in the development and evaluation of alternatives for the Revised Forest Plan.

The other primary document that will influence this revision is the ICBEMP FEIS. The Draft EIS was issued for public comments in June 1997, and a final document is expected in Spring 2000. This document, which incorporates the results of the science assessments, will amend portions of the Forest Plan when the Record of Decision is issued. This amendment will establish new goals, desired range of future conditions, objectives and standards for management for that portion of the Forest within the ICBEMP assessment area. This amendment will simplify the scope of the planning effort, but will not replace the need for the revision of these reasons.

- The ICBEMP effort is at a much broader scale. The application of the information and decisions will need to be refined for the Forest-level scale.
- The ICBEMP will provide some standards that are only to be used until such time as better local standards are developed. The planning effort will refine these standards to local conditions.
- The ICBEMP FEIS will not provide all of the analysis or decisions required by the National Forest Management Act regulations. The planning effort will need to evaluate land allocations, timber suitability, wilderness recommendations and other factors that the ICBEMP did not address.
- The Ecosystem Management Goals from ICBEMP will provide a framework for Forest planning that merges science and ecosystem capability with societal values to help make choices about dynamic systems on the Forest. These overarching forest-wide goals will be the ecological centerpiece for Plan revision.

Need for Change in the Current Forest Plan

The Forest completed two monitoring reports, one in 1992 and a second in 1997. The results for the monitoring reports, in addition to public input and Forest Plan implementation experience, indicated that there is a need for change in some management direction in the Forest Plan. Several sources were used in determining the need changes in the current Forest Plan. These sources include:

- Public comments concerning implementation of current direction;
- Findings from the two Forest Plan monitoring reports;
- Regulatory, manual, and handbook requirements;
- Forest Service Natural Resource Agenda, 1998;

• Draft 1995 Resources Planning Act (RPA) Program;

• New Information, such as the Interior Columbia Basin Ecosystem Management Project scientific assessment and other research, and

• Public comments received regarding the findings in the Initial Analysis of the Management Situation.

Initial Analysis of the Management Situation

In April, 1999, the Caribou National Forest published an Initial Analysis of the Management Situation (Initial AMS). The Initial AMS summarized the current management and resource conditions of the Forest, proposed a desired range of future conditions for forest resources, and disclosed significant ''needs for change'' forest managers and resource specialists identified. The Initial AMS was mailed to more than 500 interested individuals, non-government organizations, city, county, state and other federal agencies. Public comments were encouraged regarding the findings disclosed in the Initial AMS. As a result of the analysis of the comments received, the Forest Supervisor has determined the public has identified additional ''needs for change'' that will be included in the revision of the Forest Plan. The ''needs for change'' topics, along with preliminary proposed programmatic actions, include:

1. Timberland Suitability and Wilderness Recommendations

• A reassessment of timberland suitability will be conducted.

• All inventoried roadless areas on the Forest will be reevaluated for possible wilderness recommendation.

2. Aquatic and Riparian Resources

• Develop goals, objectives, standards and guidelines and monitoring strategies for the management of riparian and aquatic ecosystems.

3. Economic and Social Concerns

• Changes in Forest management may have social and economic effects. During the analysis, effects on local, regional and national entities, agencies and Tribes will be assessed, considered and disclosed.

4. Fire Management

• Develop goals, objectives, standards, guidelines and monitoring requirements for the use of prescribed fire and wildfire for resource benefit to improve ecosystem health and reduce the risk of uncharacteristically large or intense fires.

5. Minerals Development

• Incorporate new best management practices or other new information as they are developed or become available to address selenium releases into the environment.

• Develop improved goals, objectives, standards and guidelines to address reclamation of land disturbed by mineral development.

6. Noxious Weeds

• Develop improved multi-program goals, objectives, standards, guides and monitoring strategies for prevention, containment and control of noxious weeds.

7. Rangeland Resources

• Evaluate rangeland capability and reassess areas suitable for livestock grazing through the application of management prescriptions.

• Develop standards and guidelines, including forage utilization standards for native range and seeded areas. Monitoring protocols that will promote adaptive management will also be included.

8. Recreation/Travel Management

• Establish open road and motorized trail density levels and determine which areas will be designated open to off road motorized use.

9. Special Management Areas

• Develop management direction to protect the outstandingly remarkable values of St. Charles Creek and Elk Valley Marsh, areas previously determined to be eligible for study under the Wild and Scenic Rives Act. A suitability study will not be completed as a part of this effort.

• Develop direction to provide for consistent management of all eight RNAs on the Forest. Include direction for the use of prescribed fire and wildfire for resource benefit as appropriate to meet the objectives for which the RNA was established.

10. Vegetation (Forestlands and Rangelands)

• Develop improve management direction for desired vegetation structure, composition, disturbance and patterns for each cover type which could include restoring historic fire regimes through prescribed fire or allowing wildfires to burn under appropriate conditions, harvest or thinning of dense stands to reduce ladder fuels.

11. Wildlife Habitat

• Develop management direction to conserve or restore key wildlife, fish and rare habitats including those species federally listed under the Endangered Species Act, those identified as sensitive by the Regional Forester, and those identified as rare or scarce species. This will also include monitoring for habitat trends.

More detailed information on the ''need for change'' topics is available upon request at the address displayed above.

Framework for Alternatives To Be Considered

Through a range of alternatives economic and social community stability will be considered in revising the Forest Plan. The alternatives will address different options to resolve the issues identified in the revision topics listed above. Alternatives must meet the purpose and need for revision to be considered valid. One of the alternatives to be examined is the ''no-action alternative.'' This is a required alternative that represents continuation of management under the 1985 Forest Plan, as amended. Alternatives are developed in response to public issues, management concerns, and resource opportunities identified during the scoping process. In describing alternatives, desired vegetation and resource condtions will be defined.

Involving the Public

The Forest Service is seeking information, comments and assistance from individuals, organizations and federal, state, and local agencies who may be interested in or affected by the proposed action (36 CFR 219.6) The Forest Service is also looking for collaborative approaches with members of the public who are interested in forest management.

Public participation will be solicited by notifying in person and/or by mail, known interested and affected publics. News releases will be used to give the public general notice, and public involvement opportunities will be offered at various locations. Public participation activities may include written comments, open houses, focus groups and collaborative forums.

Public participation will be sought throughout the revision process and will be especially important at several points along the way. The first formal opportunity to comment is during the scoping process (40 CFR 1501.7). Public meets will be arranged locally. Specific dates, times and locations of meetings will be identified at a later date. The public will be notified at that time.

Release and Review of the EIS

The Draft Environmental Impact Statement (EIS) is expected to be filed with the Environmental protection Agency (EPA) and to be available for public comment in the Spring of 2000. At that time, the EPA will publish a notice of availability in the **Federal Register**. The comment period on the Draft EIS will be at least 90 days from the date the EPA publishes the notice of availability in the **Federal Register**, as required by the planning regulations.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of the 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 DEIS stage but are not raised until after completion of the Final Environmental Impact Statement (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 comment period so that substantive comments and objectives are made available to the Forest Service at a time when it can meaningfully 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 programmatic actions, comments on the Draft EIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statements. Reviewers may wish to refer to the Counsel on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After the comment period ends on the Draft EIS, comments will be analyzed, considered, and responded to by the Forest Service in preparing the Final EIS. The Final EIS is scheduled to be completed in the Spring of 2001. The responsible official will consider the comments, responses, and environmental consequences discussed in the Final EIS, and applicable laws, regulations, and policies in making decisions regarding the revision. The responsible official will document the decisions and reasons for the decisions in a Record of Decision for the revised plan. The decisions will be subject to appeal in accordance with 36 CFR part 217. Jack A. Blackwell, Intermountain Regional Forester, is the responsible official for this EIS.

Dated: August 3, 1999.

Jerry B. Reese,

Forest Supervisor, Caribou National Forest.

[FR Doc. 99–20378 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Proposed Changes to Section IV of the Field Office Technical Guide (FOTG) of the Natural Resources Conservation Service in Indiana

AGENCY: Natural Resources Conservation Service (NRCS).

ACTION: Notice of availability of proposed changes in section IV of the FOTG of the NRCS in Indiana for review and comment.

SUMMARY: It is the intention of NRCS in Indiana to issue a revised conservation practice standard in Section IV of the FOTG. The revised standard is Residue Management, No Till/Strip Till (Code 329A). This practice may be used in conservation systems that treat highly erodible land.

DATES: Comments must be received on or before September 8, 1999.

ADDRESSES: Address all requests and comments to Robert L. Eddleman, State Conservationist, Natural Resources Conservation Service (NRCS), 6013 Lakeside Blvd., Indianapolis, Indiana 46278. Copies of these standards will be made available upon written request. You may submit electronic requests and comments to joe.gasperi@in.usda.gov.

FOR FURTHER INFORMATION CONTACT: Robert L. Eddleman, 317–290–3200.

SUPPLEMENTARY INFORMATION: Section 343 of the Federal Agriculture Improvement and Reform Act of 1996 states that revisions made after enactment of the law, to NRCS state technical guides used to carry out highly erodible land and wetland provisions of the law, shall be made available for public review and comment. For the 2 next 30 days, the NRCS in Indiana will receive comments relative to the proposed changes. Following that period, a determination will be made by the NRCS in Indiana regarding disposition of those comments and a final determination of changes will be made.

Dated: July 27, 1999.

Robert L. Eddleman,

State Conservationist, Indianapolis, Indiana.

[FR Doc. 99–20373 Filed 8–6–99; 8:45 am]

BILLING CODE 3410–16–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Institutional Remittances to Foreign Countries—BE–40; Proposed Collection; Comment Request

AGENCY: Bureau of Economic Analysis, Department of Commerce.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 8, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: Michael Mann, Chief, Current Account Services Branch, Room 8018, Bureau of Economic Analysis, U.S. Department of Commerce, Washington, DC 20230; phone: (202) 606–9573; and fax: (202) 606–5314.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Bureau of Economic Analysis is responsible for the computation and publication of the U.S. balance of payments accounts. The information collected in this survey is an integral part of the ''private remittances'' portion of the U.S. balance of payments accounts. The balance of payments accounts, which are published quarterly in the Bureau's monthly publication, the *Survey of Current Business,* are one of the major statistical products of BEA.

The accounts provide a statistical summary of U.S. international transactions. They are used by government and private organizations for national and international policy formulation, and analytical studies. Without the information collected in this survey, an integral component of the private remittances account would be omitted. No other Government agency collects comprehensive annual data on private unilateral transfers of funds and commodities to foreign countries.

The survey requests information from U.S. religious, charitable, educational, scientific, and similar organizations on the transfer of cash grants to foreign countries and their expenditures in foreign countries. Information is collected on a quarterly basis from institutions transferring $1 million or more each year, and annually for all others. Nonprofit organizations with total remittances of less than $25,000 annually are exempt from reporting.

II. Method of Collection

Information is obtained from U.S. religious, charitable, educational, scientific, and similar organizations who voluntarily agree to provide data regarding transfers of cash grants to foreign countries and their expenditures in foreign countries. Submission of the completed report form, or computer printouts in the format of the report form, are the most expedient and economical methods of reporting the information.

III. Data

OMB Number: 0608–0002.
Form Number: BE–40.
Type of Review: Renewal-regular submission.
Affected Public: U.S. religious, charitable, educational, scientific, and similar organizations which transfer cash grants to foreign countries and their expenditures in foreign countries.
Estimated Number of Respondents: 480.
Estimated Time Per Response: 1.5 hours per annual reporter. 6.0 hours per quarterly reporter.
Estimated Time Per Response: 1.5 hours per annual reporter. 6.0 hours per quarterly reporter.
Estimated Total Annual Burden Hours: 1,521 hours.
Estimated Total Annual Cost: The estimated annual cost to the government is $16,000. The estimated annual cost to the public is $45,630 based on total number of hours estimated as the reporting burden and an estimated hourly cost of $30.
Respondent's Obligation: Voluntary.
Legal Authority: Bretton Woods Agreement Act, Section 8, and E.O. 10033, as amended.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 3, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20442 Filed 8–6–99; 8:45 am]
BILLING CODE 3510–EA–P

DEPARTMENT OF COMMERCE

International Trade Administration

Commerce Trade Fair Privatization Application

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burdens, invites the public and other Federal agencies to take this opportunity to comment on the continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c) (2) (A)).

DATES: Written comments must be submitted on or before October 8, 1999.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5033, 14th & Constitution Avenue, NW, Washington, DC 20230. Phone number: (202) 482–3272 or Email: LEngelme@doc.gov.

FOR FURTHER INFORMATION CONTACT: Request for additional information or copies of the information collection instrument and instructions should be directed to: Don Huber, U.S. & Foreign Commercial Service, Export Promotion Services, Room 2810, 14th & Constitution Avenue, NW, Washington, DC 20230; Phone number: (202) 482–2525, and fax number: (202) 482–0872.

SUPPLEMENTARY INFORMATION:

I. Abstract

The Trade Fair Certification (TFC) program is a service of the U.S. Department of Commerce (DOC) that provides DOC endorsement and support for private sector firms that organize high quality international trade fairs. The TFC program seeks to broaden the base of U.S. firms, particularly new-to-market companies by introducing them to key international trade fairs where they can achieve their export objectives. Those objectives include one or more of the following: direct sales, identification of local agents or distributors, market research and exposure, and joint venture licensing opportunities for their products and services. The objective of the application is to make a determination that we qualify the trade fair organizer to organize and manage U.S. exhibitions at a foreign trade show.

II. Method of Collection

Form ITA–4134P is sent by request to U.S. firms.

III. Data

OMB Number: 0625–0222.
Form Number: ITA–4134P.
Type of Review: Regular Submission.
Affected Public: Business or other for-profit firms.
Estimated Number of Respondents: 10.
Estimated Time Per Response: 12 hours.
Estimated Total Annual Burden Hours: 120 hours.
Estimated Total Annual Costs: The estimated annual cost for this collection is $5,440.00 ($4,200.00 for respondents and $1,240.00 for federal government).

IV. Request for Comments

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and costs) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to reduce the burden of the collection of information on respondents, including by automated collection techniques or forms of information technology.

Comments submitted in response to this notice will be summarized and/or

included in the request for OMB approval of this information collection; they also will become a matter of public records.

Dated: August 3, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20441 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–811]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From Germany: Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On April 6, 1999, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain lead and bismuth carbon steel products from Germany (64 FR 16703). This review covers Saarstahl AG, a manufacturer/exporter of the subject merchandise to the United States, and the period March 1, 1997, through February 28, 1998. We conducted a verification of Saarstahl's antidumping duty questionnaire responses and gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain data, we have revised our margin calculation; however, the final results do not differ from the preliminary results. The final results are listed below in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Rebecca Trainor, Office 2, AD/CVD Enforcement Group I, Import Administration, Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone (202) 482–4136, or 482–4007, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 1999, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1997–1998 administrative review of the antidumping duty order on certain lead and bismuth carbon steel products from Germany (64 FR 16703) (*Preliminary Results*). We conducted verification of Saarstahl AG's (Saarstahl) antidumping duty questionnaire responses from April 27 through May 7, 1999, and issued our report on June 1, 1999 (*see* Memorandum to the File: Sales and Cost of Production Verification) (Verification Report). On June 17, 1999, and June 23, 1999, Ispat Inland Inc. and USS/KOBE Steel Co. (the petitioners), and Saarstahl submitted case and rebuttal briefs, respectively. Following the return to the petitioners of their June 10, 1999, submission, which contained untimely submitted factual information, on June 29, 1999, the petitioners resubmitted their June 17, 1999, brief with references to the June 10 submission redacted, in accordance with the Department's instructions. Both parties withdrew their respective requests for a hearing.

The Department has now completed its administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to 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 (1998).

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1(f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00; 7213.31.60.00; 7213.39.00.30; 7213.39.00.60; 7213.39.00.90; 7213.91.30.00; 7213.91.45.00; 7213.91.60.00; 7213.99.00; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10; 7214.50.00.30, 7214.50.00.50; 7214.60.00.10; 7214.60.00.30; 7214.60.00.50; 7214.91.00; 7214.99.00; 7228.30.80.00; and 7228.30.80.50. HTSUS subheadings are provided for convenience and Customs purposes. The written description of the scope of this proceeding is dispositive.

Duty Absorption

On April 28, 1998, the petitioners requested that the Department determine whether antidumping duties had been absorbed during the period of review (POR). Section 751(a)(4) of the Act provides for the Department, if requested, to determine during an administrative review initiated two or four years after the publication of the order, whether antidumping duties have been absorbed by a foreign producer or exporter, if the subject merchandise is sold in the United States through an affiliated importer. In this case, Saarstahl sold to the United States through an importer that is affiliated within the meaning of section 751(a)(4) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that for transition orders (*i.e.*, orders in effect on January 1, 1995), the Department will conduct duty absorption reviews, if requested, for administrative reviews initiated in 1996 or 1998. Because the order underlying this review was issued prior to January 1, 1995, and this review was initiated in 1998, a duty absorption determination in this segment of the proceeding is necessary. As we have found that there is no dumping margin for Saarstahl with respect to its U.S. sales, we have also found that there is no duty absorption.

Changes Since the Preliminary Results

We have made the following changes from the preliminary results:

1. We included payment dates for certain home market sales that were not included in the preliminary results, according to Saarstahl's April 28, 1999, submission and the verification results. Accordingly, we revised the imputed credit expenses for those sales.

2. We reallocated the materials, labor, and overhead costs reported by Saarstahl, in accordance with our verification findings (*see* Verification Report at pages 5–6). The reallocation did not change the total cost of manufacturing reported. We used the computer programming language

supplied by Saarstahl in its case brief to accomplish the reallocation.

3. We revised the reported depreciation, general and administrative (G&A), and financial expense ratios to reflect corporate-wide costs, rather than rolled products division expenses, based on our verification findings.

4. We corrected the reported billing adjustments for two home market sales, based on verification findings.

5. We added an early payment discount for one home market sale, based on verification findings.

6. We revised the payment dates for certain home market and U.S. sales to reflect the actual date Saarstahl received payment, based on verification findings. Accordingly, we revised the imputed credit expenses for those sales. (A separate issue concerning payment dates is discussed below at Comment 5.)

7. We revised the reported home market and U.S. indirect selling expenses to exclude bank fees reported separately.

8. We revised the arm's length test to affiliated customers to account for level of trade in making affiliated to unaffiliated price comparisons, in accordance with the Department's practice (*see, e.g., Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68432, December 11, 1998). We also corrected an error in the programming language which prevented the program from performing a complete comparison of affiliated to unaffiliated customer prices. We did not make the programming change suggested in Saarstahl's case brief at page 6, as we determined that Saarstahl's proposal did not correct the error.

9. We revised the reported production quantity for one product, based on our verification findings, for purposes of weight-averaging the costs of production. See Comment 4 below for further discussion.

Interested Party Comments

Comment 1: Casting Type as a Product Matching Criterion

The petitioners contend that casting type—*i.e.,* whether a product is produced from bloom-cast billets or continuous cast billets—should be included in the Department's model matching hierarchy as the second most important criterion. The petitioners argue that the type of casting has a much greater impact on cost and commercial value than any of the remaining product characteristics, as indicated, according to the petitioners, by Saarstahl's own cost information.

Saarstahl responds that the petitioners failed to introduce any timely information concerning quantifiable physical differences between bloom-cast and billet-cast products. Therefore, Saarstahl states that the Department must maintain the determination made in the preliminary results and decline to add casting type as a product matching characteristic.

DOC Position: We disagree with the petitioners and we continue to make product comparisons based on chemical composition, shape, cut (i.e., coil or cut-to-length), size, and grade, as in our preliminary results and in the underlying less-than-fair value (LTFV) investigation.

As discussed in the preliminary results Model Match Methodology Memorandum from the Team to Irene Darzenta Tzafolias, dated March 22, 1999 (Model Match Methodology Memorandum), for purposes of selecting model match criteria, the Department normally relies on physical characteristics of the merchandise that are identifiable and/or quantifable (*see, e.g., Notice of Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Melamine Institutional Dinnerware Products From Indonesia,* 61 FR 43333, 43334, August 22, 1996, and *Notice of Preliminary Results of Antidumping Duty Administrative Review: Porcelain-on-Steel Cookware From Mexico,* 63 FR 1430, 1431, January 9, 1998). Casting type is a production method, not a physical characteristic of the merchandise. As such, it is not an appropriate criterion for inclusion in our model match methodology.

Throughout this segment of the proceeding, the petitioners have argued that bloom casting makes the finished merchandise ''better.'' The physical characteristic that makes the product better, say petitioners in their July 2, 1998, and August 6, 1998, letters, is the more uniform distribution of lead and bismuth within the steel, and enhanced manganese sulfide formation. In effect, the petitioners contend that these factors, as apparently determined by the casting method, are so important that they outweigh the shape, cut form, size, and grade of the merchandise in determining the most similar match. We find no basis on the record to support this contention.

No party has provided any information, nor did we find any evidence at verification, to indicate that customers order products specifying, among other things, lead and bismuth distribution and manganese sulfide formation. No party has provided any timely information, nor did we find any evidence at verification, that lead and bismuth distribution and manganese sulfide formation are measured, quantified, and tracked through the production process. Instead, the evidence on the record, as we verified, shows that customers order the subject merchandise by chemical composition (including grade), shape, cut form, and size. We found no evidence that either casting type, lead and bismuth distribution, or sulfide qualities were specified as part of a customer order. The only link between a customer order specification and the production process that we observed at verification was that, where ultrasound testing of the billet was requested, Saarstahl had to utilize a bloom cast billet (*see* Verification Report at pages 9–10). There is no information on the record of this proceeding, however, that a customer specification for ultrasound testing is equivalent to a specification for bloom casting.

We recognize that bloom casting results in a higher cost for producing the subject merchandise. However, a cost difference alone is not a sufficient basis to establish a model matching characteristic. As we noted in the last segment of the administrative review of the companion antidumping duty order on the subject merchandise from the United Kingdom, ''the creation of a product concordance inherently relies upon the matching of significant physical characteristics, not on cost groupings in a company's cost accounting system.'' (*See, Notice of Final Results of Antidumping Duty Administrative Review: Certain Hot-Rolled Lead and Bismuth Carbon Steel Products from the United Kingdom,* 63 FR 18879, 18881, April 16, 1998.) Consistent with our usual practice to compute weighted-average costs for identical (in terms of the Department's matching characteristics) merchandise produced at multiple production lines or facilities with different costs (*see, e.g.,* the Department's standard antidumping duty administrative review questionnaire at page D–2), we have followed our preliminary results methodology and calculated a weighted-average cost of bloom-cast and billet-cast models with the same physical characteristics.

Comment 2: Casting Type of Saarstahl's U.S. Sales

The petitioners contend that Department practice considers the data on mill test certificates to be definitive evidence of the physical characteristics of the merchandise sold. Therefore, based on the statement in the mill certificate that Saarstahl's U.S. sales

were produced from billets made from continuous cast blooms, the petitioners argue that, in fact, the U.S. sales were produced from continuous cast blooms. As such, the petitioners assert that the Department should apply facts available in calculating the margins for these sales due to the misreporting of the product and its attendant costs. In the alternative, should the Department conclude that the sales in question were actually produced from continuous cast billets, rather than blooms, the petitioners contend that the Department should disregard the U.S. sales in this review. According to the petitioners, because the mill certificates indicate that the merchandise was made from blooms, Saarstahl misled its customer as to the production of the merchandise and provided it with an inferior product than that indicated on each mill certificate. Thus, the petitioners continue, the U.S. sales cannot form an appropriate basis for the calculation of a dumping margin.

Saarstahl notes that its submissions in the course of this proceeding and the Department's examination of this issue at verification, including examination of production certificates, casting records and production instructions, all conclusively confirm that Saarstahl's U.S. sales were produced from continuous cast billets and not bloom-cast billets. Saarstahl adds that the petitioners fail to mention that directly below the statement in question on the mill test certificates is a reduction ratio that shows that the merchandise could not possibly have been made from blooms. Saarstahl continues that there is no basis on the record to support the petitioners' bald assertion that Saarstahl misled its customers about the nature of the merchandise. Saarstahl states that it produced the merchandise using its normal production process for leaded steels (i.e., billet-casting), and that there is no evidence that Saarstahl's production from continuous cast billets is in any way deficient or inferior.

DOC Position: We agree with Saarstahl. As Saarstahl notes, the Department thoroughly examined this issue at verification. While the mill certificates for the sales in question contain language that suggests the sales were produced from blooms, as cited by the petitioners, the same mill certificates also include the reduction ratio, which, as Saarstahl states, provides a quantifiable measure of the rolling process. As Saarstahl claimed and we verified, the reduction ratio on the mill certificate indicates a billet-cast product. All of the other evidence examined at verification, including customer purchase orders, invoices, heat certificates, heat production logs, and production ''recipes,'' showed that the sales were produced from continuous cast billets (see Verification Report at pages 9–11). In light of the substantial evidence in support of Saarstahl's characterization of the U.S. sales as produced from continuous cast billets, as opposed to the petitioners' reliance on a single line in the mill certificate referencing continuous cast blooms, we conclude that the U.S. sales were produced from continuous cast billets. Thus, application of facts available in lieu of the use of the reported and verified data, as urged by the petitioners, is not warranted in this case.

We also find no factual basis on the record for the petitioner's contention that, if the sales were not produced from blooms, Saarstahl misled its customer. The customer's purchase order did not specify production method. Further, none of the sales documentation reported and reviewed at verification misrepresented the production of Saarstahl's sales to its customer. As discussed previously, the bloom-cast notation on the mill certificate is followed by the reduction ratio, which shows that cast billets were used in the production process. Thus, it appears that the customer received sufficient information to determine if its specifications were met. We also found no indication that Saarstahl's customer rejected the merchandise or otherwise complained about the product for alleged misrepresentation. In sum, there is no basis on the record to reject Saarstahl's reported POR sales.

Comment 3: Adjusting Saarstahl's Costs for Over-reporting

Saarstahl states that, at verification, it demonstrated that it over-reported certain costs of production because it reported costs based on exchange rate loss estimates and imputed personnel expenses for fringe benefits, as recorded in its cost accounting system. According to Saarstahl, its actual expenses for these items were lower than reported, as it experienced an exchange rate gain during the POR, and its actual personnel expenses were lower than the imputed amount. Therefore, Saarstahl contends that the Department should adjust its costs downward to reflect these actual costs.

The petitioners respond that these adjustments should not be made because they represent new information provided by Saarstahl for the first time at verification. The petitioners state that these adjustments are inconsistent with Saarstahl's own cost accounting system and should be rejected.

DOC Position: We agree with the petitioners that the information is untimely. While we successfully verified Saarstahl's costs, as reported to the Department in a timely manner, the claimed adjustments between the cost and financial accounting systems were never reported to the Department prior to verification. Thus, these adjustments were not part of the cost of production questionnaire response that was the subject of verification.

Comment 4: Correction of Production Quantities for Weight-Averaging of Costs

The petitioners state that, if the Department declines to include casting method as a product characteristic, as discussed above, then it should correct the reported production quantities used for the weight-averaging of costs. The petitioners refer to the Department's finding at verification that Saarstahl did not subtract the production quantities of bloom-cast and secondary merchandise from the billet-cast total, resulting in the double-counting of some products and the understatement of costs in the weighted-average total. Accordingly, the petitioners contend that the Department should adjust the production quantities in calculating the weighted-average costs.

Saarstahl states that it properly reported its cost of production based upon the explicit directions given by the Department. Saarstahl claims that the Department's observation that, for sales sampled at verification, Saarstahl over-reported the production quantity for billet-cast products is not universally true for all of Saarstahl's reported products. Should the Department combine and weight-average its reported costs, as it did for the preliminary results, Saarstahl contends that the Department should do so in a way that does not negatively impact Saarstahl.

DOC Position: Although we stated in the Verification Report at pages 18–19 that the double-counting of production quantities for a billet-cast product observed at verification appeared to apply to all of Saarstahl's billet-cast products, further analysis of the cost of production data indicates that this situation is not necessarily the case. For example, the cost of production data base includes products where the reported production quantity for a bloom-cast product is greater than the production quantity reported for a billet-cast product with identical physical characteristics. Therefore, we have revised the reported production quantity only for the product identified in the Verification Report for which we

verified that the production quantity was double counted.

Comment 5: Bill of Exchange Payment Date

Saarstahl asserts that it properly reported the date it received a bill of exchange from a home market customer as the payment date for purposes of calculating imputed credit. Saarstahl states that a bill of exchange is a negotiable monetary instrument that has a cash value on the date of its receipt, thus Saarstahl's reporting of the bill receipt in the same manner as a cash payment was proper.

DOC Position: We have made no changes to Saarstahl's reporting of sales paid by a bill of exchange. Even if a bill of exchange receipt were considered to be equivalent to a cash payment, in these particular circumstances, there is no significant difference in calculating imputed credit between Saarstahl's reporting method, which includes an extra fee charged to the customer to account for either the extra payment period or discounting of the bill at a bank (*see* Verification Report at pages 23–24), and a methodology based on the actual date cash was received. Therefore, for purposes of this review, we have made no adjustment.

Final Results of the Review

As a result of this review, we have determined that the following margins exist for the period March 1, 1997 through February 28, 1998:

Manufacturer/ exporter	Period	Margin (percent)
Saarstahl AG (Saarstahl)	3/1/97–2/28/98	0.00

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate based on the ratio of the total amount of antidumping duties calculated for the examined sales to the total entered value of those same sales. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appropriate appraisement instructions directly to the Customs Service. In accordance with 19 CFR 351.106(c)(2), we will instruct the Customs Service to liquidate without regard to antidumping duties all entries of the subject merchandise during the POR for which the importer-specific assessment rate is zero or *de minimis* (*i.e.*, less than 0.50 percent).

Further, the following deposit requirements shall be effective for all shipments of the subject merchandise from Germany that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for Saarstahl will be the rate established above in the ''Final Results of Review'' section; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters of this merchandise will continue to be 85.05 percent, the all others rate established in the final determination of the LTFV investigation (58 FR 6205, January 27, 1993).

The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: July 30, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20449 Filed 8–6–99; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

[A–412–810]

Certain Hot-Rolled Lead and Bismuth Carbon Steel Products From the United Kingdom: Final Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On April 6, 1999, the Department of Commerce published the preliminary results of the administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (64 FR 16699). This review covers British Steel Engineering Steels Limited, a manufacturer/exporter of the subject merchandise to the United States, and the period March 1, 1997, through February 28, 1998. We gave interested parties an opportunity to comment on the preliminary results. Based on our analysis of the comments received and the correction of certain data, the final results differ from the preliminary results. The final results are listed below in the ''Final Results of Review'' section of this notice.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Kate Johnson, Office 2, AD/CVD Enforcement Group I, Import Administration, Room B099, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC 20230; telephone (202) 482–4007, or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 1999, the Department of Commerce (the Department) published in the **Federal Register** the preliminary results of the 1997–1998 administrative review of the antidumping duty order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom (64 FR 16699) (*Preliminary Results*). On June 15, 1999, British Steel Engineering Steels Limited (BSES) submitted its case brief. On June 23, 1999, Ispat Inland Inc. and USS/KOBE Steel Co. (the petitioners), submitted their rebuttal brief. The Department held a hearing on June 25, 1999. The Department has now completed its administrative review in accordance

with section 751 of the Tariff Act of 1930, as amended (the Act).

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Act are references to the provisions effective January 1, 1995, the effective date of the amendments made to 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 (1998).

Scope of the Review

The products covered by this review are hot-rolled bars and rods of nonalloy or other alloy steel, whether or not descaled, containing by weight 0.03 percent or more of lead or 0.05 percent or more of bismuth, in coils or cut lengths, and in numerous shapes and sizes. Excluded from the scope of this review are other alloy steels (as defined by the *Harmonized Tariff Schedule of the United States* (HTSUS) Chapter 72, note 1 (f)), except steels classified as other alloy steels by reason of containing by weight 0.4 percent or more of lead, or 0.1 percent or more of bismuth, tellurium, or selenium. Also excluded are semi-finished steels and flat-rolled products. Most of the products covered in this review are provided for under subheadings 7213.20.00.00 and 7214.30.00.00 of the HTSUS. Small quantities of these products may also enter the United States under the following HTSUS subheadings: 7213.31.30.00; 7213.31.60.00; 7213.39.00.30; 7213.39.00.60; 7213.39.00.90; 7213.91.30.00; 7213.91.45.00; 7213.91.60.00; 7213.99.00; 7214.40.00.10, 7214.40.00.30, 7214.40.00.50; 7214.50.00.10; 7214.50.00.30, 7214.50.00.50; 7214.60.00.10; 7214.60.00.30; 7214.60.00.50; 7214.91.00; 7214.99.00; 7228.30.80.00; and 7228.30.80.50. HTSUS subheadings are provided for convenience and customs purposes. The written description of the scope of this proceeding is dispositive.

Duty Absorption

On April 28, 1998, the petitioners requested that the Department determine whether antidumping duties had been absorbed by BSES during the period of review (POR), pursuant to section 751(a)(4) of the Act. Section 751(a)(4) of the Act provides that the Department, if requested, will determine during an administrative review initiated two years or four years after publication of the order whether antidumping duties have been absorbed by a foreign producer or exporter subject to the order if the subject merchandise is sold in the United States through an importer who is affiliated with such foreign producer or exporter. In this case, BSES sold to the United States through an importer that is affiliated within the meaning of section 751(a)(4) of the Act.

Section 351.213(j)(2) of the Department's regulations provides that, for transition orders as defined in section 751(c)(6)(C) of the Act, *i.e.*, orders in effect on January 1, 1995, the Department will make a duty absorption determination upon request in administrative reviews initiated in 1996 or 1998. *See Antidumping Duties; Countervailing Duties: Final Rule*, 62 FR 27296, 27394, May 19, 1997. This approach ensures that interested parties will have the opportunity to request a duty absorption determination prior to sunset reviews for entries for which the second and fourth years following an order have already passed. Because the order on certain hot-rolled lead and bismuth carbon steel products from the United Kingdom has been in effect since 1993, this is a transition order within the meaning of section 751(c)(6)(C) of the Act. Thus, as there has been a request for an absorption determination in this review (initiated in 1998), we are making a duty-absorption determination.

On January 29, 1999, the Department requested proof that unaffiliated purchasers will ultimately pay the antidumping duties to be assessed on entries during the review period. BSES did not respond to the Department's request for information. Accordingly, based on the record, we cannot conclude that the unaffiliated purchaser in the United States will pay the ultimately assessed duty. Therefore, we find that antidumping duties have been absorbed by the producer or exporter during the POR.

We have determined that there is a dumping margin on 63.37 percent of BSES's U.S. sales during the POR. Under these circumstances, therefore, we find that antidumping duties have been absorbed by BSES on 63.37 percent of its U.S. sales of subject merchandise.

Interested Party Comments

Comment 1: Model Matching Methodology

BSES argues that the Department should use dimension ranges rather than exact sizes to match products in this review. According to BSES, matching by size range has the advantage of including more home market sales in normal value (NV), which lessens the possibility that NV will be based on small quantities of non-representative sales. BSES further states that there is an objective and relevant system of dimension ranges inherent in its published price list. Moreover, because the Department has decided to employ dimension ranges in the matching methodology in future reviews, BSES asserts that such ranges should also be used in the present review. BSES adds that the petitioners supported matching dimension ranges in past reviews.

BSES also suggests that in order to decrease distortion and improve its matching methodology, the Department should place the product characteristic that identifies whether the product is in coils or straight (cut) ahead of the product characteristic that identifies the cross-sectional shape of the steel (shape). BSES argues that, because shape is preferred under the Department's current methodology, the Department might match, for example, a hexagonal bar in coil to a hexagonal straight bar, even though coiled bar has different costs, and thus prices, than straight bar of the same diameter and shape. Accordingly, BSES contends that it is important to match coiled bar to coiled bar, and straight bar to straight bar.

The petitioners argue that the Department should not change its model matching methodology at this late point in the current administrative review. The petitioners assert that the Department apparently has not yet decided whether to use actual sizes or size ranges in the 1998–1999 review, nor has it had the opportunity to test the suggested size ranges during a review, such as at a verification. Accordingly, the petitioners urge the Department to reject BSES's request and to continue to use actual size rather than size ranges for model matching purposes in this review.

Furthermore, the petitioners argue that the Department should reject BSES's proposed ranking of cut over shape in the model matching methodology. The petitioners claim that shape is a much more significant matching characteristic than cut, because any shape other than round requires a significant slowdown of the mill, which greatly increases production costs. The petitioners contend that this cost increase is a much more significant cost difference than that involved in the production of coiled versus straight bar. Finally, the petitioners argue that the Department apparently has rejected any revised ranking of cut and shape for purposes of the 1998–1999 review. Therefore, according to the petitioners,

the Department should maintain its ranking of shape before cut in the model matching hierarchy.

DOC Position: In the preliminary results of this review, we matched products by exact size rather than by dimension range, and prioritized cut before shape in the model match hierarchy, as we have done throughout the history of this case. The issue of revising the model matching methodology was first raised during the briefing stage of this administrative review, and was precipitated by our solicitation of comments on model matching for the purposes of the 1998–1999 review, and our issuance of a questionnaire for that review period. (*See* Letters from Irene Darzenta Tzafolias dated April 14, 1999 and June 10, 1999, placed on the record of the 1998–1999 administrative review.) Although we have requested dimension range information for purposes of the 1998–1999 review, we have not yet received and analyzed such information. Furthermore, there is insufficient information on the record of the 1997–1998 review with respect to cut and shape to compel us to change the established matching hierarchy at this late stage of the review. Therefore, we have not revised the model matching methodology in these final results.

Comment 2: Arm's -Length Test

BSES argues that the Department's arm's-length test program ignores the levels of trade that the Department identified in the preliminary results, comparing prices between affiliated and unaffiliated customers regardless of level of trade. In so doing, BSES claims that the program erroneously causes some customers to fail the arm's-length test. BSES states that the Department has accounted for the effect of level of trade on price, and has performed the arm's-length test by level of trade in other recent cases, such as *Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429, 68432, December 11, 1998 (*Pasta from Turkey*). BSES adds that, by comparing sales prices to unaffiliated customers with sales prices to affiliated customers at the same level of trade, the arm's-length test is not distorted by comparing prices at different levels of trade. Accordingly, BSES asserts, the Department should follow its standard practice in the final results, and account for level of trade in performing the arm's-length test. BSES submits computer programming language to accomplish this change.

BSES also argues that the preliminary margin program contains a clerical error that caused the inadvertent exclusion of customers from the arm's-length test before the price comparisons were complete. Specifically, when the program failed to find an unaffiliated product match for an affiliated customer, it disqualified that affiliated customer from the test before testing whether the other products sold to that affiliated customer are also sold to unaffiliated customers. BSES contends that if the test is performed correctly, additional affiliated customers pass the arm's-length test. Accordingly, BSES argues, the Department should correct this clerical error for purposes of the final results. BSES submits computer programming language that would correct this error.

The petitioners argue that BSES's suggested computer programming language incorporating level of trade into the arm's-length test appears to be incomplete, because it does not allow for price comparisons at different levels of trade if no product match can be found at the same level of trade. Accordingly, the petitioners contend that the Department should not implement BSES'' suggested programming language.

With regard to the clerical error that BSES alleges erroneously excludes customers from the data base before completion of the arm's-length test on all sales to those customers, the petitioners do not object to the correction of this error.

DOC Position: We agree with BSES that the preliminary arm's-length test should have accounted for level of trade in making affiliated to unaffiliated price comparisons, in accordance with the Department's practice. *See Pasta from Turkey* at 63 FR at 68432. We also agree with BSES'' suggested programming language in this regard, and have changed the arm's-length test program accordingly in the final results.

We disagree with the petitioners that BSES's suggested programming language is incomplete because it does not allow for price comparisons at different levels of trade if no product match can be found at the same level of trade. The purpose of the methodology employed in the Department's arm's-length test is to compare sales prices to unaffiliated customers to sales prices to affiliated customers at the same level of trade. *See Pasta from Turkey*. As BSES points out in its case brief, in this way the arm's-length test measures the true relationship between these prices and is not distorted by price differences attributable to differentiation in levels of trade. Therefore, we have used only those sales of identical products at the same level of trade in making the arm's-length price comparisons.

Finally, we agree with BSES that a clerical error in the arm's-length test prevented the program from performing a complete comparison of affiliated to unaffiliated customer prices. We concur with BSES'' suggested programming language in this regard, and have made the necessary corrections to the computer program for the final results.

Final Results of the Review

As a result of this review, we have determined that the following margin exists for the period March 1, 1997 through February 28, 1998:

Manufacturer/exporter	Period	Margin (percent)
BSES	3/1/97–2/28/98	6.17

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries. We have calculated an importer-specific assessment rate by aggregating the dumping margins calculated for all examined sales and dividing this amount by the total quantity sold. This rate will be assessed uniformly on all entries of that particular importer made during the POR. The Department will issue appraisement instructions directly to the Customs Service.

Further, the following deposit requirements shall be effective for all shipments of the subject merchandise from the United Kingdom that are entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided for by section 751(a)(1) of the Act: (1) The cash deposit rate for BSES will be the rate established above in the ''Final Results of Review'' section; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, or the original investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters of this merchandise will continue to be 25.82 percent, the all others rate established in the final determination of the less-than-fair-value investigation (58 FR 15324, March 22, 1993). The deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility

under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulation and the terms of an APO is a sanctionable violation.

This administrative review and notice are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: July 30, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20450 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–475–818]

Notice of Preliminary Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Italy. This review covers shipments to the United States by seven respondents during the period of review (POR) July 1, 1997, through June 30, 1998.

We preliminarily find that, for certain respondents, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service to assess antidumping duties on the subject merchandise exported by these companies.

For three respondents, we preliminarily find that sales of the subject merchandise have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–5288.

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (1998).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on certain pasta from Italy (61 FR 38547). On July 1, 1998, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order, for the period July 1, 1997 through June 30, 1998 (63 FR 35909).

In accordance with 19 CFR 351.213(b), on July 31, 1998, Borden, Inc., Hershey Pasta and Grocery Group, Inc.,[1] and Gooch Foods, Inc. (the petitioners) requested a review of the following producers and exporters of pasta from Italy: Pastificio Antonio Pallante (Pallante); Arrighi S.p.A. Industrie Alimentari (Arrighi); Barilla Alimentari S.R.L. (Barilla); N. Puglisi & F. Industria Paste Alimentare S.p.A. (Puglisi); La Molisana Industrie Alimentari S.p.A. (La Molisana); Pastificio Fratelli Pagani S.p.A. (Pagani); and Rummo S.p.A. Molino e Pastificio (Rummo). The petitioners subsequently withdrew their request for a review of Arrighi, Barilla and Pagani prior to initiation. In addition, the following producers and/or exporters of pasta from Italy requested an administrative review in accordance with 19 CFR 351.213(b)(2): Rummo; La Molisana; Puglisi; Pallante; F.lli De Cecco di Filippo Fara S. Martino S.p.A. (De Cecco); Pastificio Maltagliati S.p.A. (Maltagliati); Riscossa F.lli Mastromauro S.r.l. (Riscossa); Commercio-Rappresentanze-Export S.r.l. (Corex); Pastificio Fabianelli S.p.A. (Fabianelli); Industria Alimentari Colavita S.p.A. (Indalco); and F. Divella Molina e Pastificio (Divella). On August 27, 1998, we published the notice of initiation of this antidumping duty administrative review covering the period of July 1, 1997 through June 30, 1998 (*Notice of Initiation*, 63 FR 45796). After initiation, Divella, Fabianelli, Indalco, and Riscossa withdrew their requests for review. *See* Partial Rescission of Antidumping Duty Administrative Review section, below.

Because the Department had disregarded sales that failed the cost test during the preceding review of De Cecco, La Molisana, Puglisi and Rummo, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production (COP). Therefore, we initiated cost investigations on these four companies at the time we initiated the antidumping review.

On September 1, 1998, we issued an antidumping questionnaire[2] to all of the companies subject to review. After several extensions, the respondents submitted their responses to sections A through C (or D, where applicable) of the questionnaire by November 5, 1998.

On November 12, 1998, the petitioners alleged that Corex and Maltagliati had sold the foreign like product at prices below the COP. On December 22, 1998, we initiated a sales-below-cost investigation with respect to both companies. On December 14, 1998, the petitioners also alleged that Pallante had also sold the foreign like product at prices below the COP. We initiated a sales below cost investigation with respect to Pallante on January 4, 1999. All the companies submitted their COP responses by February 2, 1999.

The Department issued its supplemental section A questionnaires in November 1998, and supplemental sections B and C questionnaires in

[1] Effective January 1, 1999, Hershey Pasta and Grocery Group, Inc., became New World Pasta, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

January 1999. Supplemental section D questionnaires were issued in February 1999. Responses to all supplemental questionnaires were received by March 23, 1999.

We verified the sales and cost information submitted by Rummo from April 12 through April 20, 1999 and May 17 through 19, 1999. From April 22 through April 30, 1999, we verified the sales and cost information submitted by Maltagliati.

On March 12, 1999, the Department published a notice postponing the preliminary results of this review until June 30, 1999 (64 FR 12287). On June 16, 1999, the Department published a notice further postponing the preliminary results of this review until August 2, 1999 (64 FR 32213).

Partial Rescission of Antidumping Duty Administrative Review

On September 25, 1998, Divella and Fabianelli withdrew their requests for a review. Indalco withdrew its request for a review on September 29, 1998. Riscossa withdrew its request on November 17, 1998. Because there were no other requests for reviews of these companies, and because the companies' letters withdrawing their requests for review were timely filed, we are rescinding the review with respect to these companies in accordance with 19 CFR 351.213(d)(1).

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white. Also excluded are imports of organic pasta from Italy that are accompanied by the appropriate certificate issued by the Instituto Mediterraneo Di Certificazione (IMC), by Bioagricoop Scrl, by QC&I International Services, by Ecocert Italia or by Consorzio per il Controllo dei Prodotti Biologici.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States (HTSUS).* Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise subject to the order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On August 25, 1997, the Department issued a scope ruling that multicolored pasta, imported in kitchen display bottles of decorative glass that are sealed with cork or paraffin and bound with raffia, is excluded from the scope of the antidumping and countervailing duty orders. *See* Memorandum from Edward Easton to Richard Moreland, dated August 25, 1997.

(2) On July 30, 1998, the Department issued a scope ruling, finding that multipacks consisting of six one-pound packages of pasta that are shrink-wrapped into a single package are within the scope of the antidumping and countervailing duty orders. *See* letter from Susan H. Kuhbach, Acting Deputy Assistant Secretary for Import Administration, to Barbara P. Sidari, Vice President, Joseph A. Sidari Company, Inc., dated July 30, 1998.

(3) On October 23, 1997, the petitioners filed an application requesting that the Department initiate an anti-circumvention investigation against Barilla, an Italian producer and exporter of pasta. On October 5, 1998, the Department issued its final determination that, pursuant to section 781(a) of the Act, circumvention of the antidumping duty order is occurring by reason of exports of bulk pasta from Italy produced by Barilla which subsequently are repackaged in the United States into packages of five pounds or less for sale in the United States. *See Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta From Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 63 FR 54672 (October 13, 1998).

(4) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the antidumping and countervailing duty orders. On May 24, 1999 we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pounds four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum From John Brinkmann to Richard Moreland,* dated May 24, 1999.

Verification

As provided in section 782(i) of the Act, we verified sales and cost information provided by Maltagliati and Rummo. We used standard verification procedures, including on-site inspection of the manufacturers' facilities and examination of relevant sales and financial records. Our verification results are outlined in the verification reports placed in the case file.

Comparisons to Normal Value

To determine whether sales of certain pasta from Italy were made in the United States at less than fair value, we compared the export price (EP) or constructed export price (CEP) to the normal value (NV). We first attempted to compare contemporaneous sales of products sold in the U.S. and comparison markets that were identical with respect to the following characteristics: pasta shape; type of wheat; additives; and enrichment. However, we did not find any comparison market sales of merchandise that were identical in these respects to the merchandise sold in the United States. Accordingly, we compared U.S. products with the most similar merchandise sold in the comparison market based on the characteristics listed above, in that order of priority. Where there were no appropriate comparison market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773 (a)(4) of the Act.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP where the merchandise was sold directly to the first unaffiliated purchaser in the United States prior to importation and CEP was not otherwise warranted based on the facts on our record. We calculated CEP where sales to the first unaffiliated purchaser took place after importation. We based EP and CEP on the packed CIF, ex-factory, FOB, or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. Where appropriate, we reduced these prices to reflect discounts and rebates.

In accordance with section 772(c)(2) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage handling and loading

charges, export duties, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). In addition, where appropriate, we increased the EP and CEP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(C).

For CEP, in accordance with section 772(d)(1) of the Act, where appropriate, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including direct selling expenses (advertising, credit costs, warranties, and commissions paid to unaffiliated sales agents). In addition, we deducted indirect selling expenses that related to economic activity in the United States. These expenses include certain indirect selling expenses incurred in the exporting country and the indirect selling expenses of affiliated U.S. distributors. We also deducted from CEP an amount for profit in accordance with section 772 (d)(3) and (f) of the Act.

Certain respondents reported the resale of subject merchandise purchased in Italy from unaffiliated producers. Where an unaffiliated producer of the subject pasta knew at the time of the sale that the merchandise was destined for the United States, the relevant basis for the export price would be the price between that producer and the respondent. *See Dynamic Random Access Memory Semiconductors of One Megabit or Above From the Republic of Korea: Final Results of Antidumping Duty Administrative Review, Partial Rescission of Administrative Review and Notice of Determination Not to Revoke Order*, 63 FR 50867, 50876 (September 23, 1998). In this review, the unaffiliated producers knew or had reason to know at the time of sale that the ultimate destination of the merchandise was the United States because virtually all enriched pasta is sold to the United States. Accordingly, such transactions were disregarded for purposes of our analysis.

Consistent with our methodology in prior reviews (*Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6617 (February 10, 1999)), when respondents purchased pasta from other producers and we were able to identify resales of this merchandise to the United States, we excluded sales of the purchased pasta from the margin calculation. Where the purchased pasta was commingled with the respondent's production and we could not identify the resales, we examined both sales of produced pasta and resales of purchased pasta. Inasmuch as the percentage of pasta purchased by any single respondent was an insignificant part of its U.S. sales data base, we included the sales of commingled purchased pasta in our margin calculations.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV, we compared each respondent's volume of home market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1)(B) and (C) of the Act, because, with the exception of Corex, each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the home market was viable for all producers, except Corex.

Corex reported that it made no home market sales during the POR. Therefore, in accordance with section 773(a)(1)(B)(ii) of the Act, we have based NV on the price at which the foreign like product was first sold for consumption in the respondent's largest third-country market, Sweden, which had an aggregate sales quantity greater than five percent of the aggregate quantity sold in the United States.

B. Cost of Production Analysis

Before making any comparisons to normal value, we conducted a COP analysis, pursuant to section 773(b) of the Act, to determine whether the respondents' comparison market sales were made below the cost of production. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A) and packing, in accordance with section 773(b)(3) of the Act. We relied on the respondents' information as submitted, except in the specific instances discussed below.

Corex

We reclassified certain expenses reported as indirect selling expenses as G&A and revised Corex's G&A ratio. *See* Memorandum from Cindy Robinson to John Brinkmann dated August 2, 1999 (Corex Analysis Memo).

Maltagliati

For semolina cost we used the weighted-average cost of semolina, adjusted for loss in processing, found at verification. We also recalculated G&A to include payments Maltagliati made to an affiliate for financial services. *See* Memorandum from Constance Handley to John Brinkmann dated August 2, 1999 (Maltagliati Analysis Memo).

Rummo

We recalculated G&A to include rental and amortization expenses found at verification. *See* Memorandum from James Kemp to John Brinkmann dated August 2, 1999 (Rummo Analysis Memo).

Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the weighted-average COP for each respondent to their comparison market sales of the foreign like product, to determine whether these sales had been made at prices below the COP within an extended period of time in substantial quantities, and whether such prices were sufficient to permit the recovery of all costs within a reasonable period of time. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the 12 month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2) (B) and (C) of the Act. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

For one company, Corex, we found that all comparison market sales were below the COP.

Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-works, FOB or delivered prices to comparison market customers. We made deductions from the starting price for handling, loading, inland freight, warehousing, inland insurance, discounts, and rebates. In accordance with section 773(a)(6) (A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In addition, we made circumstance of sale (COS) adjustments for direct expenses, including imputed credit expenses, advertising, warranty expenses, commissions, bank charges and interest revenue, in accordance with section 773(a)(6)(C)(iii) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical, merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable costs of manufacturing for the foreign like product and subject merchandise, using POR-average costs.

We also made adjustments, in accordance with 19 CFR 351.410(e), for indirect selling expenses incurred on comparison market or U.S. sales where commissions were granted on sales in one market but not in the other (the ''commission offset''). Specifically, where commissions were granted in the U.S. market but not in the comparison market, we made a downward adjustment to normal value for the lesser of (1) The amount of the commission paid in the U.S. market, or (2) the amount of indirect selling expenses incurred in the comparison market. If commissions were granted in the comparison market but not in the U.S. market, we made an upward adjustment to normal value following the same methodology.

Sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market were treated in the same manner described above in the ''Export Price and Constructed Export Price'' section of this notice.

Normal Value Based on Constructed Value

For Corex, we could not determine the NV based on comparison market sales because there were no contemporaneous sales of a comparable product in the ordinary course of trade. Therefore, we compared the EP to CV. In accordance with section 773(e) of the Act, we calculated CV based on the sum of the cost of manufacturing of the product sold in the United States, plus amounts for SG&A expenses, profit, and U.S. packing costs. We calculated Corex's CV based on the methodology described in the ''Cost of Production Analysis'' section of this notice, above.

Because there were no above-cost comparison market sales and hence no actual company-specific profit data available for Corex's sales of the foreign like product to the comparison market, we calculated profit expenses in accordance with section 773(e)(2)(B)(i) of the Act. Section 773(e)(2)(B)(i) states that SG&A and profit may be determined on the basis of the actual amounts incurred and realized by the specific exporter or producer being examined in the investigation or review, in connection with the production and sale, for consumption in the foreign country, of merchandise that is in the same general category of products as the subject merchandise. In this case, for CV profit, we used Corex's 1997 financial statement profit margin. For SG&A, we have used Corex's actual expenses incurred in Italy on comparison market sales because this data reflects Corex's actual experience in selling the foreign like product. (*See Final Determination of Sales at Less Than Fair Value: Certain Preserved Mushrooms from Chile*, 63 FR 56613, 56615 (October 22, 1998)).

For price-to-CV comparisons, we made adjustments to CV for COS differences, in accordance with section 773(a)(8) of the Act and 19 CFR 351.410. We made COS adjustments by deducting direct selling expenses incurred on comparison market sales and adding U.S. direct selling expenses.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade as the U.S. EP and CEP sales, to the extent practicable. When there were no sales at the same level of trade, we compared U.S. sales to comparison market sales at a different level of trade. When NV is based on CV, the level of trade is that of the sales from which we derive SG&A expenses and profit.

To determine whether comparison market sales were at different levels of trade we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).

For a detailed description of our level-of-trade methodology and company-specific level of trade findings for these preliminary results, *see* the August 2, 1999, *97/98 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memoranda* on file in the Import Administration's Central Records Unit (Room B–099) of the main Commerce building. The company-specific level of trade analysis is included in the analysis memorandum for each company.

The U.S. Court of International Trade (CIT) has held that the Department's practice of determining LOTs for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Act. *See Borden, Inc.*, v. *United States*, 4 F. Supp.2d 1221, 1241–42 (CIT March 26, 1998) (*Borden*); *see also, Micron Technology, Inc.* v. *United States*, Court No. 96–06–01529, Slip Op. 99–02 at 8–15 (CIT, January 28, 1999). The Department believes, however, that its practice is in full compliance with the statute and that these CIT decisions do not contain persuasive statutory analysis. On June 4, 1999, the CIT entered final judgment in *Borden* on the LOT issue. *See Borden, Inc.*, v. *United States*, Court No. 96–08–01970, Slip Op. 99–50 (CIT, June 4, 1999). The government is considering an appeal of *Borden*. The *Micron* case is on remand to the Department for application of the *Borden* LOT decision in the underlying administrative proceeding. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) prior to starting a LOT analysis, as articulated in the Department's regulations at § 351.412.

Company-Specific Issues

Corex

We recalculated the indirect selling expense ratio based on information

submitted in January 21, 1999 section D response. *See* Corex Analysis Memo.

Maltagliati

We made corrections to both the U.S. and home market databases based on our verification findings. Specifically, we recalculated credit, inventory carrying costs, home market freight from plant to customer, home market commissions and U.S. bank charges, and indirect selling expenses and advertising in both markets. In addition, certain allocated expenses, including inland freight from plant to warehouse for U.S. sales, warehousing expense for U.S. sales, were reported correctly in the narrative portion of the response, but not in the database. We have incorporated the correct amount for those expenses into the database.

In addition, Maltagliati included a small quantity of sales in its database which it described as ''free pasta but billed to parent at full price.'' At verification, we determined that these transactions involved Maltagliati providing pasta to affiliated companies to give away as gifts. We have determined that these sales were outside the ordinary course of trade and removed them from our calculation of normal value. *See* Maltagliati Analysis Memo.

La Molisana

La Molisana claimed a level of trade adjustment on the basis of different selling activities associated with their La Molisana (''LM'') brand and private label (''PL'') products sold in both the home market and the United States. Consistent with the first review, we found that different brands are not an appropriate basis for establishing different levels of trade. *See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6624 (February 10, 1999) (Comment 10A).

Pallante

We recalculated home market warranty expenses, advertising, and imputed credit expenses. We recalculated inventory carrying costs for the U.S. and home market based on the cost of manufacture. *See Memorandum from Dennis McClure to John Brinkmann* dated August 2, 1999 (Pallante Analysis Memo).

Rummo

We recalculated U.S. credit expenses, based on the corrected pay-dates which Rummo supplied at verification. We also removed warehousing expenses and certain advertising expenses from indirect selling expenses incurred in the United States and treated them as a movement expenses and direct advertising expenses, respectively. Indirect selling expenses incurred in the United States were recalculated to reflect this change and to include other applicable expenses found at verification. We disallowed two home market billing adjustments because we were unable to tie the adjustments claimed to the sales made during the POR. *See* Rummo Analysis Memo.

Currency Conversion

For purposes of these preliminary results, we made currency conversions in accordance with section 773A(a) of the Act, based on the official exchange rates published by the Federal Reserve. Section 773A(a) of the Act directs the Department to use a daily exchange rate in order to convert foreign currencies into U.S. dollars, unless the daily rate involves a ''fluctuation.'' In accordance with the Department's practice, we have determined as a general matter that a fluctuation exists when the daily exchange rate differs from a benchmark by 2.25 percent. The benchmark is defined as the rolling average of rates for the past 40 business days. When we determine that a fluctuation exists, we substitute the benchmark for the daily rate.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 1997 through June 30, 1998:

Manufacturer/exporter	Margin (percent)
Corex	0.00
De Cecco	[1]0.48
La Molisana	18.38
Maltagliati	19.19
Pallante	3.44
Puglisi	[1]0.19
Rummo	2.99

[1] Deminimus.

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice. *See* 19 CFR 351.224(b). Any interested party may request a hearing within 30 days of the date of publication of this notice. *See* 19 CFR 351.310(c). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 7 days after the date of filing of case briefs. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments, within 120 days from the publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on appropriate entries by applying the assessment rate to the entered value of the merchandise. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service not to assess antidumping duties on Corex's, De Cecco's or Puglisi's entries of the merchandise subject to the review.

Cash Deposit Requirements

To calculate the cash-deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of certain pasta from Italy entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for the companies listed above will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 11.26

percent, the ''All Others'' rate established in the LTFV investigation. *See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Italy*, 61 FR 38547 (July 24, 1996).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration

[FR Doc. 99–20447 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–805]

Notice of Preliminary Results of Antidumping Duty Administrative Review: Certain Pasta From Turkey

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce is conducting an administrative review of the antidumping duty order on certain pasta (pasta) from Turkey. This review covers shipments to the United States by two respondents during the period of review (POR) July 1, 1997, through June 30, 1998.

We preliminarily find that, for one respondent, sales of the subject merchandise have been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service to assess antidumping duties on the subject merchandise exported by this company.

For the other respondent, we preliminarily find that sales of the subject merchandise have not been made below normal value. If these preliminary results are adopted in the final results, we will instruct the Customs Service not to assess antidumping duties on the subject merchandise exported by this company.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: John Brinkmann, Office of AD/CVD Enforcement, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–5288.

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. In addition, unless otherwise indicated, all citations to the Department of Commerce's (the Department's) regulations refer to the regulations codified at 19 CFR part 351 (1998).

Case History

On July 24, 1996, the Department published in the **Federal Register** the antidumping duty order on pasta from Turkey (61 FR 38545). On July 1, 1998, we published in the **Federal Register** the notice of ''Opportunity to Request an Administrative Review'' of this order for the period July 1, 1997 through June 30, 1998 (63 FR 35909).

In accordance with 19 CFR 351.213(b), on July 31, 1998, Borden, Inc., Hershey Pasta and Grocery Group, Inc.,[1] and Gooch Foods, Inc. (the petitioners) requested a review of Pastavilla Kartal Makarnacilik Sanayi ve Ticaret A.S. (Pastavilla). On July 31, 1998, Maktas Makarnacilik ve Tic. A.S. (Maktas) and Pastavilla, requested an administrative review, in accordance with 19 CFR 351.213(b)(2). On August 27, 1998, we published the notice of initiation of this antidumping duty administrative review covering the period of July 1, 1997 through June 30, 1998 (*Notice of Initiation*, 63 FR 45796).

Because the Department had disregarded sales that failed the cost test during the preceding review of Pastavilla and during the investigation of Maktas, pursuant to section 773(b)(2)(A)(ii) of the Act, we had reasonable grounds to believe or suspect that sales by these companies of the foreign like product under consideration for the determination of normal value in this review may have been made at prices below the cost of production. Therefore, we initiated cost investigations on these two companies at the time we initiated the antidumping review.

On September 1, 1998, we issued an antidumping questionnaire to Maktas and Pastavilla.[2] Pastavilla submitted its section A questionnaire response on October 6, 1998, and sections B, C, and D on November 5, 1998. We received Maktas's response to section A on September 23, 1998, and sections B, C, and D on October 26, 1998.

The Department issued supplemental questionnaires to Pastavilla for sections B and C on January 27, 1999, and section D on February 8, 1999. On February 17, 1999, we issued to Maktas a supplemental questionnaire for sections A, B, C, and D. Pastavilla submitted its response to our supplemental questionnaires for sections B, C, and D on February 24, 1999. Maktas submitted its response to our supplemental questionnaire on March 23, 1999.

We issued a second supplemental questionnaire to Pastavilla for sections B and D on March 11, 1999. Pastavilla submitted its response to our second supplemental questionnaire on March 18, 1999.

On March 12, 1999, the Department published a notice postponing the preliminary results of this review until June 30, 1999 (64 FR 12287). On June 16, 1999, the Department published a notice further postponing the preliminary results of this review until August 2, 1999 (64 FR 32213).

Scope of Review

Imports covered by this review are shipments of certain non-egg dry pasta in packages of five pounds (2.27 kilograms) or less, whether or not enriched or fortified or containing milk or other optional ingredients such as chopped vegetables, vegetable purees, milk, gluten, diastases, vitamins, coloring and flavorings, and up to two percent egg white. The pasta covered by this scope is typically sold in the retail market, in fiberboard or cardboard cartons, or polyethylene or polypropylene bags, of varying dimensions.

Excluded from the scope of this review are refrigerated, frozen, or

[1] Effective January 1, 1999, Hershey Pasta and Grocery Group, Inc., became New World Pasta, Inc.

[2] Section A of the questionnaire requests general information concerning a company's corporate structure and business practices, the merchandise under review that it sells, and the sales of the merchandise in all of its markets. Sections B and C of the questionnaire request comparison market sales listings and U.S. sales listings, respectively. Section D requests additional information about the cost of production of the foreign like product and constructed value of the merchandise under review.

canned pastas, as well as all forms of egg pasta, with the exception of non-egg dry pasta containing up to two percent egg white.

The merchandise subject to review is currently classifiable under item 1902.19.20 of the *Harmonized Tariff Schedule of the United States (HTSUS).* Although the *HTSUS* subheading is provided for convenience and customs purposes, the written description of the merchandise under order is dispositive.

Scope Rulings

The Department has issued the following scope rulings to date:

(1) On October 26, 1998, the Department self-initiated a scope inquiry to determine whether a package weighing over five pounds as a result of allowable industry tolerances may be within the scope of the antidumping and countervailing duty orders. On May 24, 1999, we issued a final scope ruling finding that, effective October 26, 1998, pasta in packages weighing or labeled up to (and including) five pound four ounces is within the scope of the antidumping and countervailing duty orders. *See Memorandum from John Brinkmann to Richard Moreland,* dated May 24, 1999.

Comparisons to Normal Value

To determine whether sales of pasta from Turkey were made in the United States at less than fair value, for Pastavilla, we compared the constructed export price (CEP) to the normal value (NV); for Maktas, we compared the export price (EP) to the NV. Because Turkey's economy experienced high inflation during the POR (over 60 percent), as is Department practice, we limited our comparisons to comparison market sales made during the same month in which the U.S. sale occurred and did not apply our ''90/60 contemporaneity rule'' (*see, e.g., Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68430 (December 11, 1998) and *Certain Porcelain on Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review,* 62 FR 42496, 42503 (August 7, 1997)). This methodology minimizes the extent to which calculated dumping margins are overstated or understated due solely to price inflation that occurred in the intervening time period between the U.S. and comparison market sales. We attempted to compare sales of products sold in the U.S. and comparison market within the same month that were identical with respect to the following characteristics: pasta shape; type of wheat; additives; and enrichment. When we did not find any comparison market sales of merchandise that were identical in these respects to the merchandise sold in the United States, we compared U.S. products with the most similar merchandise sold in the comparison market based on the characteristics listed above, in that order of priority.

Export Price and Constructed Export Price

For the price to the United States, we used, as appropriate, EP or CEP, in accordance with sections 772(a) and (b) of the Act. We calculated EP where the merchandise was sold directly to the first unaffiliated purchaser in the United States or to an unaffiliated trading company in Turkey prior to importation and CEP was not otherwise warranted based on the facts on our record. We calculated CEP where sales to the first unaffiliated purchaser took place after importation into the United States. We based EP and CEP on packed CIF, ex-factory, FOB or delivered prices to the first unaffiliated customer in, or for exportation to, the United States. Where appropriate, we reduced these prices to reflect discounts.

In accordance with section 772(c)(2)(A) of the Act, we made deductions, where appropriate, for movement expenses including inland freight from plant or warehouse to port of exportation, foreign brokerage and handling, international freight, marine insurance, U.S. duties, and U.S. inland freight expenses (freight from port to the customer). In accordance with section 772(c)(1)(B) of the Act, for Maktas, we added to the EP the amount of duty drawback on imported durum wheat. In addition, we increased the EP and CEP by the amount of the countervailing duties paid that were attributable to an export subsidy, in accordance with section 772(c)(1)(C) of the Act.

For CEP, in accordance with section 772(d)(1) of the Act, we deducted from the starting price those selling expenses that were incurred in selling the subject merchandise in the United States, including imputed credit costs and indirect selling expenses that related to economic activity in the United States. We also deducted from CEP an amount for profit in accordance with section 772(d)(3) and (f) of the Act.

Normal Value

A. Selection of Comparison Markets

In order to determine whether there was a sufficient volume of sales in the comparison market to serve as a viable basis for calculating NV, we compared Pastavilla's and Maktas' volume of comparison market sales of the foreign like product to the volume of their U.S. sales of the subject merchandise. Pursuant to sections 773(a)(1) (B) and (C) of the Act, because each respondent's aggregate volume of comparison market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined that the comparison market was viable for both Pastavilla and Maktas.

B. Cost of Production Analysis

Before making any comparisons to normal value, we conducted a COP analysis, pursuant to section 773(b) of the Act, to determine whether Pastavilla's and Maktas' comparison market sales were made below the cost of production. We calculated the COP based on the sum of the cost of materials and fabrication for the foreign like product, plus amounts for selling, general, and administrative expenses (SG&A) and packing, in accordance with section 773(b)(3) of the Act. We relied on Pastavilla's and Maktas' information as submitted, except in the specific instances discussed below.

As noted above, we determined that the Turkish economy experienced high inflation during the POR. Therefore, to avoid the distortive effect of inflation on our comparison of costs and prices, we requested that Pastavilla and Maktas submit the product-specific cost of manufacturing (COM) incurred during each month of the POR. We calculated a POR-average COM for each product after indexing the reported monthly costs during the POR to an equivalent currency level using the Turkish wholesale price index from the *International Financial Statistics* published by the International Monetary Fund (IMF). We then restated the POR-average COM to the cost respective of each month.

Pastavilla

We recalculated the G&A and interest factors, using the wholesale price index from the *International Financial Statistics* published by the IMF, to be consistent with our indexation of other costs used in calculating cost of production and constructed value. (*See Analysis Memorandum to John Brinkmann from Dennis McClure* dated August 2, 1999, for further details.)

Maktas

Maktas was not able to provide the requested production quantities for its revised control numbers. Therefore, we have calculated a weighted-average cost based on the production quantities

originally reported for each control number. (*See Analysis Memorandum to John Brinkmann from Cindy Robinson* dated August 2, 1999, for further details.)

Test of Comparison Market Prices

As required under section 773(b) of the Act, we compared the product-specific monthly COPs (less selling expenses) to comparison market sales of the foreign like product in order to determine whether sales had been made at prices below the COP. We determined the net comparison market prices for the below-cost test by subtracting from the gross unit price any applicable movement charges, discounts, rebates, direct and indirect selling expenses, and packing expenses.

Results of COP Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of sales of a given product were at prices less than the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of a respondent's sales of a given product during the 12 month period were at prices less than the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time, in accordance with section 773(b)(2)(B) and (C) of the Act. In such cases, because we compared prices to POR-average costs (indexed for inflation), we also determined that such sales were not made at prices which would permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act. Therefore, for purposes of this administrative review, we disregarded the below-cost sales and used the remaining sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act.

Calculation of Normal Value Based on Comparison Market Prices

We calculated NV based on ex-factory or delivered prices to comparison market customers. We made deductions from the starting price for loading, inland freight, inland insurance, discounts, and rebates. In accordance with section 773(a)(6)(A) and (B) of the Act, we deducted comparison market packing costs and added U.S. packing costs. In addition, we made circumstance of sale adjustments for direct expenses, including imputed credit expenses, advertising, Export/Import Bank insurance against non-payment, and warranty expenses, in accordance with section 773(a)(6)(C)(iii) of the Act.

When comparing U.S. sales with comparison market sales of similar, but not identical merchandise, we also made adjustments for physical differences in the merchandise in accordance with section 773(a)(6)(C)(ii) of the Act. We based this adjustment on the difference in the variable cost of manufacturing for the foreign like product and subject merchandise, using POR-average costs indexed for inflation.

Consistent with our methodology in prior reviews (*Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Italy*, 64 FR 6615, 6617 (February 10, 1999)), where possible we excluded sales of pasta purchased by the respondents from unaffiliated producers and resold in the comparison market from our analysis. However, where the purchased pasta was commingled with the respondent's production and we could not identify the resales, we examined both sales of the produced pasta and resales of the purchased pasta in the comparison market. Since we found the percentage of pasta purchased by any single respondent to be an insignificant part of its comparison market sales data base, we included the sales of commingled purchased pasta in our margin calculations.

Sales to Affiliated Parties

Pastavilla and its affiliated comparison market distributor made home-market sales to certain affiliated grocery stores during the POR. The individual sales of pasta by these affiliated grocery stores to their unaffiliated customers were not available. Therefore, in accordance with § 351.403(c) of the Department's regulations, we performed an analysis to determine whether the prices to the affiliated grocery stores were comparable to the prices to unaffiliated parties. Examining identical products only, we compared Pastavilla's and its comparison market distributor's prices to each affiliated party to prices charged to all unaffiliated customers, net of all movement charges, discounts, rebates, direct expenses, and packing. Where prices to an affiliated party were on average 99.5 percent or more of the price to the unaffiliated parties, we determined that sales made to that affiliated party were at arm's length (*see* 19 CFR 351.403(c) and *Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey*, 63 FR 68429, 68430 (December 11, 1998)). We only included in our margin analysis sales to affiliated parties that were made at arm's length.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, we determined NV based on sales in the comparison market at the same level of trade as the U.S. EP and CEP sales, to the extent practicable. When there were no sales at the same level of trade, we compared U.S. sales to comparison market sales at a different level of trade.

To determine whether comparison market sales were at different levels of trade we examined stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated (or arm's length) customers. If the comparison-market sales were at a different level of trade and the differences affected price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the level of trade of the export transaction, we made a level-of-trade adjustment under section 773(a)(7)(A) of the Act.

Finally, if the NV level was more remote from the factory than the CEP level and there was no basis for determining whether the difference in levels between NV and CEP affected price comparability, we granted a CEP offset, as provided in section 773(a)(7)(B) of the Act. (*See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cut-to-Length Carbon Steel Plate from South Africa*, 62 FR 61731 (November 19, 1997).)

For a detailed description of our level-of-trade methodology and company-specific level of trade findings for these preliminary results, *see* the August 2, 1999, *97/98 Administrative Review of Pasta from Italy and Turkey: Level of Trade Findings Memoranda* on file in the Import Administration's Central Records Unit (Room B–099) of the main Commerce building. The company-specific level of trade analysis is included in the analysis memorandum for each company.

The U.S. Court of International Trade (CIT) has held that the Department's practice of determining LOTs for CEP transactions after CEP deductions is an impermissible interpretation of section 772(d) of the Act. *See Borden, Inc.*, v. *United States*, 4 F. Supp.2d 1221, 1241–42 (CIT 1998) (*Borden*); *see also, Micron Technology, Inc.* v. *United States*, Court No. 96–06–01529, Slip Op. 99–02 at 8–15 (CIT, January 28, 1999). The Department believes, however, that its practice is in full compliance with the statute and that these CIT decisions do

not contain persuasive statutory analysis. On June 4, 1999, the CIT entered final judgment in *Borden* on the LOT issue. *See Borden, Inc.,* v. *United States,* Court No. 96–08–01970, Slip Op. 99–50 (CIT, June 4, 1999). The government is considering an appeal of *Borden*. The *Micron* case is on remand to the Department for application of the *Borden* LOT decision in the underlying administrative proceeding. Consequently, the Department has continued to follow its normal practice of adjusting CEP under section 772(d) prior to starting a LOT analysis, as articulated in the Department's regulations at § 351.412.

Company-Specific Issues

Maktas

We recalculated comparison market credit expenses to account for both reported billing adjustments, where appropriate. We also recalculated inventory carrying costs for the comparison market. *See Analysis Memorandum to John Brinkmann from Cindy Robinson* dated August 2, 1999, for further details.

Pastavilla

We reclassified Pastavilla's comparison market channel of trade and customer category for one observation. We recalculated comparison market imputed credit expenses, indirect selling expenses, and inventory carrying costs. In addition, we have recalculated inventory carrying costs for U.S. sales. *See Analysis Memorandum to John Brinkmann from Dennis McClure* dated August 2, 1999, for further details.

Currency Conversion

Because this proceeding involves a high-inflation economy, we limited our comparison of U.S. and comparison market sales to those occurring in the same month (as described above) and used daily exchange rates. (*See Notice of Final Results and Partial Rescission of Antidumping Duty Administrative Review: Certain Pasta From Turkey,* 63 FR 68429, 68430 (December 11, 1998).)

The Department's preferred source for daily exchange rates is the Federal Reserve Bank. However, the Federal Reserve Bank does not track or publish exchange rates for the Turkish Lira. Therefore, we made currency conversions based on the daily exchange rates from the Dow Jones Service, as published in the Wall Street Journal.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following percentage weighted-average margins exist for the period July 1, 1997 through June 30, 1998:

Manufacturer/exporter	Margin (percent)
Maktas	1.57
Pastavilla	0.00

We will disclose the calculations used in our analysis to parties to this proceeding within five days of the publication date of this notice (*see* 19 CFR 351.224(b)). Any interested party may request a hearing within 30 days of the date of publication of this notice. (*see* 19 CFR 351.310(c)). Any hearing, if requested, will be held 44 days after the date of publication, or the first workday thereafter. Interested parties may submit case briefs within 30 days of the date of publication of this notice. Parties who submit case briefs in this proceeding should provide a summary of the arguments not to exceed five pages and a table of statutes, regulations, and cases cited. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than seven days after the date of filing of case briefs. The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of issues raised in any such written comments, within 120 days from the publication of these preliminary results.

Assessment Rate

Pursuant to 19 CFR 351.212(b), the Department calculated an assessment rate for each importer of the subject merchandise. Upon completion of this review, the Department will instruct the U.S. Customs Service to assess antidumping duties on all appropriate entries by applying the assessment rate to its entered value of the merchandise. If these preliminary results are adopted in our final results, we will instruct the U.S. Customs Service to assess antidumping duties on Maktas' entries of the merchandise subject to the review. We will instruct Customs Service not to assess antidumping duties on Pastavilla's entries of the merchandise subject to the review.

Cash Deposit Requirements

To calculate the cash deposit rate for each producer and/or exporter included in this administrative review, we divided the total dumping margins for each company by the total net value for that company's sales during the review period.

Furthermore, the following deposit rates will be effective upon publication of the final results of this administrative review for all shipments of pasta from Turkey entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rates for Pastavilla and Maktas will be the rate established in the final results of this review, except if the rate is less than 0.5 percent and, therefore, *de minimis*, the cash deposit will be zero; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent final results in which that manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent final results for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in this or any previous review conducted by the Department, the cash deposit rate will be 51.49 percent, the ''All Others'' rate established in the LTFV investigation (*See Notice of Antidumping Duty Order and Amended Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 38546 (July 24, 1996)).

These cash deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20448 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–805]

Notice of Extension of Time Limits for the Preliminary Results of Administrative Review of the Suspension Agreement on Silicomanganese From Ukraine

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limits for the preliminary results of administrative review of the suspension agreement on silicomanganese from Ukraine.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limits for the preliminary results of the administrative review on the suspension agreement on silicomanganese from Ukraine.

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Carrie Blozy or Rick Johnson; Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0165 or (202) 482–3818, respectively.

Extension of Preliminary Results

The Department published its notice of initiation of this review in the **Federal Register** on December 23, 1998 (63 FR 71091). Because it is not practicable to issue the preliminary results of review by the current deadline of August 2, 1999, the Department is extending the time limits for the preliminary results of the aforementioned review 120 days, to November 30, 1999, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930 (''the Act''), as amended by the Uruguay Round Agreements Act of 1994 (for a further discussion, *see* the August 2, 1999 *Decision Memorandum from Joseph A. Spetrini to Robert S. LaRussa: Request to Extend Preliminary Results in the Review of the Antidumping Duty Suspension Agreement on Silicomanganese from Ukraine*).

This extension of time limits is in accordance with section 751(a)(3)(A) of the Act.

Dated: August 2, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, AD/CVD Enforcement Group III.

[FR Doc. 99–20453 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–351–806]

Silicon Metal From Brazil: Preliminary Results, Intent To Revoke in Part, Partial Rescission of Antidumping Duty Administrative Review, and Extension of Time Limits.

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of preliminary results, intent to revoke in part, partial rescission of antidumping duty administrative review, and extension of time limits.

SUMMARY: In response to requests by American Silicon Technologies, Elkem Metals Company, and Globe Metallurgical, Inc. (petitioners), and by Companhia Brasileira Carbureto De Calcio (CBCC), Ligas de Aluminio S.A. (LIASA), and RIMA Industrial S/A (RIMA), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on silicon metal from Brazil. The period of review (POR) is July 1, 1997 through June 30, 1998.

We preliminarily determine that one respondent (Eletrosilex S.A. (Eletrosilex)) sold subject merchandise at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of administrative review, we will instruct Customs to assess antidumping duties on all appropriate entries. We invite interested parties to comment on the preliminary results. Parties who submit comments in this proceeding should also submit with the argument: (1) A statement of the issue(s), and (2) a brief summary of the argument (not to exceed five pages).

EFFECTIVE DATE: August 9, 1999.

FOR FURTHER INFORMATION CONTACT: Maisha Cryor (RIMA), telephone: (202) 482–5831; Jack Dulberger (Eletrosilex), 482–5505; Mark Manning (LIASA), 482–3936, Zev Primor (CBCC), 482–4114; AD/CVD Enforcement, Office Four, Group II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC. 20230.

SUPPLEMENTARY INFORMATION:

The Applicable Statute

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Act), are references to the provisions effective January 1, 1995, the effective date of the amendments made to 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 July 31, 1991, the Department published in the **Federal Register** the antidumping duty order on silicon metal from Brazil (56 FR 36135). On July 1, 1998, the Department published in the **Federal Register** a notice of opportunity to request an administrative review of the antidumping duty order on silicon metal from Brazil for the period July 1, 1997 through June 30, 1998 (63 FR 35909). On July 29, 1998, in accordance with 19 CFR 351.213(b)(1), LIASA and RIMA requested that the Department conduct an administrative review of their respective sales. On July 30, 1998, CBCC requested that the Department conduct an administrative review of its sales and revoke the order with respect to CBCC pursuant to 19 CFR 351.222(e). On July 31, 1998, petitioners requested that the Department conduct an administrative review of sales made by CBCC, Eletrosilex, LIASA, Companhia Ferroligas Minas Gerais—Minasligas (Minasligas), and RIMA. On August 27, 1998, in accordance with 19 CFR 351.221(b)(1), the Department published in the **Federal Register** a notice of initiation of this antidumping duty administrative review (63 FR 45796). On September 18, 1998, the Department issued the antidumping administrative review questionnaire (antidumping questionnaire) to the respondents. The Department is conducting this review in accordance with section 751 of the Act.

The Department received questionnaire responses in October, November, and December 1998. We issued supplemental questionnaires to the parties in April, May, and June 1999, and received responses to these supplemental questionnaires in April, May, June, and July 1999.

Extension of Time Limits

On February 9, 1999 in accordance with section 751(a)(3)(A) of the Act, the Department published in the **Federal Register** its notice extending the deadline for the preliminary results until July 31, 1999 (64 FR 6325).

Additionally, because it is not practicable to complete the final results of this review within the initial time limit established by the URAA (120 days after the date on which the preliminary results are published), in

accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limit for completion of the final results until 180 days after the date of publication of these preliminary results. *See* the Memorandum from Bernard T. Carreau to Robert S. LaRussa, dated August 2, 1999, on file in the Central Records Unit (CRU) located in room B–099 of the main Department of Commerce building.

Scope of Review

The merchandise covered by this administrative review is silicon metal from Brazil containing at least 96.00 percent but less than 99.99 percent silicon by weight. Also covered by this administrative review is silicon metal from Brazil containing between 89.00 and 96.00 percent silicon by weight but which contains more aluminum than the silicon metal containing at least 96.00 percent but less than 99.99 percent silicon by weight. Silicon metal is currently provided for under subheadings 2804.69.10 and 2804.69.50 of the Harmonized Tariff Schedule (HTS) as a chemical product, but is commonly referred to as a metal. Semiconductor grade silicon (silicon metal containing by weight not less than 99.99 percent silicon and provided for in subheading 2804.61.00 of the HTS) is not subject to the order. Although the HTS item numbers are provided for convenience and for U.S. Customs purposes, the written description remains dispositive.

Period of Review

The POR is July 1, 1997 through June 30, 1998.

Verification

Following the publication of these preliminary results, we plan to verify, as provided in section 782(i) of the Act, sales and cost information submitted by CBCC. At that verification, we will use standard verification procedures, including on-site inspection of the manufacture's facilities, the examination of relevant sales and financial records, and the selection of original source documentation containing relevant information. We plan to prepare a verification report outlining our verification results and place this report on file in the CRU.

Partial Rescission: Minasligas

Minasligas claimed to have made no shipments of silicon metal from Brazil to the United States during the POR. As a result of our analysis of factual information submitted to us during the course of this review, we have determined that Minasligas made no shipments of silicon metal from Brazil to the United States during the POR. We confirmed with the United States Customs Service (Customs) that Minasligas did not have entries of subject merchandise during the POR. Therefore, we are rescinding the review with respect to Minasligas.

Intent To Revoke

On July 30, 1998, CBCC submitted a request, in accordance with 19 CFR 351.222(e), that the Department revoke the order covering silicon metal from Brazil with respect to its sales of this merchandise. In accordance with 19 CFR 351.222(e)(1), the request was accompanied by certifications from CBCC that for a consecutive three-year period, including this review period, it had sold the subject merchandise in commercial quantities at not less than normal value (NV), and would not do so in the future. CBCC also agreed to its immediate reinstatement in the relevant antidumping order, as long as any firm is subject to the order, if the Department concludes under 19 CFR 351.216 that, subsequent to revocation, it sold the subject merchandise at less than NV.

On January 28, 1999, the Department requested additional information from CBCC and interested parties regarding CBCC's revocation request. We received comments from CBCC and from petitioners in June 1999.

The Department's regulations at 19 CFR 351.222(e)(1) require, inter alia, that a company requesting revocation must submit the following: (1) A certification that the company has sold the subject merchandise at not less than NV in the current review period and that the company will not sell at less than NV in the future; (2) a certification that the company sold the subject merchandise in commercial quantities during each of the three years forming the basis of the request; and (3) an agreement to reinstatement of the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. Upon receipt of such a request, the Department may revoke an order, in part, if it concludes that (1) the company in question has sold subject merchandise at not less than NV for a period of at least three consecutive years; (2) it is not likely that the company will in the future sell the subject merchandise at less than NV; and (3) the company has agreed to its immediate reinstatement in the order if the Department concludes that the company, subsequent to the revocation, sold subject merchandise at less than NV. *See* 19 CFR 351.222(b)(2).

Petitioners do not challenge CBCC's fulfilment of the certification requirements. However, petitioners oppose CBCC's claims that it sold silicon metal in the United States in commercial quantities during the last three PORs and that it is not likely to sell its merchandise in the future at less than NV.

In determining whether the three years of no dumping are a sufficient basis to make a revocation determination, the Department must be able to determine that the company has continued to participate meaningfully in the U.S. market during each of the three years at issue. *See Pure Magnesium from Canada: Final Results of Antidumping Duty Administrative Reviews and Determination Not To Revoke in Part,* 64 FR 12977 (March 16, 1999) (*Pure Magnesium from Canada*). This practice is codified at 19 CFR 351.222(d)(1), which states that, ''before revoking an order or terminating a suspended investigation, the Secretary must be satisfied that, during each of the three (or five) years, there were exports to the United States in commercial quantities of the subject merchandise to which a revocation or termination will apply.'' For purposes of revocation, the Department must be able to determine that past margins are reflective of a company's normal commercial activity. Sales during the POR which, in the aggregate, are an abnormally small quantity do not provide a reasonable basis for determining that the discipline of the order is no longer necessary to offset dumping.

After review of the record, in the present case, the Department has preliminarily found that CBCC has had zero or *de minimis* dumping margins for four consecutive reviews. Although in one of the four years the sales were not as extensive as in the other three years, we note that sales in the remaining three years were all made in commercial quantities. Furthermore, CBCC shipped progressively more silicon metal to the United States in each of those three years (*i.e.*, these three years represent, respectively, approximately 30, 45, and 70 percent in comparison with the quantity shipped during the period of investigation). Moreover, while increasing its sales volume, CBCC maintained zero or *de minimis* margins despite the fact that the last three years were marked with depressed prices and global oversupply of silicon metal. CBCC has also agreed to its immediate reinstatement in the order if we conclude, subsequent to the revocation, that CBCC has sold the subject merchandise at less than NV.

Based on its four consecutive years of zero or *de minimis* margins, three of which had exports to the United States in significant commercial quantities, CBCC's reinstatement agreement, and the absence of evidence to the contrary, we conclude that it is not likely that CBCC will sell subject merchandise in the United States at less than normal value. Consequently, as a result of our analysis of factual information submitted to us during the course of this review, we have preliminarily determined to revoke this order with respect to CBCC.

Normal Value Comparisons

To determine whether sales of silicon metal by the Brazilian respondents to the United States were made at less than normal value, we compared export price (EP) to the NV, as described in the ''*Export Price*'' and ''*Normal Value*'' sections of this notice, below. In accordance with section 777A(d)(2) of the Act, we calculated monthly weighted-average prices for NV and compared these to individual EP transactions.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by the respondents, covered by the description in the ''*Scope of Review*'' section, above, to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. Further, based on comments submitted by the respondents and petitioners in this segment of the proceeding, we have preliminarily determined all silicon metal meeting the description of the merchandise under the ''*Scope of Review*'' section, above (with the exception of slag and contaminated products) to be identical products for purposes of model-matching. Therefore, where there were no sales of identical merchandise in the home market made in the ordinary course of trade to compare to U.S. sales, we compared U.S. sales to the constructed value (CV) of the product sold in the U.S. market during the comparison period.

Level of Trade

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we determine NV based on sales in the comparison market at the same level of trade (LOT) as the EP transaction. The NV LOT is that of the starting-price sales in the comparison market or, when NV is based on CV, that of the sales from which we derive selling, general and administrative (SG&A) expenses and profit. For EP sales, the U.S. LOT is also the level of the starting-price sale, which is usually from the exporter to the importer.

To determine whether NV sales are at a different LOT than EP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the unaffiliated customer. If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act.

In determining whether separate LOTs actually existed in the home and U.S. markets for each respondent, we examined whether the respondent's sales involved different marketing stages (or their equivalent) based on the channel of distribution, customer categories, and selling functions (or services offered) to each customer or customer category, in both markets.

CBCC reported sales through one LOT, consisting of three customer categories (*i.e.*, original equipment manufacturers, distributors and silicon metal producers) which also represent three channels of distribution for its home market sales. CBCC reported only EP sales in the U.S. market. For EP sales, CBCC reported one customer category and one channel of distribution (*i.e.*, direct sales to an unaffiliated trading company, for sale to the U.S. market). CBCC claimed in its response that EP sales were made at the same LOT as home market sales to unaffiliated customers. For this reason, CBCC has not asked for a LOT adjustment to NV for comparison to its EP sales.

In analyzing CBCC's selling activities for the home and U.S. market, we determined that essentially the same services were provided for both markets. These selling activities in both markets were minimal in nature and usually limited to arranging for freight, if requested by the customer. No other services were rendered for either home market or EP sales. Therefore, based upon this information, we have preliminarily determined that the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for CBCC.

Rima reported sales through one channel of distribution to one customer category (*i.e.*, original equipment manufacturers) for home market sales. In the U.S. market, Rima reported EP sales through one channel of distribution to one customer category (*i.e.*, end users). In its response, Rima stated that it performs the same type of services for home market customers as it does for its foreign market customers. For this reason, Rima has not requested a LOT adjustment.

In analyzing Rima's selling activities for the home and U.S. market, we determined that essentially the same services were provided for both markets. These selling activities in both markets were minimal in nature and limited to arranging for freight and delivery. Therefore, based upon this information, we have preliminarily determined that the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for CBCC.

Eletrosilex reported sales through one LOT consisting of two customer categories (i.e., original equipment manufacturers and retailers) which represent one channel of distribution for its home market sales. Eletrosilex reported only EP sales in the U.S. market. For EP sales, Eletrosilex reported one customer category and one channel of distribution (*i.e.*, direct sales to original equipment manufacturers). Eletrosilex claimed in its response that its U.S. and home market sales were made at the same LOT. For this reason, Eletrosilex has not asked for a LOT adjustment to NV for comparison to its EP sales.

In analyzing Eletrosilex's selling activities for the home and U.S. market, we determined that essentially the same services were provided for both markets. These selling activities in both markets were minimal in nature and limited to arranging for freight and delivery. No other services were rendered for either home market or EP sales. Therefore, based upon this information, we have preliminarily determined that the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for Eletrosilex.

LIASA reported one customer category (*i.e.*, ''end-user'') and one channel of distribution for its home market sales. LIASA reported only EP sales in the U.S. market. For EP sales, LIASA reported one customer category and one channel of distribution (i.e., direct sales to unaffiliated ''end-users'' in the U.S. market). LIASA claimed in its response that EP sales were made at the same LOT as home market sales to

unaffiliated customers. For this reason, LIASA has not asked for a LOT adjustment to NV for comparison to its EP sales.

In analyzing LIASA's selling activities for its EP sales, we noted that the sales involved basically the same selling functions associated with the home market LOT described above. These selling activities in both markets were minimal in nature and usually limited to arranging for freight, if requested by the customer. No other services were rendered for either home market or EP sales. Therefore, based upon this information, we have preliminarily determined that the LOT for all EP sales is the same as that in the home market. Accordingly, because we find the U.S. sales and home market sales to be at the same LOT, no LOT adjustment under section 773(a)(7)(A) of the Act is warranted for LIASA.

Export Price

For CBCC, Eletrosilex, LIASA, and RIMA, we used the Department's EP methodology, in accordance with section 772(a) of the Act, because the subject merchandise was sold by each producer outside the United States directly to the first unaffiliated purchaser in the United States prior to importation (or to unaffiliated trading companies for export to the United States) and CEP methodology was not otherwise warranted. We made deductions from the starting price for movement expenses in accordance with section 772(c) of the Act. Movement expenses included, where appropriate, foreign inland freight, brokerage and handling, and international freight.

Normal Value

1. Viability

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product is greater than five percent of the aggregate volume of U.S. sales), we compared each respondent's volume of home market sales of the foreign like product to the volume of its U.S. sales of subject merchandise, in accordance with section 773(a)(1) of the Act. Since each respondent's aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales for the subject merchandise, we determined that the home market provides a viable basis for calculating NV for each respondent. Therefore, pursuant to section 773(a)(1)(B) of the Act, we based NV on home market sales.

2. Cost of Production (COP) Analysis

In the most recently completed review of this proceeding, we disregarded home market sales found to be below the cost of production for CBCC, Eletrosilex, LIASA and Rima. Therefore, in accordance with section 773(b)(2)(A)(ii) of the Act, the Department has reasonable grounds to believe or suspect that sales of the foreign like product under consideration for the determination of NV in this review may have been made at prices below the COP as provided by section 773(b)(2)(A)(ii) of the Act. Consequently, pursuant to section 773(b)(1) of the Act, we initiated an investigation to determine whether these respondents made home market sales during the POR at prices below their COP.

A. Calculation of COP

In accordance with section 773(b)(3) of the Act, we calculated a product-specific COP based on the sum of each respondent's cost of materials and fabrication for the foreign like product, plus amounts for home market SG&A expenses, including interest expenses and packing costs.

We relied on the home market and COP information submitted by each respondent in its questionnaire responses, except for the following company-specific adjustments described below.

Eletrosilex

We adjusted Eletrosilex's G&A by calculating on an annual basis a ratio of its G&A expenses to its cost of goods sold.

We recalculated Eletrosilex's financial expense ratio. Eletrosilex incorrectly applied certain offsets to its reported financial expense. We denied the offsets in question and adjusted its financial expenses accordingly. Thus, we recalculated Eletrosilex's financial expense ratio using its financial expenses and the costs of goods sold as reported on its most recent financial statements.

Rima

We adjusted Rima's reported G&A expense, financial expense and depreciation. We recalculated Rima's G&A expense ratio using its G&A expenses and annual cost of goods sold from its financial statements.

We recalculated Rima's financial expense ratio. Rima incorrectly applied certain offsets to its reported financial expense. We denied Rima's reported offsets and adjusted its financial expenses accordingly. Thus, we recalculated Rima's financial expense ratio using its financial expenses and costs of goods sold as reported on its most recent financial statements.

Rima reported depreciation expenses based on a period of time greater than the POR. Therefore, we recalculated Rima's depreciation expenses based on expenses incurred during the POR.

B. Test of Home Market Sales Prices

We compared the weighted-average, per-unit COP figures for the POR to home market sale prices of the foreign like product, as required under section 773(b) of the Act, in order to determine whether these sales were made at prices below the COP. In determining whether to disregard home market sales made at prices below the COP, we examined whether: (1) within an extended period of time, such sales were made in substantial quantities; and (2) such sales were made at prices which permitted the recovery of all costs within a reasonable period of time. On a product-specific basis, we compared the COP to the home market prices, less any applicable movement charges, rebates, and discounts.

C. Results of COP Test

Pursuant to section 773(b)(2)(C), where less than 20 percent of a respondent's sales of a given product were at prices below the COP, we did not disregard any below-cost sales of that product because we determined that the below-cost sales were not made in ''substantial quantities.'' Where 20 percent or more of the respondent's sales of a given product during the POR were made at prices below the COP, we determined such sales to have been made in ''substantial quantities'' within an extended period of time in accordance with section 773(b)(2)(B) of the Act. In such cases, because we compared prices to POR-average costs, we also determined that such sales were not made at prices which would permit the recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act.

Therefore, we disregarded the below-cost sales.

We found less than 20 percent of RIMA's and CBCC's home market sales to be below cost. Therefore, we did not disregard any of their home market sales from our analysis. However, we found that all of Eletrosilex's home market sales and 20 percent or more of LIASA's home market sales, within an extended period of time, were at prices below the COP. We therefore disregarded LIASA's below-cost sales from our analysis and used the remaining home market sales as the basis for determining NV, in accordance with section 773(b)(1) of the Act. For Eletrosilex, because there were

no sales of the foreign like product made at prices at or above cost in the comparison market, in accordance with section 773(a)(4) of the Act, we used CV as the basis for NV. We calculated CV in accordance with section 773(e) of the Act. (*See* below.)

Constructed Value

In accordance with section 773(e)(1) of the Act, we calculated CV based on the respondents' cost of materials and fabrication in producing the subject merchandise, SG&A expenses, the profit incurred and realized in connection with the production and sale of the foreign like product, and U.S. packing costs. We used the cost of materials, fabrication, and SG&A expenses as reported in the CV portion of the questionnaire response, adjusted as discussed in the ''*Calculation of COP*'' section, above. We used the U.S. packing costs as reported in the U.S. sales portion of the questionnaire responses. For selling expenses, we used the average of the direct and indirect selling expenses reported for HM sales, weighted by the total quantity of those sales. We were unable to derive actual profit based on home market sales for Eletrosilex because all of its home market sales were below cost. Therefore, in accordance with section 773(e)(2)(B)(ii) of the Act, we calculated profit for Eletrosilex by using the weighted average profit realized by the other respondents in this review.

Price-to-Price Comparisons

For those comparison products for which there were sales at prices above the COP (*i.e.,* sales by CBCC, LIASA and RIMA), we based the respondents' NV on the prices at which the foreign like product was first sold to unaffiliated parties for consumption in Brazil, in the usual commercial quantities, in the ordinary course of trade in accordance with section 773(a)(1)(B)(i) of the Act. We based NV on sales at the same level of trade as the EP sales. For level of trade, please see the ''*Level of Trade*'' section above. In accordance with section 773(a)(6) of the Act, we made adjustments to home market price, where appropriate for inland freight, brokerage and handling charges, and rebates. To account for differences in circumstances of sale between the home market and the United States, where appropriate, we adjusted home market prices by deducting home market direct selling expenses (including credit) and commissions and by adding an amount for late payment fees earned on home market sales, and adding U.S. direct selling expenses (including U.S. credit expenses and where appropriate, less an amount for late payment fees earned on U.S. sales). Where commissions were paid on home market sales and no commissions were paid on U.S. sales, we increased NV by the lesser of either (1) the amount of commission paid on the home market sales or (2) the indirect selling expenses incurred on U.S. sales. In order to adjust for differences in packing between the two markets, we deducted HM packing costs and added U.S. packing costs, where appropriate, in accordance with sections 773(a)(6)(A) and (B) of the Act. Where home market prices were reported exclusive of value added taxes (VAT) we made no adjustment. However, where home market prices were reported inclusive of VAT, we deducted the VAT from the gross home market price.

Price-to-CV Comparisons

With respect to Eletrosilex, where we could not determine NV based on home market sales because there were no contemporaneous home market sales of the silicon metal made in the ordinary course of trade, we compared U.S. prices to CV.

Where we compared EP to CV, we made circumstance-of-sale adjustments by deducting from CV the weighted-average home market direct selling expenses and adding the U.S. direct selling expenses, in accordance with section 773(a)(8) of the Act and section 351.410(c) of the Department's regulations.

Currency Conversion

For purposes of the preliminary results, we made currency conversions in accordance with section 773A of the Act based on the official exchange rates in effect on the dates of the U.S. sales as certified by the Federal Reserve Bank of New York. *See Change in Policy Regarding Currency Conversions,* 61 FR 9434 (March 8, 1996).

Use of Partial Fact Available

LIASA

Upon reviewing LIASA's response to the Department's questionnaire in this review, we determined that LIASA reported a credit expense for U.S. sales using Brazilian interest rates. LIASA stated in its questionnaire response that it had no U.S. dollar borrowings during the POR. Therefore, the Department recalculated LIASA's imputed credit expense for U.S. sales using the facts available (FA). Pursuant to the Department's practice, we recalculated LIASA's U.S. imputed credit expenses using a weighted-average U.S. dollar short-term interest rate from the Federal Reserve based on quarterly rates for the POR. *See* Policy Bulletin, Number 98.2, February 23, 1998, regarding Imputed Credit Expenses and Interest Rates.

We also noted that LIASA, in reporting foreign inland freight for its U.S. sales, inappropriately converted this expense, which was incurred in Reais, into U.S. dollars. In the exhibits to its questionnaire response LIASA provided the actual Reais expense for only one of its U.S. sales. As FA, we have applied the per-unit Reais expense reported for that sale to all of LIASA's U.S. sales and converted the expense to U.S. dollars using the daily exchange rate from the U.S. Federal Reserve.

Rima

Upon reviewing Rima's response to the Department's antidumping questionnaire in this review, we determined that Rima did not calculate indirect selling expenses using the methodology requested by the Department. Rima reported indirect selling expenses based on selling expenses that were not specific to the sale of silicon metal. In addition, Rima divided these selling expenses by quantity, as opposed to the total sales value of silicon metal sold in either the home or foreign market. Because Rima failed to provide the requested information using the required methodology, we are applying the FA to calculate Rima's indirect selling expenses, in accordance with section 776(a)(2) of the Act. As FA, we used Rima's most recent financial statement and divided Rima's selling expenses by its gross revenue.

Preliminary Results of Review

As a result of our review, we preliminarily determine that the following weighted-average dumping margins exist for the period July 1, 1997 through June 30, 1998, and we preliminarily determine to revoke the order covering silicon from Brazil with respect to CBCC's sales of this merchandise.

Manufacturer/exporter	Weighted-average margin percentage
CBCC	0.06
Eletrosilex	17.44
LIASA	zero
RIMA	zero

Pursuant to 19 CFR 351.224(b), the Department will disclose to parties to the proceeding any calculations performed in connection with these preliminary results within 5 days of the date of publication of this notice. Any interested party may request a hearing

within 30 days of the date of publication of this notice. Parties who submit arguments in this proceeding are requested to submit with each argument: (1) A statement of the issue and (2) a brief summary of the argument. All case briefs must be submitted within 30 days of the date of publication of this notice. Rebuttal briefs, which are limited to issues raised in the case briefs, may be filed not later than seven days after the case briefs are filed. A hearing, if requested, will be held two days after the date the rebuttal briefs are filed or the first business day thereafter.

The Department will publish a notice of the final results of this administrative review, which will include the results of its analysis of the issues raised in any written comments or at the hearing, within 180 days from the publication of these preliminary results.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Upon completion of this review, the Department will issue appraisement instructions directly to Customs. The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the determination and for future deposits of estimated duties. For duty assessment purposes, we calculated a per unit customer or importer-specific assessment rate by aggregating the dumping margins calculated for all U.S. sales to each customer/importer and dividing this amount by the total quantity of those sales.

Furthermore, the following deposit requirements will be effective for all shipments of silicon metal from Brazil entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(1) of the Act: (1) The cash deposit rates for the reviewed companies will be those established in the final results of this review; (2) for previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) for all other manufacturers and/or exporters of this merchandise, the cash deposit rate will continue to be 91.06 percent, the ''all others'' rate established in the LTFV investigation, 56 FR 36135 (July 31, 1991). These requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) of the Department's regulations to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act (19 U.S.C. sections 1675(a)(1) and 1677f(i)(1)), and 19 CFR 351.221.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20451 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–580–811]

Final Results of Expedited Sunset Review: Steel Wire Rope From the Republic of Korea

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of expedited sunset review: steel wire rope from the Republic of Korea.

SUMMARY: On January 4, 1999, the U.S. Department of Commerce (''the Department'') initiated a sunset review of the antidumping duty order on steel wire rope from the Republic of Korea (''Korea'') pursuant to section 751(c) of the Tariff Act of 1930, as amended (''the Act''). On the basis of a notice of intent to participate and an adequate response filed on behalf of a domestic interested party and inadequate response from respondent interested parties, the Department conducted an expedited sunset review. As a result of this review, the Department finds that revocation of the antidumping duty order would be likely to lead to continuation or recurrence of dumping at the levels indicated in the Final Result of Review section of this notice.

FOR FURTHER INFORMATION CONTACT: Martha V. Douthit or Melissa G. Skinner, Office of Policy for Import Administration, International Trade Administration, U.S. Department of Commerce, 14th St. & Constitution Ave., NW, Washington, DC 20230; telephone (202) 482–3207 or (202) 482–1560, respectively.

EFFECTIVE DATE: August 9, 1999.

Statute and Regulations

This review was conducted pursuant to sections 751(c) and 752 of the Act. 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*'').

Scope

The product covered by this order is steel wire rope from Korea. Steel wire rope encompasses ropes, cables, and cordage of iron or carbon steel, other than stranded wire, not fitted with fittings or made up into articles, and not made up of brass-plated wire. Imports of these products are currently classifiable under the following Harmonized Tariff Schedule (HTS) subheadings: 7312.10.9030, 7312.10.9060, and 7312.10.9090. Excluded from this review is stainless steel wire rope, *i.e.*, ropes, cables and cordage other than stranded wire, of stainless steel, not fitted with fittings or made up into articles, which is classifiable under HTS subheading 7312.10.6000. Although HTS subheadings are provided for convenience and customs purposes, the written description of the scope of this order is dispositive.

History of the Order

On February 23, 1993, the Department published in the **Federal Register** the final determination of sales at less than fair value on steel wire rope from Korea (*see* 58 FR 11029). In the original investigation, three companies were investigated and found to be dumping at the following weighted-average dumping margins: Korean Iron & Steel Wire, Ltd., (now KISWIRE, Ltd. (''KIS'')), 0.23 percent; Young Heung Iron & Steel Co., Ltd., (''YHC''), 0.10

percent; and Manho Mfg., Ltd. (''Manho''), 1.51 percent. In addition an ''all others'' rate of 1.51 percent was established. On March 26, 1993, the Department's antidumping duty order on steel wire rope from Korea was published in the **Federal Register** (*see* 58 FR 16397). As a result of the *de minimis* margins, entries of steel wire rope produced and sold by KIS and entries produced either by YHC or Dae Heung Industrial Co., Ltd. and sold by YHC were excluded from the application of the antidumping duty order.

The Department has conducted several administrative reviews of this antidumping duty order.[1] The antidumping duty order was subsequently revoked for Manho Rope Mfg., Ltd., and Chun Kee Steel & Wire Rope Co., Ltd., effective March 1, 1996 (*see* 62 FR 17171 (April 9, 1997)). The antidumping duty order was revoked for Chung Woo Rope Co., Ltd., Ssang Yong Cable Manufacturing Co., Ltd. and Sung Jin Co., effective March 1, 1997 (*see* 63 FR 17986 (April 13, 1998)).

To date, no duty absorption findings have been made with respect to this case.

Background

On January 4, 1999, the Department initiated a sunset review of the antidumping duty order on steel wire rope from Korea, pursuant to section 751(c) of the Act, as amended. On January 19, 1999, the Department received a Notice of Intent to Participate from the Committee of Domestic Steel Wire Rope and Specialty Cable Manufacturers (''the Committee''), within the deadline specified in § 351.218(d)(1)(i) of the *Sunset Regulation*.

On February 3, 1999, the Department received a complete substantive response from the Committee within the deadline specified in the *Sunset Regulations* under § 351.218(d)(3)(i). The Committee claimed interested party status under section 19 U.S.C. 1677(9)(C) and (F). The Committee asserts that it was the petitioner in the original investigation and has actively participated in the administrative reviews conducted by the Department since that time.

On February 3, 1999 the Department received a substantive response from respondent, Kumho Wire Rope Manufacturer Co., Ltd. (''Kumho''), within the 30-day deadline specified in the *Sunset Regulations* under § 351.218(d)(3)(i). Kumho asserts that it is a foreign manufacturer and exporter of the subject merchandise and is therefore, an interested party within the meaning of section 771(9)(A) of the Act. Kumho asserts that it was not a participant in the Department's original investigation, although it has participated in the four completed administrative reviews and is currently participating in the on-going fifth administrative review.

On February 23, 1999, the Department informed the Commission that, on the basis of inadequate response from respondent interested parties, we were conducting an expedited sunset review of this order consistent with 19 CFR 351.218(e)(1)(ii)(C)(2). (*See* Letter to Lynn Featherstone, Director, Office of Investigations from Barbara E. Tillman, Director for Policy and Analysis.) On March 12, 1999, we extended the deadline for filing comments on our adequacy determination. On March 18, 1999, we received comments from Kumho and the Committee regarding our adequacy determination. The Department determined on May 7, 1999, that the sunset review of the antidumping duty order on steel wire rope from Korea is extraordinarily complicated. In accordance with section 751(c)(5)(C)(v) of the Act, the Department may treat a review as extraordinarily complicated if it is a review of a transition order (i.e., an order in effect on January 1, 1995). (*See* section 751(c)(6)(C) of the Act.) Therefore, the Department extended the time limit for completion of the final results of this review until not later than August 2, 1999, in accordance with section 751(c)(5)(B) of the Act.[2]

Adequacy

Kumho argues that despite the fact that it accounts for significantly less than 50 percent of total imports from Korea of steel wire rope, Kumho accounts for significantly more than 50 percent of covered merchandise. Kumho asserts that the Department failed to consider that seven of the largest producers/exporters have already been excluded from the order. As a result, total import statistics overstate the volume and value of imports of subject merchandise.

In its comments, the Committee agrees with the Department's original adequacy determination. The Committee argues that the Department's calculation of adequacy is correctly based on total imports of steel wire rope from Korea. The Committee asserts that companies that were excluded from the order, or for which the order has been revoked, may be brought back within the scope of the order if they were subsequently found to be selling at less than fair value (or below normal value) so long as the order continues to exist.

The Department continues to find that Kumho's response does not form an adequate basis for conducting a full review, *i.e.*, because Kumho does not account for enough of the total exports of subject merchandise (*see* 19 CFR 351.218(e)(1)(ii)(A)). However, we disagree with the Committee that the determination should be based on total imports of steel wire rope from Korea. We agree with Kumho that the total value of imports used in our determination of adequacy should not include imports from revoked or excluded companies. The U.S. Customs Service, in its annual reports to Congress on the administration of the antidumping and countervailing duty, reports the value of entries subject to orders on an order-specific basis.[3] As noted above, on May 12, 1997, the order was revoked with respect to two companies and on April 13, 1998, the order was revoked with respect to an additional three companies. Therefore, the value of imports reported by Customs for the fiscal years 1993 through 1997 include the value of imports from companies for which the order has been revoked. The fiscal year 1998 import values reported by Customs would, however, include only half-year imports from the three companies for which revocation notice was published in April 1998. We note that the value of imports on which Customs was collecting antidumping duty deposits in fiscal 1998 (approximately $16 million) declined by approximately five million dollars from the value in fiscal 1997 (approximately $21 million). We therefore considered that decline could be attributed to the April 1998 revocation of the order with respect to three companies. We doubled the five

[1] *See Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review;* 60 FR 63499 (December 11, 1995), *Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review;* 61 FR 55965 (October 30, 1996), *Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Duty Administrative Review;* 62 FR 17171 (April 9, 1997), *Steel Wire Rope from the Republic of Korea; Final Results of Antidumping Review and Revocation in Part of Antidumping Duty Order;* 63 FR 17986 (April 13, 1998); and *Steel Wire Rope From the Republic of Korea; Final Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review,* 64 FR 17995 (April 13, 1999).

[2] *See Steel Wire Rope From Japan, et. al.: Extension of Time Limit for Final Results of Five-Year Reviews,* 64 FR 24573 (May 7, 1999).

[3] As reported in Kumho's substantive response, exhibit 2. As a courtesy we make these statistics available to the public on the Import Administration sunset website at ''http://www.ita.doc.gov/import—admin/records/sunset''.

million dollar decline to take into account full year imports from the three companies for which the order was revoked in 1998, and, therefore, determine that entries subject to the order during fiscal 1998 were approximately $10 million. Comparing the value of Kumho's exports [4] and the estimated value of imports subject to the antidumping duty order on steel wire rope from Korea in fiscal 1998, we continue to find that Kumho accounted for significantly less than 50 percent of the value of imports of subject merchandise.

Determination

In accordance with section 751(c)(1) of the Act, the Department conducted this review to determine whether revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping. Section 752(c) of the Act provides that, in making this determination, the Department shall consider the weighted-average dumping margins determined in the investigation and subsequent reviews and the volume of imports of the subject merchandise for the period before and the period after the issuance of the antidumping order and it shall provide to the International Trade Commission (''the Commission'') the magnitude of the margin likely to prevail if the order is revoked.

The Department's determinations concerning continuation or recurrence of dumping and magnitude of the margin are discussed below. In addition, the parties' comments with respect to the continuation or recurrence of dumping and the magnitude of the margin are addressed within the respective sections below.

Continuation or Recurrence of Dumping

Drawing on the guidance provided in the legislative history accompanying the Uruguay Round Agreements Act (''URAA''), specifically the Statement of Administrative Action (''the SAA''), H.R. Doc. No. 103–316, vol. 1 (1994), the House Report, H.R. Rep. No. 103–826, pt. 1 (1994), and the Senate Report, S. Rep. No. 103–412 (1994), the Department issued its *Sunset Policy Bulletin* providing guidance on methodological and analytical issues, including the basis for likelihood determinations. In its *Sunset Policy Bulletin*, the Department indicated that determinations of likelihood will be made on an order-wide basis (*see* section II.A.2). In addition, the Department indicated that normally it will determine that revocation of an antidumping order is likely to lead to continuation or recurrence of dumping where (a) dumping continued at any level above *de minimis* after the issuance of the order, (b) imports of the subject merchandise ceased after the issuance of the order, or (c) dumping was eliminated after the issuance of the order and import volumes for the subject merchandise declined significantly (*see* section II.A.3).

In its substantive response, the Committee argues that revocation of the antidumping duty order of the subject merchandise would be likely to lead to continuation or recurrence of dumping. The Committee asserts that as many as 20 companies remain subject to the order. Further, the Committee argues that most of these companies have failed to respond to the Department's questionnaires in any of the administrative reviews to which they were subject. In addition, the Committee argues that most of the Korean companies that are presently subject to the order have been assigned dumping margins based on the best information available (or facts otherwise available). Because the Department assigned dumping margins to these non-responding companies, the Committee argues that, in the instant proceeding, the Department must assume that these companies will continue to sell at dumped prices if the order is revoked.

Additionally, the Committee argues that Korea is by far the largest foreign supplier of carbon steel wire rope to the U.S. market. Specifically, based on U.S. Department of Commerce, Bureau of the Census, Report IM 146, the Committee asserts that for the period January through November 1998, imports from Korea accounted for nearly 48 percent of the total imports of carbon steel wire rope. The Committee further asserts that the companies that remain subject to the order account for upwards of one third of the total volume of carbon steel wire rope imports from Korea.

The Committee notes that the Korean won appreciated 24 percent against the U.S. dollar between the beginning of the second quarter of 1998 and the present, and argues that current exchange rate trends give rise to the probability that revocation of the order is likely lead to continuation or recurrence of dumping. The Committee argues that the marked appreciation of the Korean won over the past several months makes it likely that Korean companies will sell subject merchandise in the United States at dumped prices since the strengthening won will make home market prices in Korea higher relative to U.S. prices. Using import volume and value statistics, the Committee asserts that over the past several months the average unit value of imports from Korea classified under one of the covered HTSUS item numbers has decreased from $1,020 per net ton in January 1998 to $818 per net ton in November 1998.

In its substantive response, Kumho argues that revocation of the order would not likely lead to a recurrence of material injury or dumping. Kumho asserts that it is the only Korean company subject to the order actively shipping steel wire rope to the United States and it has never been found to sell the subject merchandise at less than fair value. Kumho further argues that since the major Korean wire rope companies have already been excluded from the order, and Kumho has never been found to be dumping, there are no grounds to believe that revocation would likely to lead to a continuation of injury or a recurrence of dumping. Additionally, Kumho argues that there is no evidence that any other Korean company subject to the order is actively shipping subject merchandise or, indeed, would be likely to ship subject merchandise in the event of revocation. Kumho argues that, of the 19 companies (including Kumho) for which petitioners requested administrative reviews in March 1998, three had previously been excluded from the order, five did not ship subject merchandise, four had gone out of business, and Kumho responded. While the remaining six companies did not respond to the Department's questionnaire, Kumho asserts that two had ceased operations, two had no shipments to the United States, and one had only one shipment to the United States and is not actively producing and shipping subject merchandise to the United States. As to the sixth company, Kumho asserts that it has no reason to believe that this company has ever shipped subject merchandise to the United States. In conclusion, Kumho argues that it is the only company that would be affected by the revocation of the order.

In its rebuttal comments the Committee argues that Kumho's assertion that it is the only exporter of steel wire rope from Korea still subject to the order is mere conjecture. The Committee asserts that Kumho would like the Department to believe that Kumho is the only company subject to the order because, under the sunset mechanism, an order cannot be revoked on a company-specific basis. The Committee argues that, during the fifth administrative review, the Department found that both Kwangshin Rope and

[4] As reported in Kumho's substantive response, exhibit 2.

Sungsan Special Steel Processing shipped subject merchandise to the United States. In addition, the Committee argues that the Department applied adverse facts available to four additional Korean companies that received, but did not respond to the Department's questionnaire. Thus the Committee concludes that the Department must find at least seven Korean companies remain subject to the order. Further, the Committee argues that the fact that some companies did not ship subject merchandise during the most recent administrative review, or declared bankruptcy, does not mean that these companies cannot or will not again sell subject merchandise to the United States.

Finally, the Committee argues that a zero or *de minimis* dumping margin shall not by itself require the Department to determine that revocation of the order would not likely lead to continuation or recurrence of dumping. Rather, in many instances, a zero or *de minimis* dumping margin is likely a result of the antidumping duty order. Therefore, the Committee submits that the recent zero and *de minimis* margins are a testament to the remedial purpose of the antidumping duty order.

In its rebuttal comments Kumho argues that the Committee's assertion that several Korean companies remain subject to the order is not supported by any evidence whatsoever in the history of this case. With respect to the two companies identified by the Committee as having exported during the most recent completed administrative review, Kumho argues that in the preliminary determination of that administrative review, the Department found that Sungsan had sold a quantity of merchandise purchased from another producer and that Kwangshin had some shipments during the period of review. Kumho asserts that with respect to the remaining companies that have recently received adverse facts available margins, the Committee has not provided any evidence that these companies actually exist, that they produce subject merchandise, that they ship merchandise, or that they would ship merchandise in the event of revocation. Kumho argues that it would be wrong for the Department to place on Kumho an affirmative burden of establishing that the companies named in the Committee's requests for administrative reviews do not ship to the United States. Kumho further argues that, given that the Department's role in the sunset review process is to determine whether dumping margins would exist in the event of revocation, such a determination must be based on actual and projected shipments rather than conjecture or automatic inferences regarding companies that may not even exist.

Additionally, with respect to the Committee's arguments related to exchange rates, Kumho asserts that the Committee ignores the fact that Kumho and other respondents were nonetheless found to be selling at zero or *de minimis* dumping margins in the Department's recent administrative reviews. Finally, Kumho argues that the Committee's reliance on import statistics is misplaced. Specifically, Kumho asserts that its exports enter the United States under a different HTSUS item number than that relied on by the Committee and, that the unit values for the HTSUS item number under which Kumho imports have remained relatively stable.

In compliance with section 752(c) of the Act, the Department examined the volume of imports before and after the issuance of the antidumping duty order on steel wire rope from Korea. Import data provided by Kumho, for the period covering 1992 through 1998, and confirmed by the Department's U.S. Census data, demonstrate that imports of steel wire rope from Korea have remained relatively steady.

As discussed in section II.A.3 of the *Sunset Policy Bulletin,* the SAA at 890, and the House Report at 63–64, existence of dumping margins after the order is highly probative of the likelihood of continuation or recurrence of dumping. If companies continue to dump with the discipline of an order in place, the Department may reasonably infer that dumping would continue if the discipline of the order were removed.

In the instant proceeding, although the order has been revoked with respect to imports from several Korean producers/exporters of steel wire rope, and Kumho has maintained a zero or *de minimis* margin in each of the four completed administrative reviews, deposit rates above *de minimis* continue in effect for several producers/exporters of steel wire rope from Korea. Therefore, given that dumping has continued over the life of the order, the Department determines that dumping is likely to continue if the order were revoked.

Because the Department has based this determination on the fact that dumping continued at levels above *de minimis,* we have not addressed the Committee's and Kumho's arguments concerning factors other than previously calculated margins and import volumes.

Magnitude of the Margin

In the *Sunset Policy Bulletin,* the Department stated that, consistent with the SAA and House Report, the Department normally will provide to the Commission a margin from the investigation because that is the only calculated rate that reflects the behavior or exporters without the discipline of an order in place. Further, for companies not specifically investigated, or for companies that did not begin shipping until after the order was issued, the Department normally will provide a margin based on the ''all others'' rate from the investigation. (*See* section II.B.1 of the *Sunset Policy Bulletin*.) Exceptions to this policy include the use of a more recently calculated margin, where appropriate, and consideration of duty absorption determinations. (*See* sections II.B.2 and 3 of the *Sunset Policy Bulletin*.)

The Committee argues that, in this case, where the Department has applied adverse facts available to uncooperative respondents in a recent administrative review (1996/1997 review (*see* 63 FR 17986 (April 13, 1998)), the use of the more recently calculated margin is appropriate. As it did in the fifth administrative review, however, the Committee asserts that rate is likely to be much higher.

Kumho argues that the magnitude of the margin likely to prevail is zero. Kumho asserts that its margin has been *de minimis* for five consecutive administrative reviews. Therefore, Kumho argues that there is no reasonable basis to conclude that the dumping margin would increase in the event of revocation of the order.

The Department disagrees with the Committee's argument that we should select the margin from the most recently completed administrative review as the margin likely to prevail if the order is revoked. As noted above, the Department normally will provide a margin from the original investigation because that is the rate that reflects the behavior of exporters absent the discipline of the order. The *Sunset Policy Bulletin* suggests that the Department select, as one alternative, a recently calculated rate, in cases where companies choose to increase dumping in order to maintain or increase market share. However, in the instant case, the Committee did not argue or provide evidence that the uncooperative exporters from the administrative reviews have increased dumping in order to maintain or increase market share. Review of import statistics complied from tariff and trade data from the U.S. Department of Commerce, the U.S. Treasury, and the Commission demonstrate that imports of steel wire rope from Korea have remained relatively stable over the life of the

order. Therefore, we find no reason to deviate from our policy of selecting margins from the original investigation as probative of the behavior of absent the discipline of the order.

With respect to the magnitude of the margin likely to prevail on exports by Kumho, we agree with Kumho. Although Kumho was not a participant in the original investigation, Kumho has participated in each of the administrative reviews of this order conducted by the Department. In each review, Kumho received a zero or *de minimis* margin. Although we acknowledge the Committee's assertion that the discipline of an order will, in many instances, lead to a zero or *de minimis* margin, we are not persuaded that Kumho is likely to begin dumping were the order revoked.

Based on the above analysis, we will report to the Commission the margins indicated in the Final Results of the Review section of this notice.

Final Results of Review

As a result of this review, the Department finds that revocation of the antidumping order would be likely to lead to continuation or recurrence of dumping at the margins listed below:

Manufacturers/exporters	Margin (percent)
Kumho Wire Rope Manufacturer Co., Ltd	0
All Korean Manufacturers/Exporters	1.51

In addition, as noted above, entries of steel wire rope produced and sold by Korean Iron & Steel Wire, Ltd. (KIS) were excluded from the scope of the order, as were entries produced by either Young Heung Iron & Steel Co., Ltd., (YHC) or Dae Heung Industrial Co., Ltd. and sold by YHC. Finally, the order has been revoked with respect to Manho Rope Mfg., Ltd.; Chun Kee Steel & Wire Rope Co., Ltd.; Chung Woo Rope Co., Ltd.; Ssang Yong Cable Manufacturing Co., Ltd.; and Sung Jin Co.

This notice serves as the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 19 CFR 351.305 of the Department's regulation. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is sanctionable violation.

This five-year (''sunset'') review and notice are published in accordance with sections 751(c) and 777(i)(1) of the Act.

Dated: August 2, 1999.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 99–20452 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend Certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Morton Schnabel, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1104H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 87–14A04.''

The Association for Manufacturing Technology's (''AMT'') original Certificate was issued on May 19, 1987 (52 FR 19371, May 22, 1987) and previously amended on December 11, 1987 (52 FR 48454, December 22, 1987); January 3, 1989 (54 FR 837, January 10, 1989); April 20, 1989 (54 FR 19427, May 5, 1989); May 31, 1989 (54 FR 24931, June 12, 1989); May 29, 1990 (55 FR 23576, June 11, 1990); June 7, 1991 (56 FR 28140, June 19, 1991); November 27, 1991 (56 FR 63932, December 6, 1991); July 20, 1992 (57 FR 33319, July 28, 1992); May 10, 1994 (59 FR 25614, May 17, 1994); December 1, 1995 (61 FR 13152, March 26, 1996); October 11, 1996 (61 FR 55616, October 28, 1996; May 6, 1998 (63 FR 31738, June 10, 1998); and November 10, 1998 (63 FR 63909, November 17, 1999). A summary of the application for an amendment follows.

Summary of the Application

Applicant: AMT—The Association For Manufacturing Technology, 7901 Westpark Drive, McLean, Virginia 22102–4269.

Contact: Cara Maggioni, Legal Counsel, Telephone: (202) 662–6000.

Application No.: 87–14A04.

Date Deemed Submitted: August 2, 1999.

Proposed Amendment: AMT seeks to amend its Certificate to:

1. Add the following companies as new ''Members'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Ex-Cell-O Machine Tools, Inc., Sterling Heights, MI; HYD–MECH Inc., Pueblo, CO; Fryer Machine Systems, Paterson, NJ; Denford Machine Tools USA, Inc., Medina, OH; and Flow International Corporation, Kent, WA;

2. Delete The Dunham Tool Company, Inc.; Excel/Control; Goldcrown Machinery; Hypneumat Inc.; The J.L. Wickham Co., Inc.; Oliver Machinery Co.; Perfecto Industries, Inc.; Lynn

Electronics Corporation; Nacto/Carlton L.P.; Durant Tool Company; and Williams, White & Co. as ''Members'' of the Certificate; and

3. Change the listing of the company name for the current ''Members'' cited in this paragraph to the new listing cited in parentheses as follows: Saginaw Machine Systems, Inc. (SMS Group Incorporated); and Cincinnati Milacron (Milacron, Inc.).

Dated: August 4, 1999.

Morton Schnabel,

Director, Office of Export Trading Company Affairs.

[FR Doc. 99–20462 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Notice of Showcase Exhibit of U.S. Exports

AGENCY: DOC, International Trade Administration.

ACTION: Notice of showcase exhibit of U.S. exports.

DATES: August 9, 1999.

SUMMARY: The International Trade Administration (''ITA'') of the Department of Commerce announces an exhibition focusing on the importance of U.S. exports relating to biotechnology products and services. The exhibition will showcase U.S. biotechnology exports by displaying successfully exported products and services at ITA headquarters in Washington, DC, to highlight the benefits of exporting and the impact of these exports on the U.S. economy. Companies and trade associations are encouraged to express interest in providing exhibit material. The exhibition will be coordinated through the Chemicals, Pharmaceuticals and Biotechnology Division.

FOR FURTHER INFORMATION CONTACT: Ms. Emily Arakaki, Chemicals, Pharmaceuticals and Biotechnology Division; U.S. Department of Commerce/ITA; Room 4053; Washington, DC 20230; Telephone (202) 482–0130; fax (202) 482–2565; e-mail: ''emily__arakaki@ita.doc.gov''.

SUPPLEMENTARY INFORMATION:

Background: ITA is showcasing U.S. exports by exhibiting successfully exported products and services at its headquarters in Washington, DC, to highlight the benefits of exporting and the impact of exports on the U.S. economy. The exhibit, which represents a series of industries and a variety of companies, is located in the Office of the Under Secretary for International Trade. The exhibit is rotated approximately every four months.

The next sector to be displayed is the biotechnology sector. Companies and trade associations in this sector are encouraged to express interest in showcasing their exports of goods and/or services by contacting ITA through the individual listed above. Displayed items may include three-dimensional models, illustrations, in addition to samples of actual U.S. products that are being successfully exported.

Extensive shelf-, wall- and floor-space are available in this large, executive-style office.

Selection Process: Items will be selected for exhibition on the basis of the following factors:

(1) Items must be produced in, or representative of services exported from, the United States and have at least a 51% U.S. content, including materials, equipment and labor (in the case of large development projects, the applicant should identify substantial U.S. products or services into the completed project). To highlight the impact of exports on small businesses, items will also be considered that are produced by U.S. companies that do not directly export but rather whose goods or services are incorporated into another company's for export.

(2) The items must relate to the industry selected by ITA and be suitable for exhibition in a limited space.

(3) The company must not be owned or controlled, indirectly or directly, by a foreign government.

(4) Items chosen should reflect diversity of company size, location, demographics, and traditional under-representation in business.

Other conditions: Displayed items will be considered loans to the Department. Companies will be responsible for shipment of the item to and from the Commerce Department, for obtaining appropriate insurance, and for all related costs.

Time Frame for Applications: Expressions of interest from the biotechnology sector should be received by September 1, 1999. Expressions of interest should be sent to the ITA official identified above.

A **Federal Register** notice will be published subsequently to announce the next sector to be highlighted.

Authority: 15 U.S.C. 1512.

Dated: August 2, 1999.

Ambassador David L. Aaron,

Under Secretary for International Trade.

[FR Doc. 99–20395 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–25–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 072699E]

Endangered Species; Permits

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

ACTION: Issuance of permits (1194, 1205, 1218) and modifications to existing permits (1056, 1126, 1131).

SUMMARY: Notice is hereby given that NMFS has issued permits for takes of endangered and threatened species for the purposes of scientific research and/or enhancement to: Fish Ecology Division, Northwest Fisheries Science Center, NMFS at Seattle, WA (NWFSC)(1194), Oregon Department of Environmental Quality (ODEQ) (1205), and Washington Department of Fish and Wildlife (WDFW) (1218). Notice is also given that NMFS has issued modifications to scientific research permits to: NWFSC (1056), WDFW (1126), and the Port of Portland at Portland, OR (POP) (1131).

ADDRESSES: The applications and related documents are available for review in the following office, by appointment:

Protected Resources Division, F/NWO3, 525 NE Oregon Street, Suite 500, Portland, OR 97232–4169 (503–230–5400).

All documents may also be reviewed by appointment in the Office of Protected Resources, F/PR3, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3226 (301–713–1401).

FOR FURTHER INFORMATION CONTACT:

For permits 1056, 1126, 1131, 1194: Leslie Schaeffer, Portland, OR (503–230–5433).

For permits 1205, 1218: Tom Lichatowich, Portland, OR (503–230–5438).

SUPPLEMENTARY INFORMATION:

Authority

Issuance of permits and permit modifications, as required by the Endangered Species Act of 1973 (16 U.S.C. 1531–1543) (ESA), is based on a finding that such permits/modifications: (1) Are applied for in good faith; (2) would not operate to the disadvantage of the listed species which are the subject of the permits; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA. Authority to take listed species is subject to conditions set forth in the

permits. Permits and modifications are issued in accordance with and are subject to the ESA and NMFS regulations governing listed fish and wildlife permits (50 CFR parts 222–226).

All statements and opinions contained in the permit action summaries are those of the applicant and do not necessarily reflect the views of NMFS.

Species Covered in this Notice

The following species and evolutionarily significant units (ESU's) are covered in this notice:

Chinook salmon (*Oncorhynchus tshawytscha*): threatened Snake River (SnR) fall, threatened SnR spring/summer, endangered upper Columbia River (UCR) spring.

Coho salmon (*O. kisutch*): threatened Southern Oregon/Northern California Coast (SONCC).

Cutthroat trout (*O. clarki clarki*): endangered Umpqua River (UmR).

Sockeye salmon (*O. nerka*): endangered SnR.

Steelhead trout (*O. mykiss*): endangered UCR.

Permits Issued

Notice was published on February 11, 1999 (64 FR 6880), that NWFSC applied for a 4-year scientific research permit. Permit 1194 was issued on July 23, 1999, authorizing take of the ESA-listed species associated with an evaluation of passive integrated transponder (PIT) tag interrogation systems at Bonneville Dam on the lower Columbia River in the Pacific Northwest. The objectives of the study are to evaluate the ability of the prototype PIT-tag detection systems to detect PIT-tagged adult salmon passing through the facility, and evaluate the effects of the detection system on adult behavior as they approach and pass through the system. Indirect mortalities of ESA-listed adult fish are authorized. Permit 1194 expires on December 31, 2003.

Notice was published on March 25, 1999 (64 FR 14432), that ODFQ applied for a 4-year scientific research permit. Permit 1205 was issued on June 16, 1999, authorizing take of listed species. ODEQ is authorized annual direct takes of juvenile SONCC coho salmon and adult and juvenile UmR cutthroat trout associated with water quality assessment studies in southwestern Oregon. ODEQ will capture ESA-listed fish in the Rogue and Umpqua River Basins with backpack electrofishing equipment, anesthetize them, collect biological information, allow them to recover from the anesthetic and release them. Data collected from these studies will be used in assessing the productivity status of these streams and the effectiveness of measures being taken to restore fish populations. Permit 1205 expires December 31, 2002.

Notice was published on April 21, 1999 (64 FR 19515), that WDFW applied for a 5-year scientific research permit. Permit 1218 was issued on July 23, 1999, authorizing take of listed species. WDFW is authorized annual direct takes of adult and juvenile, naturally produced and artificially propagated, UCR steelhead associated with two research studies in the upper Columbia River in Washington. Information from the studies will be used to verify the spawning regime, migratory behavior, and exact stock of steelhead in the Hanford Reach and upper river watersheds above Priest Rapids Dam. This information will be valuable in developing future recovery plans for that section of the Columbia River. In Study 1, adult steelhead will be captured by angling, anesthetized, sampled for biological data, sampled for tissues, allowed to recover from anesthetic and released. Eggs and alevin steelhead will be collected by excavating redds and sacrificed for genetic analysis. Steelhead fry will be collected with seines, sampled for biological data, sampled for tissues, and released. In Study 2, ESA-listed adult steelhead will be captured at Priest Rapids Dam, tagged with radiotransmitters, released, and tracked electronically as they migrate upstream. Permit 1218 expires December 31, 2003.

Modifications Issued

Notice was published on April 30, 1999 (64 FR 23281), that NWFSC applied for a modification to scientific research permit 1056. Modification 2 to permit 1056 was issued on July 23, 1999, authorizing the take of ESA-listed species. Modification 2 authorizes annual takes of adult and juvenile, naturally produced and artificially propagated, SnR spring/summer chinook salmon associated with two studies designed to monitor wild salmon smolt migration timing, genetic change, and population structure over time. For Modification 2, NWFSC is authorized to take adult SnR spring/summer chinook salmon carcasses and to increase the annual take of juvenile, artificially-propagated, SnR spring/summer chinook salmon for study 2. Also for modification 2, NWFSC is authorized to add rotary screw traps as a capture method. Modification 2 is valid for the duration of the permit, which expires on December 31, 2001.

Modification 1 to permit 1126 was issued on June 25, 1999, authorizing take of the ESA-listed species. Modification 1 authorizes WDFW to collect tissue samples and biological information from carcasses during spawning ground surveys and snorkeling activities. Modification 1 is valid for the duration of the permit, which expires on December 31, 2002.

Notice was published on March 25, 1999 (64 FR 14432), that POP applied for a modification to scientific research permit 1131. Modification 1 to permit 1131 was issued on July 23, 1999, authorizing take of the ESA-listed species. Modification 1 authorizes an increase in the annual take of juvenile, naturally produced and artificially propagated, SnR spring/summer chinook salmon and juvenile SnR fall chinook salmon associated with research designed to determine the presence and distribution of fish in shallow water habitats between the lower end of Hayden Island and the Sandy River delta on the Columbia River. Modification 1 is valid for the duration of the permit, which expires on December 31, 2001.

Dated: July 30, 1999.

Wanda L. Cain,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 99–20431 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080399E]

Permits for Taking of Endangered or Threatened Species for Research/Enhancement Purposes.

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

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before October 8, 1999..

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230 (or via the Internet at LEngelme@doc.gov).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Karen Salvini - F/PR3, Office of Protected Resources, Room 13603, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226 (301) 713-1401 (x130).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Endangered Species Act of 1973 (ESA; 16 U.S.C. 1531 et. seq.) imposed prohibitions against the taking of endangered species. Section 10 of the ESA allows permits authorizing the taking of endangered species for research/enhancement purposes. The corresponding regulations established procedures for persons to apply for such permits. In addition, the regulations set forth specific reporting requirements for such permit holders.

The regulations contain two sets of information collections: (l) applications for research/enhancement permits, and (2) reporting requirements for permits issued.

The required information is used to evaluate the impacts of the proposed activity on endangered species, to make the determinations required by the ESA prior to issuing a permit, and to establish appropriate permit conditions. In order to issue permits as under ESA section 10(a)(1)(A), NMFS must determine that (1) such exceptions were applied for in good faith, (2) if granted and exercised will not operate to the disadvantage of such endangered species, and (3) will be consistent with the purposes and policy set forth in section 2 of the ESA.

II. Method of Collection

Permit applicants must submit a written application to NMFS, including all appropriate information listed on the instructions. These instructions are a user-friendly version of the requirements at 50 CFR § 222.23(b) for applications for research/enhancement permits.

Once issued, the permit requires that permit holders submit an annual report on activities, including information on the species, stocks, dates, location, and condition of animals taken.

III. Data

OMB Number: 0648–0084.

Form Number: None.

Type of Review: Regular Submission.

Affected Public: Federal, State, local, or tribal government; business or other for-profit; individuals; universities and research institutions; not-for-profit institutions.

Estimated Number of Respondents: Permits: 60; Modification Requests: 60; Reports: 60 Annual Reports and 20 Final Reports.

Estimated Time Per Response: Permits: 40 hours; Modification Requests: 10 hours; Annual Reports: 10; Final Reports: 20 hours.

Estimated Total Annual Burden Hours Per Year: Permits: 2,400 hours; Modification Requests: 600 hours; Annual Reports: 600 hours; Final Reports: 400 hours.

Estimated Total Annual Cost to Public: $290 annual for printing and mailing of submissions.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: August 2, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Chief Information Officer.

[FR Doc. 99–20433 Filed 8–6–99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 10:00 a.m., Thursday, August 19, 1999.

PLACE: 1155 21st St., N.W., Washington, D.C., 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Rule Enforcement Review.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 99–20510 Filed 8–5–99; 11:36 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Commodity Futures Trading Commission.

TIME AND DATE: 2:00 p.m., Thursday, August 26, 1999.

PLACE: 1155 21st., NW, Washington, DC, 9th Floor Conference Room.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION: Jean A. Webb, 202–418–5100.

Catherine D. Dixon,

Assistant Secretary of the Commission.

[FR Doc. 99–20511 Filed 8–5–99; 11:36 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0250]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Contract Administration

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DoD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and

clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through December 31, 1999. DoD proposes that OMB extend its approval for use through December 31, 2002.

DATES: DoD will consider all comments received by October 8, 1999.

ADDRESSES: Interested parties should submit written comments and recommendations on the proposed information collection to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

Address E-mail comments submitted via the Internet to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0250 in all correspondence related to this issue. E-mail comments should cite OMB Control Number 0704–0250 in the subject line.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, at (703) 602–0293. The referenced information collection requirements are available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars.html.

Paper copies are available from Mr. Rick Layser, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION:

Title, Associated Forms, and OMB Number: Defense Federal Acquisition Regulation Supplement (DFARS) Part 242, Contract Administration, and related clauses in DFARS Part 252; DD Form 375, Production Progress Report; DD Form 375C, Production Progress Report; (Continuation); and DD Form 1659, Application for U.S. Government Shipping Documentation/Instructions; OMB Control Number 0704–0250.

Needs and Uses: DoD needs this information to perform contract administration functions. DoD uses the information as follows:

a. Contract administration offices use the information required by DFARS Subpart 242.11, and submitted on DD Forms 375 and 375C, to determine contractor progress and to identify any factors that may delay contract performance.

b. Administrative contracting officers use the information required by DFARS Subpart 242.73 to determine the allowability of insurance/pension costs under Government contracts.

c. Contract administration offices and transportation officers use the information required by DFARS 252.242–7003, and submitted on DD Form 1659, in providing Government bills of lading to contractors.

d. Contracting officers use the information required by DFARS 252.242–7004 to determine if contractor material management and accounting systems conform to established DoD standards.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 537,590.

Number of Respondents: 109,560.

Responses Per Respondent: Approximately 2.

Annual Responses: 172,430.

Average Burden Per Response: Approximately 3 hours.

Frequently: On occasion.

Summary of Information Collection

This information collection includes requirements relating to DFARS part 242, Contract Administration.

a. DFARS Subpart 242.11 requires DoD contract administration personnel to conduct production reviews to determine contractor progress and to identify any factors that may delay contract performance. Contractors must provide information needed to support the reviews and must submit production progress reports on DD Forms 375 and 375c.

b. DFARS Subpart 242.73 contains requirements for Government conduct of Contractor Insurance/Pension Reviews. Contractors must provide documentation needed to support the reviews.

c. DFARS 252.242–7003 requires contractors to request Government bills of lading by submitting DD Form 1659 to the transportation officer or the contract administration office.

d. DFARS 252.242–7004 requires contractors to establish, maintain, disclose, and demonstrate material management and accounting systems.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 99–20281 Filed 8–6–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

[OMB Control Number 0704–0246]

Information Collection Requirement; Defense Federal Acquisition Regulation Supplement; Government Property

AGENCY: Department of Defense (DoD).

ACTION: Notice and request for comments regarding a proposed extension of an approved information collection requirement.

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), DOD announces the proposed extension of a public information collection requirement and seeks public comment on the provisions thereof. DoD invites comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of DoD, including whether the information will have practical utility; (b) the accuracy of the estimates of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected, and (b) ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology. The Office of Management and Budget (OMB) has approved this information collection for use through December 31, 1999. DoD proposes that OMB extend its approval for use through December 31, 2002..

DATES: DoD will consider all comments received by October 8, 1992.

ADDRESSES: Interested parties should submit written comments and recommendations on the proposed information collection to: Defense Acquisition Regulations Council, Attn: Mr. Rick Layser, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax (703) 602–0350.

Address E–mail comments submitted via the Internet to: dfars@acq.osd.mil.

Please cite OMB Control Number 0704–0246 in all correspondence related to this issue. E–mail comments should cited OMB Control Number 0704–0246 in the subject line.

FOR FURTHER INFORMATION CONTACT: Mr. Rick Layser, at (703) 602–0293. The referenced information collection requirements are available electronically via the Internet at: http://www.acq.osd.mil/dp/dars/dfars.html.

Paper copies are available from Mr. Rick Layser, PDUSD (A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062.

SUPPLEMENTARY INFORMATION: .

Title, Associated Forms, and OMB Number: Defense Federal Acquisition Regulations Supplement (DFARS) Part 245, Government Property, and related clauses in DFARS Part 252; DD Form 1149, Requisition and Invoice/Shipping

Document; DD Form 1342, Property Record; DD Form 1419, Industrial Plant Equipment Requisition; DD Form 1637, Notice of Acceptance of Inventory Schedules, DD Form 1639, Scrap Warrantly, DD Form 1640, Request for Plant Clearance, and DD Form 1662, Property in the Custody of Contractors; OMB Control Number 0704–0246.

Needs and Uses: DoD needs this information to keep an account of Government property in the possession of contractors. Property administrators, contracting officers, and contractors use this information to maintain property records and material inspection, shipping, and receiving report.

Affected Public: Businesses or other for-profit and not-for-profit institutions.

Annual Burden Hours: 50,590.

Number of Respondents: 14,862.

Responses Per Respondent: Approximately 3.

Annual Responses: 42,925.

Average Burden Per Response: 1.2 hours.

Frequency: On occasion.

Summary of Information Collection

This requirement provides for the collection of information related to providing Government property to contractors; contractor use and management of Government property; and reporting, redistribution, and disposal of contractors inventory. This information collection covers the requirements relating to DFARS Part 245 and related clauses and forms.

a. DFARS 245.302–1 (b) (1) (A) *(1)* requires contractors to submit DD Form 1419 to the Defense Supply Center Richmond, before acquiring industrial plant equipment (IPE), to determine whether existing reallocable Government-owned facilities can be used.

b. DFARS 245.302–1(b) (1) (B) requires contractors to submit requests for proposed acquisition of automatic data processing equipment through the administrative contracting officer.

c. DFARS 245.405(1) requires contractors to obtain contracting officer approval before using Government production and research property on work for foreign governments or international organizations.

d. DFARS 245.407(a) (iv) requires contractors to submit requests for non-Government use of IPE to the contract administration office.

e. DFARS 245.505–5, 245.505–6, and 245.606–70 require contractors to use DD Form 1342 as a source document for establishing property records; to report information concerning IPE; and to list excess IPE.

f. DFARS 245.603–70(c) requires contractors that perform plant clearance duties to ensure that inventory schedules are satisfactory for storage or removal purposes. Contractors may use DD Form 1637 for this function.

g. DFARS 245.607–1(a)(i) permits contractors to request a pre-inventory scrap determination, made by the plant clearance officer after an on-site survey, if inventory is considered without value except for scrap.

h. DFARS 245.7101–2 permits contractors to use DD Form 1149 for transfer and donation of excess contractor inventory.

i. DFARS 245.7101–4 requires contractors to use DD Form 1640 to request plant clearance assistance or to transfer plant clearance.

j. DFARS 245.7303 and 245.7304 require contractors to use invitations for bid for the sale of surplus contractor inventory.

k. DFARS 245.7308 (a) requires contractors to send certain information to the Department of Justice and the General Services Administration when the contractor sells or otherwise disposes of inventory with an estimated fair market value of $3 million or more, or disposes of any patents, processes, techniques or inventions, regardless of costs.

l. DFARS 245.7310–7 requires the purchaser of scrap to represent and warrant that the property will be used only as scrap. The purchaser also must sign DD Form 1639.

m. DFARS 252.245–7001 requires contractors to provide an annual report for contracts involving Government property in accordance with the requirements of DD Form 1662.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

[FR Doc. 99–20282 Filed 8–6–99; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of the Secretary of the Navy's Advisory Subcommittee on Naval History; Open Meeting

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2), notice is hereby given that the Secretary of the Navy's Advisory Subcommittee on Naval History, a subcommittee of the Department of Defense Historical Advisory Committee, will meet. The meeting will be open to the public.

DATES: The time of the meeting will be from 0800–1600 on September 16 and 0800–1600 on September 17, 1998.

ADDRESSES: The meeting will be held in Building 76 of the Naval Historical Center, Washington Navy Yard, Washington, DC.

FOR FURTHER INFORMATION CONTACT: The Director of Naval History, 805 Kidder Breese Street, SE, Bldg. 57 WNY, Washington, DC, 20374–5060, or call Dr. William S. Dudley at (202) 433–2210.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review naval historical activities since the last meeting of the Advisory Subcommittee on Naval History on 17 and 18 September 1998, and to make comments and recommendations on these activities to the Secretary of the Navy.

Dated: July 29, 1999.

J.L. Roth,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 99–20440 Filed 8–6–99; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Performance Review Board Membership

AGENCY: Department of the Navy, DOD.

ACTION: Notice.

SUMMARY: Pursuant to 5 U.S.C. 4314(c)(4), the Department of the Navy (DON) announces the appointment of members to the DON's numerous Senior Executive Service (SES) Performance Review Boards (PRBs). The purpose of the PRBs is to provide fair and impartial review of the annual SES performance appraisal prepared by the senior executive's immediate and second level supervisor; to make recommendations to appointing officials regarding acceptance or modification of the performance rating; and to make recommendations for monetary performance awards. Composition of the specific PRBs will be determined on an ad hoc basis from among individuals listed below:

ALTWEGG, D. M. MR.
ANGRIST, E. P. MR.
ANTOINE, C. S. MR.
ATKINS, J. A. MR.
BAILEY, W. C. MR.
BALISLE, P. M. RADM
BAUMAN, D. M. MR.
BECRAFT, C. H. HON
BICE, D. F. MAJGEN
BLICKSTEIN, I. N. MR.

BONWICH, S. M. MR.
BRANCH, E. B. MR.
BRIANT, C. C. MR.
BRANT, D. L. MR.
BROOKE, R. K. MR.
BROWN, P. F. MR.
BUCHANAN III, H. L. HON
BUCKLEY, B. CAPT
BUONACCORSI, P. P. MR.
CALI, R. T. MR.
CAMP, J. R. MR.
CARPENTER, A. W. MS.
CASSIDY JR, W. J. MR.
CATRAMBONE, G. P. MR.
CHENEVEY, J. RADM
CHURCH, A. T. RADM
CIPRIANO, J. MR.
COBB, W. RADM
COCHRANE JR, E. R. MR.
COFFEY, T. DR.
COHN, H. MR.
COLE, D. A. MR.
COMMONS, G. L. MS.
COOK, J. RADM
CRAINE, J. W. VADM
CROSS, B. RADM
CUDDY, J. V. MR.
DANZIG, R. HON
DAVIDSON, M. H. MR.
DAVIS, J. P. RADM
DEMARCO, R. DR.
DIXSON, H. L. MR.
DRAIM, R. P. MR.
DOHERTY, L. M. DR.
DOMINIQUE, L. CAPT
DOUGLASS, T. E. MR.
DUDLEY, W. S. DR.
DURHAM, D. L. DR.
EATON, W. D. MR.
EHRLER, S. M. MR.
ESSIG, T. MR.
EVANS, G. L. MS.
FEIGLEY, J. M. BGEN
FILIPPI, D. M. MS.
FIOCCHI, T. C. MR.
FLORIP, T. F. MR.
FORD, F. B. MR.
GAFFNEY, P. RADM
GERRY, D. F. MR.
GISCH, R. G. MR.
GIST, W. J. MR.
GLASCO, L. M. MR.
GOTTFRIED, J. M. MS.
HAGEDORN, G. D. MR.
HAMMES, M. C. MR.
HAMMOND, R. E. MR.
HANNAH, B. W. DR.
HARTWIG, E. DR.
HAUENSTEIN, W. H. MR.
HAYNES, R. S. MR.
HEATH, K. S. MS.
HEFFERON, J. J. MR.
HENRY, M. G. MR.
HICKS, S. N. MR.
HIGGINBOTHAM, G. B. MAJGEN
HIGGINS, K. L. DR.
HILDEBRANDT, A. H. MR.
HOLADAY, D. A. MR.
HOUGH, M. MAJGEN
HOWELL, D. S. MS.
HOWIE, H. K. MR.
HUBBELL, P. C. MR.
HUDSON, JOHN BGEN
HULTIN, J. M. HON
JENKINS, W. RADM
JOHNSTON, K. J. DR.
JOSEPHSON, D. H. MS.
JUNKER, B. DR.
KASKIN, J. D. MR.
KELLY, L. J. MR.
KEMP, C. RADM
KLIMP, J. W. LTGEN
KNUDSEN, R. E. MR.
KOLB, R. C. MR.
KOTZEN, P. S. MS.
KRASIK, S. A. MS.
KREITZER, L. P. MR.
LACEY, M. E. MRS.
LAMADE, S. K. MS.
LARSEN JR, D. P. MR.
LAUX, T. E. MR.
LEACH, R. A. MR.
LEBOEUF, G. G. MR.
LEFANDE, R. DR.
LEGGIERI, S. R. MS.
LENGERICH, A. W. RADM
LEWIS, R. D. MS.
LISIEWSKI, R. S. MR.
LOFTUS, J. V. MS.
LONG, T. MS.
LOPATA, F. A. MR.
LYNCH, J. G. MR.
MARQUIS, S. L. DR.
MARTIN, R. J. MR.
MASCIARELLI, J. R. MR.
MATTHEIS, W. G. MR.
MCELENY, J. F. MR.
MCKISSOCK, G. S. MAJGEN
MCMANUS, C. J. MR.
MCNAIR, J. W.
MEADOWS, L. J. MS.
MERRITT, D. L. MR.
MERRITT, M. M. MR.
MESEROLE JR., M. MR.
MILAN, L. F. MR.
MILLER, K. E. MR.
MOHLER, M. K. MR.
MOLZAHN, W. R. MR.
MONTGOMERY JR., H. E. MR.
MOORE, S. B. MR.
MOY, G. W. DR.
MUNSELL, E. L. MS.
MURPHY, P. M. MR.
MUTH, C. C. MS.
NEERMAN, D. W. MR.
NEHMAN, J. MR.
NEMFAKOS, C. P. MR.
NEWSOME, D. RADM
NEWTON, L. A. MS.
NICKELL JR, J. R. MR.
NUSSBAUM, D. A. MR.
O'DRISCOLL, M. J. MR.
OLSEN, M .A. MS.
PAIGE, K. RADM
PANEK, R. L. MR.
PAULK, R. D. MS.
PAYNE, T. MR.
PENNISI, R. A. MR.
PHELPS, F. A. MR.
PIRIE JR, R. B. HON
PORTER, D. E. MR.
POWERS, B. F. MR.
PRESTON, S. W. HON
RAMBERG, S. DR.
RATH, B. DR.
RHODES, J .E. LTGEN
ROARK JR., J. E. MR.
ROBERTSON, B. COL
ROBUSTO, J. D. MR.
RIEGEL, K. W. DR.
ROBERSON, E. S. MS.
RODERICK, B. A. MR.
RYZEWIC, W. H. MR.
SAALFELD, FRED DR.
SANDERS, R. L. MS.
SARGENT JR, D. RADM
SAUL, E. L. MR.
SAVITSKY, W. D. MR.
SCHAEFER, J. C. MR.
SCHAEFER JR, W. J. MR.
SCHNEIDER, P. A. MR.
SCHUSTER JR., J. G. MR.
SHAFFER, R. L. MR.
SHEA, R. M. BGEN
SHEPHARD, M. R. MS.
SHIPWAY, J. RADM
SHOUP, F. E. DR.
SIRMALIS, J. E. DR.
SLAGHT, K. D. RADM
SMITH, L. M. RADM
SOMOROFF, A. R. DR.
SPARKS JR, J. E. MR.
SPINRAD, R. DR.
STEIDLE, C. RADM
STELLOH-GARNER, C. MS.
STUSSIE, W. A. MR.
SZEMBORSKI, S. R. RADM
TAMBURRINO, P. M. MR.
THOMAS, R. O. MR.
THORNETT, R. MR.
THROCKMORTON JR., E. L. MR.
TISONE, A. A. MR.
TOMPKINS, C. L. MR.
TOWNSEND, D. K. MS.
TRAMMELL, R. K. MR.
TURNQUIST, C. J. MR.
UHLER, D. G. DR.
VANDER LINDEN, G. M. BGEN
VERKOSKI, J. E. MR.
WELCH, B. S. MS.
WEYMAN, A. S. MR.
WHITON, H. W. RADM
WHITTEMORE, A. MS.
WILLIAMS, G. P. MR.
WILLIAMS, M. J. LTGEN
WRIGHT, J. DR.
YOUNT, G. R. RADM
ZANFAGNA, P. E. MR.
ZEMAN, A. R. DR.
ZIMET, E. DR.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen Arrowood, Office of the Assistant Secretary, Manpower and Reserve Affairs, 1000 Navy Pentagon, Washington, DC 20350–1000, telephone (703) 696–5165.

Dated: July 26, 1999.

Ralph W. Corey,

Commander, Judge Advocate General's Corps, U.S. Navy, Head, Complaint of Wrongs Branch.

[FR Doc. 99–19816 Filed 8–6–99; 8:45 am]

BILLING CODE 3810–FF–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6414–4]

Agency Information Collection Activities: Proposed Collection; Comment Request; See List of ICRs Planned To Be Submitted in Section A

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 EPA is planning to submit the following two continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB). Before submitting the ICRs to OMB for review and approval, EPA is soliciting comments on specific aspects of the information collections as described at the beginning of Supplementary Information.

DATES: Comments must be submitted on or before October 8, 1999.

ADDRESSES: 401 M Street, S.W., Attn: 3802R, Washington, D.C. 20460.

FOR FURTHER INFORMATION OR A COPY CONTACT: Leigh Pomponio, (202) 564–4364, e-mail: pomponio.leigh@epamail.epa.gov. A hard copy of an ICR may be obtained without charge by calling the identified information contact individual for each ICR in Section B of the Supplementary Information.

SUPPLEMENTARY INFORMATION:

For All ICRs

An Agency may not conduct or sponsor, and a person is not required to respond to, a collection information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are displayed in 40 CFR part 9.

The EPA would like to solicit comments to:

(I) 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;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

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.

A. List of ICRs Planned To Be Submitted

In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that EPA is planning to submit the following two continuing Information Collection Requests (ICR) to the Office of Management and Budget (OMB):

(1) Contractor Cumulative Claim and Reconciliation, EPA ICR No. 0246.07, OMB Control No. 2030–0016, expires 1/31/00.

(2) Monthly Progress Reports, EPA ICR No. 1039.09, OMB Control No. 2030–0005, expires 1/31/00.

B. Contact Individuals for ICRs

(1) Contractor Cumulative Claim and Reconciliation and Monthly Progress Reports: Leigh Pomponio, (202) 564–4364, FAX (202) 565–2475, e-mail, pomponio.leigh@epamail.epa.gov.

C. Individual ICRs

(1) Contractor Cumulative Claim and Reconciliation, EPA ICR No. 0246.07, OMB Control No. 2030–0016, expires 1/31/00.

Affected Entities: Entities potentially affected by this action are those holding cost reimbursable contracts with the Agency.

Abstract: At the completion of a cost reimbursement contract, contractors will report final costs incurred, including direct labor, materials, supplies, equipment, and other direct charges, subcontracting, consultant fees, indirect costs, and fixed fee. Contractors will report this information on EPA Form 1900–10. EPA will use this information to reconcile the contractor's costs. Establishment of the final costs and fixed fee is necessary to close out the contract. Responses to the information collection are mandatory for those completing work under a cost reimbursement contract, and are required to receive final payment. Information submitted is protected from public release in accordance with the Agency's confidentiality regulation, 40 CFR 2.201 *et seq.*

Burden Statement: EPA estimates that the annual hourly burden will be 42.9 hours based on the following: Each response will take approximately 40 minutes, and EPA closes out approximately 65 contracts per year. The annual dollar burden is estimated at $1,151.15 based on a combination of contractor employees providing the information at an average total cost of $17.71 for the 40 minute period. Minimal operation and maintenance costs are expected for photocopying and postage.

(2) Monthly Progress Reports, EPA ICR No. 1039.09, OMB Control No. 2030–0005, expires 1/31/00.

Affected Entities: Entities potentially affected by this action are those holding cost reimbursable contracts with EPA.

Abstract: Agency contractors who have cost reimbursable, time and material, labor hour, or indefinite delivery/indefinite quantity fixed rate contracts will report the technical and financial progress of the contract on a monthly basis. EPA will use this information to monitor the contractor's progress under the contract. Responses to the information collection are mandatory for contractors performing under a cost reimbursement contract, and are required to receive monthly reimbursement. Information submitted is protected from public release in accordance with the Agency's confidentiality regulation, 40 CFR 2.201 *et seq.*

Burden statement: EPA estimates that the annual hourly burden for this collection will be 177,045 hours. Each response is expected to take approximately 36.25 hours. Based on current active cost reimbursable contracts numbering 407, times 12 submissions per year, EPA anticipates 4884 annual collections. Each collection is estimated to cost $2,591.50 based on a variety of contractor personnel performing the individual tasks required

for information gathering and submission. With 4884 annual submissions, total annual cost is estimated at $12,656,886. Minimal operation and maintenance costs are expected for photocopying and postage.

Dated: July 30, 1999.

Thomas D. McEntegart,

Manager, Policy Service Center.

[FR Doc. 99–20466 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6416–3]

Proposed Settlement Agreement, Clean Air Act Citizen Suit

AGENCY: Environmental Protection Agency, (EPA).

ACTION: Notice of proposed settlement; request for public comment.

SUMMARY: EPA hereby gives notice of a proposed settlement agreement in the case *Ayers* v. *Browner,* No. 97–1464 (consolidated with 98–1073) (D.C. Cir.). This notice complies with section 113(g) of the Clean Air Act, as amended (''Act''), which requires EPA to give notice and provide an opportunity for public comment on proposed settlement agreements. The litigation concerns EPA's promulgation of the National Low Emission Vehicle (National LEV) program in two related final rules. See 62 FR 31192 (June 6, 1997); 63 FR 925 (Jan. 7, 1998). The Petitioners filed petitions for review of these Agency rulemakings under section 307(b)(1) of the Act, 42 U.S.C. 7607 (b)(1).

The proposed Settlement Agreement provides that EPA will take certain actions regarding alternative fuel vehicles. These include holding two public workshops and preparing several reports. The agreement does not call for making any changes to the National LEV program.

Persons who were not named as parties or interveners to this litigation may submit written comments on the proposed settlement agreement to EPA. Any comments must be submitted within thirty days after the date of publication of this notice. EPA or the Department of Justice may withhold or withdraw consent to the proposed agreement if the comments disclose facts or circumstances that indicate that such agreement is inappropriate, improper, inadequate, or inconsistent with the requirements of the Act.

A copy of the proposed settlement agreement is available from Phyliss J. Cochran, Air and Radiation Division (2344), Office of General Counsel, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 260–7606. Written comments should be sent to Alexandra Teitz, Esq. at the above address and must be submitted on or before September 8, 1999.

Dated: July 28, 1999.

Gary S. Guzy,

General Counsel.

[FR Doc. 99–20463 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6416–5]

Underground Injection Control Program, Hazardous Waste Injection Restrictions; Petition for Exemption—Class I Hazardous Waste Injection Celanese Ltd.

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 Celanese Ltd., (Celanese) for its Class I injection well located at the Clear Lake Plant, Houston, Texas. 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 Celanese, of the specific restricted hazardous wastes identified in the exemption, into the Class I hazardous waste injection well WDW–33 at the Clear Lake Plant Houston, Texas facility, until December 31, 2010, 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 June 7, 1999. The public comment period closed on July 22, 1999. No comments were received. This decision constitutes final Agency action and there is no Administrative appeal.

DATES: This action is effective as of August 2, 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.

William B. Hathaway,

Director, Water Quality Protection Division (6WQ).

[FR Doc. 99–20467 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51931; FRL–6094–8]

Certain New Chemicals; Receipt and Status Information

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5 of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a premanufacture notice (PMN) or an application for a test marketing exemption (TME), and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 14, 1999, to July 2, 1999, consists of the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

FOR FURTHER INFORMATION CONTACT: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

This action is directed to the public in general. As such, the Agency has not

attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitter of the premanufacture notices addressed in the action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the ''FOR FURTHER INFORMATION CONTACT'' section.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. *Electronically*. You may obtain copies of this document and certain other available documents from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations'' and then look up the entry for this document under the ''Federal Register - Environmental Documents.'' You can also go directly to the ''Federal Register'' listings at http://www.epa.gov/fedrgstr/.

B. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51931. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as confidential business information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Rm. B-607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number of the Center is 202–260–7099.

C. *By phone*. If you need additional information about this action, you may also contact the person identified in the ''FOR FURTHER INFORMATION CONTACT '' section.

III. Why is EPA taking this Action?

Section 5 of TSCA requires any person who intends to manufacture (defined by statute to include import) a new chemical (i.e., a chemical not on the TSCA Inventory) to notify EPA and comply with the statutory provisions pertaining to the manufacture of new chemicals. Under sections 5(d)(2) and 5(d)(3) of TSCA, EPA is required to publish a notice of receipt of a PMN or an application for a TME, and to publish periodic status reports on the chemicals under review and the receipt of notices of commencement to manufacture those chemicals. This status report, which covers the period from June 14, 1999, to July 2, 1999, consists of the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

IV. Receipt and Status Report for PMNs

This status report identifies the PMNs, both pending or expired, and the notices of commencement to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period. If you are interested in information that is not included in the following tables, you may contact EPA as described in Unit II above to access additional non-CBI information that may be available.

In table I, EPA provides the following information (to the extent that such information is not claimed as CBI) on the PMNs received by EPA during this period: the EPA case number assigned to the PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer; the potential uses identified by the manufacturer in the PMN; and the chemical identity.

I. 72 Premanufacture Notices Received From: 06/14/99 to 07/02/99

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0901	06/14/99	09/12/99	CBI	(G) Flame retardant; open, non-dispersive use	(G) Magnesium borate
P–99–0916	06/14/99	09/12/99	Clariant Corporation	(G) Destructive end-use	(G) Telogen, telomer with alkenes and alkenyl acetate
P–99–0917	06/14/99	09/12/99	NOF America Corporation	(S) Cosmetic	(G) Methacrylate polymer
P–99–0918	06/14/99	09/12/99	Great Lakes Chemical Corporation	(S) Flame retardant additive for polymers	(G) Halogenated polystyrene copolymer
P–99–0919	06/14/99	09/12/99	Nof America Corporation	(S) Contact lens solution cosmetic	(G) Methacrylate copolymer
P–99–0920	06/14/99	09/12/99	Condea Servo LLC	(S) Dispersing agent for pigment paste	(S) Poly(oxy-1,2-ethanediyl), α-(9*z*)-9-octadecenyl-omega-hydroxy-, phosphate, ammonium salt*
P–99–0921	06/16/99	09/14/99	Nova Molecular Technologies, Inc.	(G) Our prospective customer will probably use this to modify polymer properties for polymers produced by emulsion polymerization. We believe it will be used for styrene-butadiene rubber and polyacrylate polymer production	(G) Cyclic nitroxyl
P–99–0923	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic salt solution for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid, ammonium salt
P–99–0924	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic salt solution for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid, sodium salt
P–99–0925	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic salt solution for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid, zinc salt

I. 72 Premanufacture Notices Received From: 06/14/99 to 07/02/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0926	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic salt solution for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid, dimethylethanolamine salt
P–99–0927	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic salt solution for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid, aminomethylpropanol salt
P–99–0928	06/15/99	09/13/99	Zschimmer & Schwarz Inc., Chem-Tex Division	(S) Surfactact used in toilet bowl cleaner	(S) Ethanol, 2-[2-($C_{12–14}$-alkyloxy) ethoxy] derivs., hydrogen sulfates, compds. with triisopropanolamine*
P–99–0929	06/15/99	09/13/99	Tomah Products, Inc.	(G) Surfactant	(G) Alkoxylated alkyloxy propylamine oxide
P–99–0930	06/15/99	09/13/99	Westvaco Corporation - Chemical Division	(S) Rosin/acrylic support resin for printing inks	(G) Tall oil modified acrylic polymer with rosin and tall oil fatty acid
P–99–0931	06/14/99	09/12/99	The Dow Chemical Company	(S) Rigid packaging barrier layer; flexible packaging barrier layer; hot melt adhesive; pipe coating; non woven fibers; starch packing peanuts	(G) Polyhydroxyaminoethers
P–99–0932	06/14/99	09/12/99	The Dow Chemical Company	(S) Rigid packaging barrier layer; flexible packaging barrier layer; hot melt adhesive; pipe coating; non woven fibers; starch packing peanuts	(G) Polyhydroxyaminoethers
P–99–0933	06/16/99	09/14/99	CBI	(G) Viscosity index improver	(G) Alkyl methacrylate copolymer
P–99–0934	06/16/99	09/14/99	CBI	(G) Open destructive use as a gas generant for automotive inflator	(G) Metal ethylene diammine nitrate complex
P–99–0935	06/16/99	09/14/99	CBI	(G) Open non dispersive (pre polymer)	(G) Aliphatic diisocyanate pre polymer
P–99–0936	06/14/99	09/12/99	Henkel Corporation	(S) Drilling fluid	(S) Fatty acids, $C_{8–10}$, reaction products with epoxidized soybean oil, ethoxylated*
P–99–0937	06/17/99	09/15/99	CBI	(G) Resin for coating	(G) Modified epoxy resin
P–99–0938	06/17/99	09/15/99	CBI	(G) Crosslinking agent	(G) Urethane resin
P–99–0939	06/17/99	09/15/99	CBI	(G) Epoxy resin for metal coating	(G) Amine modified epoxy resin
P–99–0940	06/17/99	09/15/99	CBI	(G) Epoxy resin coating	(G) Modified epoxy resin
P–99–0941	06/17/99	09/15/99	CBI	(G) Additive, open, non-dispersive use	(G) Salt of an acrylic polymer
P–99–0942	06/17/99	09/15/99	CBI	(G) Additive, open, non-dispersive use	(G) Fluorinated polyurethane, modified with acrylate groups and siloxanes
P–99–0943	06/17/99	09/15/99	Reichhold, Inc.	(G) Purge for hot melt polyurethane adhesives	(G) Polyurethane adhesive purge
P–99–0944	06/16/99	09/14/99	CBI	(G) Additive to plastics	(G) Xylyl phosphate
P–99–0945	06/14/99	09/12/99	Loctite corporation	(S) Hotmelt adhesive for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) Hexanedioic acid, polymer with butyl 2-methyl-2-propenoate, 1,6-hexanediol, α-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 2-hydroxyethyl 2-methyl-2-propenoate, 1,1′-methylenebis[4-isocyanatobenzene], methyl 2-methyl-2-propenoate and 2-methyl-2-propenoic acid*
P–99–0946	06/14/99	09/12/99	Loctite Corporation	(S) Hotmelt adhesive for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) Is a polymer of: poly[oxy(methyl-1,2-ethanediyl)], a-hydro-*w*-hydroxy-; benzene, 1,1′-methylenebis[4-isocyanato-; hexanedioic acid, polymer with 1,6-hexanediol; dodecanedioic acid, polymer with 1,6-hexanediol; dynacoll 7250 m; 1,3-benzenedicarboxylic acid, polymer with hexanedioic acid and 1,6-hexanediol*

I. 72 Premanufacture Notices Received From: 06/14/99 to 07/02/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0947	06/14/99	09/12/99	Loctite Corporation	(S) Hotmelt adhesive for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) Is a polymer of: 1,3-isobenzofurandione, polymer with 2,2′-oxybis[ethanol]; benzene, 1,1′-methylenebis[4-isocyanato-; hexanedioic acid, polymer with 1,6-hexanediol; dodecanedioic acid, polymer with 1,6-hexanediol; dynacoll 7140; decanedioic acid, polymer with 1,6-hexanediol; dynacoll 7250*
P–99–0948	06/14/99	09/12/99	Loctite Corporation	(S) Hotmelt adhesive for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) Dodecanedioic acid, polymer with 1,4-butanediol, hexanedioic acid, 1,6-hexanediol, α-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1′-methylenebis[4-isocyanatobenzene] and 2-oxepanone*
P–99–0949	06/14/99	09/12/99	Loctite Corporation	(S) Hotmelt adhesives for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) 1,3-benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 1,4-butanediol, dodecanedioic acid, hexanedioic acid, 1,6-hexanediol, 1,1′-methylenebis[isocyanatobenzene] and 2,2′-oxybis[ethanol]*
P–99–0950	06/14/99	09/12/99	Loctite Corporation	(S) Hotmelt adhesive for the woodworking industry; hotmelt adhesives for general industrial structural bonding	(S) 1,3-benzenedicarboxylic acid, polymer with 1,4-benzenedicarboxylic acid, 1,4-butanediol, dodecanedioic acid, hexanedioic acid, 1,6-hexanediol, 1,1′-methylenebis[isocyanatobenzene] ,2,2′-oxybis[ethanol] and α,α′,α″-1,2,3-propanetriyltris[omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)]*
P–99–0951	06/18/99	09/16/99	CBI	(G) Destructive, chemical intermediate for production of organic compounds	(G) Polyisobutene epoxide
P–99–0952	06/18/99	09/16/99	CBI	(G) Destructive, chemical intermediate for production of organic compounds	(G) Polyisobutene epoxide
P–99–0953	06/18/99	09/16/99	CBI	(G) Destructive fuel additive	(G) Polyisobutylene amine
P–99–0954	06/18/99	09/16/99	Zeon Chemicals L.P.	(S) Composites reinforcement; thermoset reinforcement ;adhesives	(G) Modified polyacrylate
P–99–0955	06/18/99	09/16/99	CBI	(S) Flame retardant for polyurethane	(G) Phosphoric acid ester oligomer
P–99–0956	06/18/99	09/16/99	CBI	(G) Polymeric colorant/uv screen for plastics	(G) Chromophore substituted polyoxyalkylene
P–99–0957	06/18/99	09/16/99	CBI	(G) Polymeric colorant/uv screen for plastics	(G) Chromophore substituted polyoxyalkylene
P–99–0958	06/18/99	09/16/99	CBI	(S) Microelectronics coating	(G) Substituted tetracyclic olefin
P–99–0959	06/21/99	09/19/99	CBI	(G) Resin coating	(G) Polyester methacrylate
P–99–0960	06/23/99	09/21/99	Reichhold, Inc.	(S) Fiber bonding	(G) Cationic styrene butadiene polymer
P–99–0961	06/22/99	09/20/99	CBI	(G) Open non-dispersive (release agent)	(G) Modified fatty acid ester
P–99–0962	06/23/99	09/21/99	CBI	(S) Resin for ultraviolet/electron beam curable coatings and adhesives	(G) Poly(oxy-1,4-butanediyl), -hydro--hydroxy-polymer with a substituted alcohol and 1,1′-methylenebis[4-isocyanatocyclohexane], 2-hydroxyethyl acrylate-blocked
P–99–0963	06/22/99	09/20/99	CBI	(G) Emulsifier	(G) Alkylether sulfate, sodium salt
P–99–0964	06/22/99	09/20/99	Stim-Lab, Inc.	(S) Scale inhibitor for use in stimulation of oil wells	(S) Phosphonic acid, [(phosphonomethyl)imino]bis[2,1-ethandiylnitrilobis (methylene)]]tetrakis, monocalcium pentasodium salt*
P–99–0965	06/22/99	09/20/99	3M Company	(S) Plasma cleaning	(S) Furan, octafluorotetrahydro-*

I. 72 Premanufacture Notices Received From: 06/14/99 to 07/02/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0966	06/22/99	09/20/99	Eastman Kodak Company	(G) Contained use in an article	(G) Polymer of vinylbenzene, substituted vinylbenzene, and substituted amine
P–99–0967	06/22/99	09/20/99	CBI	(G) Colorant	(G) Colorant intermediate
P–99–0968	06/22/99	09/20/99	CBI	(G) Chemical intermediate	(G) Substituted amino aromatic diol
P–99–0969	06/22/99	09/20/99	CBI	(G) Colorant	(G) Polyoxyalkylene substituted chromophore
P–99–0970	06/22/99	09/20/99	CBI	(G) Colorant	(G) Polyoxyalkylene substituted chromophore
P–99–0971	06/22/99	09/20/99	CBI	(G) Colorant	(G) Polyoxyalkylene substituted chromophore
P–99–0972	06/22/99	09/20/99	CBI	(G) Colorant	(G) Polyoxyalkylene substituted chromophore
P–99–0973	06/22/99	09/20/99	CBI	(G) Colorant	(G) Polyoxyalkylene substituted chromophore
P–99–0974	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0975	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0976	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0977	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0978	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0979	06/18/99	09/16/99	CBI	(G) Additive	(G) Substituted urea
P–99–0980	06/23/99	09/21/99	CBI	(G) Adhesive for various substrates	(G) Polyester/aliphatic polyurethane dispersion in water
P–99–0981	06/24/99	09/22/99	CBI	(G) Destructive fuel additive	(G) Polyisobutylene amine
P–99–0982	06/24/99	09/22/99	CBI	(S) Acid dye for the coloring of anodized aluminum	(G) Chromate, bis[[[(substitued)(phenylamino)ethyl] azo](substituted) benzenedisulfonato]-, potassium tetrasodium
P–99–0983	06/24/99	09/22/99	CBI	(G) Coating additive	(G) Alkylol ammonium salt of a high-molecular weight carboxylic acid
P–99–0984	06/24/99	09/22/99	CBI	(G) Coating component	(G) Urethane acrylate oligomer
P–99–0985	06/25/99	09/23/99	CBI	(G) Component of manufactured consumer article	(G) 1,3,6-substitutednapthalene-7-[[4,5-dihydro-3-methyl -5-oxo-1-(4-substitutedphenyl) -1*h*-pyrazol-4-yl]azo]-, tetrasodium salt
P–99–0986	06/25/99	09/23/99	CBI	(G) Component of manufactured consumer article	(G) 1,3,6-substitutednapthalene-7-[[4,5-dihydro-3-methyl -5-oxo-1-(4-substitutedphenyl) -1*h*-pyrazol-4-yl]azo]-, tetrapotassium salt
P–99–0987	06/25/99	09/23/99	CBI	(S) Water and oil repellent finish for clothes of cotton, polyester, and others	(G) Poly - beta - fluoroalkyl acrylate and alkyl acrylate
P–99–0988	06/25/99	09/23/99	CBI	(S) Water and oil repellent finish for clothes of cotton, polyester, and others	(G) Poly - beta - fluoroalkyl acrylate and alkyl acrylate
P–99–0989	06/25/99	09/23/99	CBI	(G) Open non-dispersive (resin)	(G) Cyclohexyl fatty acid amide
P–99–0990	06/29/99	09/27/99	CIBA Specialty Chemicals Corporation, colors division	(S) Colorant for wood stain/metal deco formulations	(G) Cobaltate(5-, bis[4-[[6-[(substituted) -1,3,5-triazin-2-yl) amino]-1-hydroxy-3-sulfo- 2-naphthalenyl]azo] -3-hydroxy-7-substituted-1-naphthalenesulfonato(4-)]-, pentasodium
P–99–0991	06/25/99	09/23/99	CBI	(G) Destructive use	(G) Calcium long chain alkaryl phenate sulfide
P–99–0992	06/28/99	09/26/99	CBI	(G) Coating additive	(G) Modified polysiloxane
P–99–0993	06/28/99	09/26/99	Reichhold, Inc.	(S) Binder in uv curble inks & coatings	(G) Urethane acrylate ester
P–99–0995	06/28/99	09/26/99	CBI	(S) Microelectronics coating polymers	(G) Substituted bicyclic olefin
P–99–0996	06/28/99	09/26/99	CBI	(G) Resin coating	(G) Urethane acrylate
P–99–0997	06/28/99	09/26/99	CBI	(G) Processing aid for plastics	(G) Organomodified polysiloxanes
P–99–0998	06/28/99	09/26/99	CIBA Specialty Chemicals Corp.	(G) Recycle material, contained use	(S) Butanedioic acid, ethyl methyl ester (9ci)*
P–99–0999	06/28/99	09/26/99	Inabata America Corporation	(G) Surfactant	(G) Polyoxyethylene derivative
P–99–1000	06/29/99	09/27/99	Reichhold, Inc.	(S) Paint resin	(G) Polyester polyol
P–99–1001	06/30/99	09/28/99	CBI	(G) Polymer film component; polymer coextrusion component; adhesives	(G) Ethylene acrylate copolymer

I. 72 Premanufacture Notices Received From: 06/14/99 to 07/02/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–1002	06/30/99	09/28/99	3M Company	(G) Epoxy coating component	(S) Phenol, 4,4′-(1-methylethylidene)bis-, polymer with (chloromethyl)oxirane and α,α′,α″-1,2,3-propanetriyltris [omega-(oxiranylmethoxy)poly [oxy(methyl-1,2-ethanediyl)]*
P–99–1003	06/25/99	09/23/99	CBI	(G) Chemical intermediate	(G) Long chain alkyphenol
P–99–1004	06/21/99	09/19/99	Polycoat Products Co.	(S) Prepolymer for adhesives, coatings, cast elastomer & spray urethane	(G) Modified diphenylmethane diisocyanate prepolymer
P–99–1005	06/21/99	09/19/99	Polycoat Products Co.	(S) Prepolymer for adhesives, coatings, cast elastomer & spray urethane	(G) Modified diphenylmethane diisocyanate propolymer
P–99–1006	07/01/99	09/29/99	Cytec Fiberite, Inc.	(S) As precursor mixtures, composite prepregs, adhesive mixtures; as converted to polymer, neat polymer, polymer/filler mixtures	(G) Polyimide precursor solution
P–99–1007	07/01/99	09/29/99	Cytec Fiberite, Inc.	(S) As precursor mixtures, composite prepregs, adhesive mixtures; as converted to polymer, neat polymer, polymer/filler mixtures	(G) Polyimide precursor solution
P–99–1008	07/01/99	09/29/99	Cytec Fiberite, Inc.	(S) As precursor mixtures, composite prepregs, adhesive mixtures; as converted to polymer, neat polymer, polymer/filler mixtures	(G) Polyimide precursor solution
P–99–1010	07/01/99	09/29/99	Eastman Kodak Company	(G) Chemical intermediate, destructive use	(G) Substituted butanoic acid
P–99–1011	07/01/99	09/29/99	Eastman Kodak Company	(G) Chemical intermediate, destructive use	(G) Substituted halo butanoic acid, ester
P–99–1012	07/01/99	09/29/99	Eastman Kodak Company	(G) Chemical intermediate, destructive use	(G) Substituted butanoic acid, ester
P–99–1013	07/02/99	09/30/99	Dystar L. P.	(S) Dyeing of cellulosic fiber	(G) Sulfurous acid, monosodium salt, reaction products with (substituted)amine and sodium sulfide
P–99–1014	07/02/99	09/30/99	CBI	(G) Ink component	(G) Cycloaliphatic olefin distillate stream polymerized with substituted alkyl phenol
P–99–1015	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin
P–99–1016	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin
P–99–1017	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin
P–99–1018	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin
P–99–1019	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin
P–99–1020	07/02/99	09/30/99	CBI	(S) Resin for rubber	(G) Modified hydrocarbon resin

In table II, EPA provides the following information (to the extent that such information is not claimed as CBI) on the Notices of Commencement to manufacture received:

II. 35 Notice of Commencement From: 06/14/99 to 07/02/99

Case No.	Received Date	Commencement/ Import Date	Chemical
P–95–0734	06/21/99	05/21/99	(G) Polyolefin-modified polyphthalamide
P–97–0187	06/14/99	05/20/99	(G) 2,6-dinitro-1,4-benzenedimethanol, polymer with aliphatic diisocyanate and 1,6 hexanediol, bisphenol a ethoxylate and acid functional diol
P–97–0572	06/28/99	06/10/99	(S) 2-propenoic acid, 2-methyl-2-isocyanatoethyl ester, polymer with methyl 2-methyl-2-propenoate*
P–97–0816	06/14/99	05/31/99	(G) C.i. reactive blue 15:1
P–97–0819	06/14/99	05/31/99	(G) C.i.reactive orange 99
P–97–0820	06/14/99	05/31/99	(G) C.i. disperse red 152
P–97–0961	06/22/99	05/31/99	(G) Polyurethane adhesive
P–98–0344	06/28/99	06/07/99	(G) Epoxy resin polymer adduct
P–98–0411	07/02/99	06/26/99	(G) Polyester polyol
P–98–0496	06/16/99	06/08/99	(G) Bis azo dyestuff
P–98–0594	07/02/99	06/22/99	(G) Polyester amide
P–98–0611	06/15/99	06/08/99	(G) Derivatized tetrasubstituted alkane
P–98–0618	07/02/99	06/23/99	(G) Poly(ester-ether)

II. 35 Notice of Commencement From: 06/14/99 to 07/02/99—Continued

Case No.	Received Date	Commencement/ Import Date	Chemical
P–98–0979	06/14/99	05/11/99	(G) Alkanedioic acid, diester with branched alcohols
P–98–1032	06/14/99	06/07/99	(G) Benzenepolycarboxylic acid alkyl ester
P–99–0049	06/23/99	06/03/99	(G) 2-naphthalenesulfonic acid, 4-hydroxy-substituted amino - substituted phenylazo, mixed salt
P–99–0089	06/22/99	06/07/99	(G) Polyalkoxylated aromatic amine tint
P–99–0124	06/24/99	06/01/99	(G) Tetra alkyl thiuram disulfide
P–99–0155	06/28/99	06/07/99	(G) Modified acrylic resin
P–99–0156	06/28/99	06/07/99	(G) Modified acrylic resin
P–99–0211	06/14/99	06/07/99	(G) Polyester polyurethane
P–99–0382	06/16/99	05/24/99	(G) Copolymer of acrylic esters and styrene
P–99–0433	06/14/99	05/18/99	(G) Alkoxylated alkyloxypropylamine
P–99–0434	06/14/99	05/16/99	(G) Alkoxylated alkyloxypropylamine
P–99–0436	06/14/99	05/17/99	(G) Alkoxylated alkyloxy propylamine oxide
P–99–0437	06/14/99	05/20/99	(G) Alkoxylated alkyloxy propylamine oxide
P–99–0447	06/17/99	05/23/99	(G) Substituted heterocyclic benzoic acid
P–99–0452	06/17/99	05/25/99	(G) Heterocyclic substituted heterocyclic benzoic acid salt
P–99–0456	06/17/99	06/08/99	(S) Carbamic acid, 1,6-hexanediylbis-, bis[2-[2-(1-ethylpentyl)-3-oxazolidinyl] ethyl] ester*
P–99–0459	06/17/99	06/08/99	(S) Oxirane, methyl-, polymer with α-hydro-omega-hydroxypoly[oxy(methyl-1,2-ethanediyl)], 1,1′-methylenebis[4-isocyanatobenzene] and oxirane*
P–99–0490	07/02/99	06/03/99	(G) Modified styrene/butadiene/acrylate latex
P–99–0542	07/01/99	06/25/99	(S) Silicic acid, diethoxyoctylsilyl trimethylsilyl ester*
P–99–0558	06/29/99	06/09/99	(G) Phenolic resin
P–99–0610	06/29/99	06/22/99	(G) Polyhydroxystyrene compound
Y–91–0201	06/25/99	06/11/99	(S) Polymer of 1,4-benzenedicarboxylic acid, dimethyl ester; 1,2-ethanediol; 1,4-cyclohexanedimethanol; ethanol, 2,2′-oxybis-; [isopropanol, ti(4+)salt]

List of Subjects

Environmental protection, Premanufacture notices.

Dated: July 22, 1999.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 99–20468 Filed 8–6–99; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Sunshine Act Meeting

August 4, 1999.

Additional Subject To Be Considered at Open Meeting Thursday, August 5, 1999

The Federal Communications Commission will consider the Petition of US West Communications, Inc. in conjunction with the item listed below at the Open Meeting Scheduled for 9:30 a.m., Thursday, August 5, 1999, in Room TW–C305, at 445 12th Street, SW., Washington, D.C.

Item No.	Bureau	Subject
3	Common Carrier	Title: Access Charge Reform (CC Docket No. 96–262); Price Cap Performance Review for Local Exchange Carriers (CC Docket No. 94–1); and Interchange Carrier Purchases of Switched Access Services Offered by Competitive Local Exchange Carriers (CCB/CPD File No. 98–63). Petition of US West Communications, Inc., for Forbearance from Regulaton as a Dominant Carrier in the Phoenix, Arizona MSA (CC Docket No. 98–157). Summary: The Commission will consider a Fifth Report and Order and Further Notice of Proposed Rulemaking concerning issues relating to interstate access charge reform. The Commission will consider extending the statutory deadline applicable to the above-referenced petition.

The prompt and orderly conduct of the Commission business requires that less than 7-days notice be given consideration of this additional subject.

Action by the Commission August 3, 1999, Chairman Kennard and Commissioners Ness, Furchtgott-Roth, Powell and Tristani voting to consider this subject.

Additional information concerning this meeting may be obtained from Maureen Peratino or David Fiske, Office of Public Affairs, telephone number (202) 418–0500; TTY (202) 418–2555.

Federal Communications Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 99–20602 Filed 8–5–99; 3:44 pm]

BILLING CODE 6712–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 (44 U.S.C. chapter 35). Currently, the FDIC is soliciting comments concerning an information collection titled ''Acquisition Services Information Requirements.''

DATES: Comments must be submitted on or before October 8, 1999.

ADDRESSES: Interested parties are invited to submit written comments to Tamara R. Manly, Management Analyst (Regulatory Analysis), (202) 898–7453, Office of the Executive Secretary, Room 4058, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street N.W., Washington, D.C. 20429. All comments should refer to ''Acquisition Services Information Requirements.'' Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7 a.m. and 5 p.m. (FAX number (202) 898–3838; Internet address: comments@fdic.gov).

A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Tamara R. Manly, at the address identified above.

SUPPLEMENTARY INFORMATION:

Proposal to review the following currently approved collection of information:

Title: Acquisition Services Information Requirements.

OMB Number: 3064–0072.

Form Number: 3700/04A.

Frequency of Response: Occasional.

Affected Public: Contractors and vendors who wish to do business with the FDIC.

Estimated Number of Respondents: 31,528.

Estimated Time per Response: 0.42 hours.

Estimated Total Annual Burden: 13,241 hours.

General Description of Collection: The collection involves the submission of information on Form 3700/04A by contractors who wish to do business with the FDIC. The form is used to examine a contractor's compliance with FDIC contracting regulations for potential FDIC contract awards, including whether the contractor is a minority-owned business or women-owned business.

Request for Comment

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the collection should be modified prior to submission to OMB for review and approval. Comments submitted in response to this notice also will be summarized or included in the FDIC's requests to OMB for renewal of this collection. All comments will become a matter of public record.

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

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 99–20371 Filed 8–6–99; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Apraisal Subcommittee; Information Collection Activities Under OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of information collection extension submitted to OMB for review under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Appraisal Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') has sent to the Office of Management and Budget (''OMB'') for review the following information collection.

DATES: Comments on this information collection must be received on or before September 8, 1999.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW, Suite 310, Washington, DC 20006; and Alexander T. Hunt, Clearance Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, 2000 K Street, NW, Suite 310, Washington, DC 20006, from whom copies of the information collection and supporting documents are available.

SUMMARY OF REVISION:

Title: 12 CFR part 1102, subpart C; Rules pertaining to the privacy of individuals and systems of records maintained by the Appraisal Subcommittee.

Type of Review: Regular submission.

Description and Summary: The information will be used by the ASC and its staff in determining whether to grant to an individual access to records pertaining to that individual and whether to amend or correct ASC records pertaining to that individual under the Privacy Act of 1974 (5 U.S.C. 552a).

Form Number: None.

OMB Number: 3139–0004.

Affected Public: Individuals and Households.

Number of Respondents: 50 respondents.

Total Annual Responses: 50 responses.

Average Hours Per Response: 33 hours.

Total Annual Burden Hours: 16.67 hours.

Dated: August 4, 1999.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Marc L. Weinberg,

Acting Executive Director and General Counsel.

[FR Doc. 99–20425 Filed 8–6–99; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Appraisal Subcommittee; Information Collection Activities Under OMB Review

AGENCY: Appraisal Subcommittee, Federal Financial Institutions Examination Council.

ACTION: Notice of information collection extension submitted to OMB for review under the Paperwork Reduction Act of 1980.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Appraisal

Subcommittee of the Federal Financial Institutions Examination Council (''ASC'') has sent to the Office of Management and Budget (''OMB'') for review the following information collection.

DATES: Comments on this information collection must be received on or before September 8, 1999.

ADDRESSES: Send comments to Ben Henson, Executive Director, Appraisal Subcommittee, 2000 K Street, NW, Suite 310, Washington, D.C. 20006; and Alexander T. Hunt, Clearance Officer, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marc L. Weinberg, General Counsel, Appraisal Subcommittee, 2000 K Street, NW, Suite 310, Washington, DC 20006, from whom copies of the information collection and supporting documents are available.

SUPPLEMENTARY INFORMATION:

Title: 12 CFR part 1102, subpart B; Rules of Practice for Proceedings.

Type of Review: Regular submission.

Summary and Need: Procedures for ASC non-recognition and ''further action'' proceedings against State appraiser regulatory agencies and other persons under section 1118 of Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 3347).

Form Number: None.

OMB Number: 3139–0005.

Affected Public: State, local or tribal government.

Number of Respondents: 55 respondents.

Total Annual Reponses: 2 responses.

Average Hours Per Response: 60 hours.

Total Annual Burden Hours: 120 hours.

Dated: August 4, 1999.

By the Appraisal Subcommittee of the Federal Financial Institutions Examination Council.

Marc L. Weinberg,

Acting Executive Director and General Counsel.

[FR Doc. 99–20426 Filed 8–6–99; 8:45 am]

BILLING CODE 6210–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Proposed Collections; Comment Request

The Department of Health and Human Services, Office of the Secretary will periodically publish summaries of proposed information collections projects and solicit pubic comments in compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995. To request more information on the project or to obtain a copy of the information collection plans and instruments, call the OS Reports Clearance Officer on (202) 690–6207.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project 1. Survey of Opinions of Principal Investigators on Managing a Biomedical Research Laboratory—NEW—The Office of Research Integrity is proposing an informal survey of principal investigators to obtain anecdotal information on experiences associated with the management of a Biomedical Research Laboratory. The information will be shared with the research community to promote good laboratory management practices. *Respondents:* Principal Investigators—Reporting Burden Information; *Number of Respondents:* 200; *Annual Frequency of Response:* one time; *Average Burden per Response:* 3.5 hours; *Total Annual Burden:* 700 hours.

Send comments to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201. Written comments should be received within 60 days of this notice.

Dated: August 2, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–20454 Filed 8–6–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Information Collection Activities: Submission for OMB Review; Comment Request

The Department of Health and Human Services, Office of the Secretary publishes a list of information collections it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) and 5 CFR 1320.5. The following are those information collections recently submitted to OMB.

1. Second Mail Survey for the Multi-site Evaluation of the Welfare-to-Work Grant Program—New—This data collection will support the Office of the Assistant Secretary for Planning and Evaluation in its efforts to further document the status of Welfare-to-Work formula and competitive grantees and provide information in implementation issues as part of the Congressionally mandated evaluation of the Welfare-to-Work grants program. *Respondents:* Non-profit Institutions, State, local or Tribal Governments; *Number of Responses:* 578; *Burden per Response:* 1.24 hours; *Total Burden:* 714 hours.

OMB Desk Officer: Allison Eydt.

Copies of the information collection packages listed above can be obtained by calling the OS Reports Clearance Office on (202) 690–6207. Written comments and recommendations for the proposed information collection should be sent directly to the OMB desk officer designated above at the following address: Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503.

Comments may also be sent to Cynthia Agens Bauer, OS Reports Clearance Officer, Room 503H, Humphrey Building, 200 Independence Avenue SW, Washington, DC, 20201. Written comments should be received within 30 days of this notice.

Dated: July 30, 1999.

Dennis P. Williams,

Deputy Assistant Secretary, Budget.

[FR Doc. 99–20355 Filed 8–6–99; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research; Contract Review Meeting

In accordance with section 10(a) of the Federal Advisory Committee Act as amended (5 U.S.C., Appendix 2), announcement is made of an Agency for Health Care Policy and Research (AHCPR) Technical Review Committee (TRC) meeting. This TRC's charge is to provide review of contract proposals and recommendations to the Administrator, AHCPR, on the technical merit of proposals submitted in response to a Request for Proposals (RFPs) on ''Technical, Analytical and Logistical Support Services for the Office of Research Review, Education and Policy''. The RFP was published in the Commerce Business Daily on May 11, 1999.

The upcoming TRC meeting will be closed to the public in accordance with the Federal Advisory Committee Act (FACA), section 10(d) of 5 U.S.C., Appendix 2, implementing regulations, 41 CFR 101–6.1023, and procurement regulations, 48 CFR section 315.604(d). The discussions at this meeting of contract proposals submitted in response to the above-referenced RFP are likely to reveal proprietary and personal information concerning individuals associated with the proposals. Such information is exempt from disclosure under the above-cited FACA provision that protects the free exchange of candid views, and under the procurement rules that protects the contract proposal evaluation process.

Name of TRC: The Agency for Health Care Policy and Research—''Technical, Analytical and Logistical Support Services for the Office of Research Review, Education and Policy.''

Date: August 19–20, 1999 (Closed to the public).

Place: Agency for Health Care Policy and Research, Conference Center, Conference Room B, 6010 Executive Boulevard, 4th Floor, Rockville, Maryland 20852.

Contact Person: Anyone wishing to obtain information regarding this meeting should contact Bonnie Campbell, Office of Research Review, Education and Policy, Agency for Health Care Policy and Research, 2101 Executive Boulevard, Suite 400, Rockville, Maryland, 20852, 301–594–1846.

This notice is being published less than 15 days prior to the August 19–20 meeting due to the timing limitations imposed by the review and funding cycle.

Dated: August 3, 1999.

John M. Eisenberg,

Administrator.

[FR Doc. 99–20428 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–99–25]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

Comments are invited on (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques for other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Antimalarial Drugs—New—The Division of Parasitic Diseases, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), is proposing a survey of pharmacy directors of inpatient health facilities to gain information about the availability of antimalarial medications in their pharmacies. In recent years, CDC has received increasing numbers of reports from health care providers and patients who have been unable to obtain, or experienced delays in obtaining, antimalarial drugs which were needed for patients in the United States who have been diagnosed with malaria. In the case of injectable quinidine gluconate, which is the treatment of choice for severe malaria, these delays in initiating appropriate therapy have been life threatening. The reasons for these shortages have varied from problems in drug supply and distribution from the manufacturer to decisions made by pharmacies to no longer stock the drugs. The American Society of Health System Pharmacists (ASHP) will provide CDC with a list of approximately 7,400 pharmacy directors of inpatient institutions in the U.S. Those listed will be surveyed through a mailed questionnaire. Participation in completing the proposed questionnaire will be voluntary. Information collected will include the pharmacy name and location, name of the pharmacy director, number of inpatient beds in the health facility, a list of antimalarial medications currently on formulary and in stock, the procedure and anticipated delay in obtaining injectable quinidine if needed and not currently in stock, and, if quinidine is no longer on formulary, the date it was taken off. Such information is essential for CDC to determine the potential need for and various options to improve the availability of critical antimalarial drugs in the United States. The total estimated cost to respondents is 0.

Form	Number of respondents	Number of responses per respondent	Average burden per respondent (in hrs.)	Response burden (total hrs. in study)
Questionnaire	7,400	1	0.16	1184

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–20381 Filed 8–6–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–16–99]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

1. National Surveillance of Dialysis-Associated Diseases (0920–0009)—Reinstatement—National Center for Infectious Diseases (NCID). The Hospital Infectious Program, NCID is proposing renewal of a yearly mail survey of dialysis practices and dialysis-associated diseases at U.S. outpatient hemodialysis centers. The rehabilitation of individuals in the United States who suffer from chronic renal failure has been identified as an important national priority; and since 1973, chronic hemodialysis patients have been provided financial support by the Federal Government. The Hospital Infections Program and the Hepatitis Branch, Division of Viral and Rickettsial Diseases, Centers for Disease Control and Prevention, have responsibility for formulating strategies for the control of hepatitis, bacteremia, pyrogenic reactions, and other hemodialysis-associated disease.

In order to devise such control measures, it is necessary to determine the extent to which the incidence of these dialysis-associated diseases changes over time. This request is to continue surveillance activities among chronic hemodialysis centers nationwide. In addition, once control measures are recommended it is essential that such measures be monitored to determine their effectiveness. The survey is conducted once a year by mailing it to all chronic hemodialysis centers licensed by the Health Care Financing Administration (HCFA). Dialysis practices surveyed include the use of hepatitis B vaccine in patients and staff members, whether isolation rooms are used to treat hepatitis B surface antigen-positive patients, the types of vascular access and dialyzers used, whether certain dialysis items are disinfected for reuse, and whether the dialysis center has any policy for insuring judicious use of antimicrobial agents. Among dialysis-associated diseases, the survey includes hepatitis B virus infection, antibody to hepatitis C virus, antibody to human immunodeficiency virus, pyrogenic reactions, and vancomycin-resistant enterococci. The total annual burden hours are 3200.

Respondents	Number of respondents	Number of responses/respondent	Avg. Burden/response (in hrs.)
Chronic Hemodialysis Centers	3,200	1	1

Dated: August 3, 1999.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 99–20380 Filed 8–6–99; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0185]

Agency Information Collection Activities: Proposed Collection; Comment Request; Cosmetic Product Voluntary Reporting Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the Cosmetic Product Voluntary Reporting Program.

DATES: Submit written comments on the collection of information by October 8, 1999.

ADDRESSES: Submit written comments on the collection of information to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Peggy Schlosburg, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth below.

With respect to the following collection of information, FDA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of

information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Cosmetic Product Voluntary Reporting Program—21 CFR 720.4, 720.6, and 720.8(b) (OMB Control Number 0910–0030—Extension)

Under the Federal Food, Drug, and Cosmetic Act (the act), cosmetic products that are adulterated under section 601 of the act (21 U.S.C. 361) or misbranded under section 602 of the act (21 U.S.C. 362) cannot legally be distributed in interstate commerce. To assist FDA in carrying out its responsibility to regulate cosmetics, FDA requests under part 720 (21 CFR part 720), but does not require, that firms that manufacture, pack, or distribute cosmetics file with the agency an ingredient statement for each of their products (§ 720.4). Ingredient statements for new submissions (§ 720.1) are reported on Form FDA 2512 entitled ''Cosmetic Product Ingredient Statement,'' and Form FDA 2512a, a continuation form. Changes in product formulation (§ 720.6) are also reported on Forms FDA 2512 and FDA 2512a. When a firm discontinues the commercial distribution of a cosmetic, FDA requests that the firm file Form FDA 2514 entitled ''Discontinuance of Commercial Distribution of Cosmetic Product Formulation'' (§ 720.6). If any of the information submitted on or with these forms is confidential, the firm may submit a request for confidentiality under § 720.8.

FDA uses the information received on these forms as input for a computer-based information storage and retrieval system. These voluntary formula filings provide FDA with the best information available about cosmetic product formulations, ingredients and their frequency of use, businesses engaged in the manufacture and distribution of cosmetics, and approximate rates of product discontinuance and formula modifications. FDA's data base also lists cosmetic products containing ingredients suspected to be carcinogenic or otherwise harmful to the general public health. The information provided under the Cosmetic Product Voluntary Reporting Program assists FDA scientists in evaluating reports of alleged injuries and adverse reactions to the use of cosmetics. The information also is utilized in defining and planning analytical and toxicological studies pertaining to cosmetics.

FDA shares nonconfidential information from its files on cosmetics with consumers, medical professionals, and industry. For example, by submitting a Freedom of Information Act request, consumers can obtain information about which products do or do not contain a specified ingredient and about the levels at which certain ingredients are typically used. Dermatologists use FDA files to cross-reference allergens found in patch-test kits with cosmetic ingredients. The Cosmetic, Toiletry, and Fragrance Association, which is conducting a review of ingredients used in cosmetics, has relied on data provided by FDA in selecting ingredients to be reviewed based on frequency of use.

The Cosmetic Product Voluntary Reporting Program was suspended during fiscal year (FY) 1998 because of a lack of funding and was reinstated at the beginning of FY 1999. Participation returned to the previous level. Thus, FDA estimates that the burden of this collection of information will remain the same as the estimate presently on file with OMB.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	Form	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
720.4 (New submissions)	FDA 2512/FDA 2512a	550	4.2	2,310	0.5	1,155
720.6 (Amendments)	FDA 2512/2512a	550	1.4	770	0.33	254
720.6 (Notices of discontinuance)	FDA 2514	550	4.5	2,500	0.1	250
720.8 (Requests for confidentiality		2	1.0	2	1.5	3
Total						1,662

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

This estimate is based on the number and frequency of submissions received in the past and on discussions between FDA staff and respondents during routine communications. The actual time required for each submission will vary in relation to the size of the company and the breadth of its marketing activities.

Dated: August 2, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–20359 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. [99F–2552]]

Asahi Denka Kogyo K.K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K.K. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-tert-butyl-4-methylphenyl) ester as an antioxidant and/or stabilizer in polyolefins intended to contact food.

FOR FURTHER INFORMATION CONTACT: Vivian Gilliam, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3094.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4679) has been filed by Asahi Denka Kogyo K.K., c/o Japan Technical Information Center, Inc., 775

S. 23rd St., Arlington, VA 22202. The petition proposes to amend the food additive regulations in § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) to provide for the expanded safe use of phosphorous acid, cyclic neopentanetetrayl bis(2,6-di-tert-butyl-4-methylphenyl) ester for use at levels not to exceed 0.15 percent by weight in polyolefins complying with § 177.1520 Olefin polymers (21 CFR 177.1520).

The agency has determined under 21 CFR 25.32(I) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 2, 1999

Alan M. Rulis

Director of Premarket Approval, Center for Food Safety and Applied Nutrition

[FR Doc. 99–20356 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99F–2534]

Ciba Specialty Chemicals Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba Specialty Chemicals Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of di(*n*-octyl)phosphite as an extreme pressure-antiwear adjuvant for lubricants intended for incidental contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 9B4683) has been filed by Ciba Specialty Chemicals Corp., 540 White Plains Rd., P.O. Box 2005, Tarrytown, NY 10591–9005. The petition proposes to amend the food additive regulations in § 178.3570 *Lubricants with incidental food contact* (21 CFR 178.3570) to provide for the safe use of di(*n*-octyl)phosphite as an extreme pressure-antiwear adjuvant for lubricants intended for incidental contact with food.

The agency has determined under 21 CFR 25.32(j) that this action is of the type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Dated: July 20, 1999.

Laura M. Tarantino,

Deputy Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 99–20361 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket Nos. 92P–0274 and 97P–0437]

Determination That Bendectin Was Not Withdrawn From Sale for Reasons of Safety or Effectiveness

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined that the drug product Bendectin, a tablet composed of pyroxidine hydrochloride, 10 milligram (mg), and doxylamine succinate, 10 mg, for the prevention of nausea during pregnancy was not withdrawn from sale for reasons of safety or effectiveness. This determination will permit FDA to approve abbreviated new drug applications (ANDA's) for the combination product pyroxidine hydrochloride, 10 mg, and doxylamine succinate, 10 mg, tablets.

FOR FURTHER INFORMATION CONTACT: Andrea C. Masciale, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: In 1984 Congress enacted the Drug Price Competition and Patent Term Restoration Act of 1984 (Public Law 98–417) (the 1984 amendments), which authorized the approval of duplicate versions of approved innovator drug products under an ANDA procedure. ANDA sponsors generally must show that the drug for which they are seeking approval contains the same active ingredient in the same strength and dosage form as the ''listed drug,'' which is a drug that was previously approved under a new drug application (NDA). Sponsors of ANDA's are not required to repeat the extensive clinical testing necessary to gain approval of an NDA. The only data from investigations required in an ANDA are data to show that the drug that is the subject of the ANDA is bioequivalent to the listed drug.

The 1984 amendments include what is now section 505(j)(7) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(j)(7)), which requires FDA to publish a list of all approved drugs. FDA publishes this list as part of the ''Approved Drug Products with Therapeutic Equivalence Evaluations,'' which is generally known as the ''Orange Book.'' Although they are technically drugs that should be listed under section 505(j)(7) of the act, certain drug products, including Bendectin, that were approved for safety and effectiveness but were no longer marketed on September 24, 1984, are not included in the Orange Book. In implementing the 1984 amendments, FDA decided not to retrospectively review products withdrawn from the market prior to the passage of the amendments. Rather, the agency decided to determine whether such drugs were withdrawn from the market for safety or effectiveness reasons on a case-by-case basis. A person interested in obtaining marketing approval for such a drug product through the ANDA process must petition the agency for a determination (21 CFR 314.122(d)).

Under FDA's regulations, drugs are withdrawn from the list if the agency withdraws or the Secretary of Health and Human Services suspends approval of the drug's NDA or ANDA for reasons of safety or effectiveness, or if FDA determines that the listed drug was withdrawn from sale for reasons of safety or effectiveness (21 CFR 314.162). FDA must make a determination as to whether a listed drug was withdrawn for reasons of safety or effectiveness when a person petitions for such a determination (§ 314.161(a)(3) (21 CFR 314.161(a)(3))). Regulations also provide that the agency must make a determination as to whether a listed drug was withdrawn from sale for reasons of safety or effectiveness before an ANDA that refers to that listed drug may be approved (§ 314.161(a)(1)). FDA may not approve an ANDA that does not refer to a listed drug.

Bendectin is the subject of approved NDA 10–598, currently held by Hoechst Marion Roussel, Inc. (HMR). In 1956, FDA approved the NDA for Bendectin tablets for use in the prevention of

nausea during pregnancy. The original formulation of the antinauseant included dicyclomine hydrochloride, pyroxidine hydrochloride, and doxylamine succinate. The drug was reviewed in the agency's Drug Efficacy Study Implementation program, in which FDA concluded that dicyclomine hydrochloride did not contribute to the effectiveness of the other two ingredients in Bendectin tablets. Therefore, the drug product was reformulated in 1976 to include only pyroxidine hydrochloride, 10 mg, and doxylamine succinate, 10 mg.

On June 9, 1983, Merrell Dow, HMR's predecessor in interest, withdrew Bendectin tablets from sale in the United States and worldwide. Other companies have continued to market this product in other areas of the world. To FDA, to the press, and in letters to customers using Bendectin tablets, Merrell Dow, in explaining its decision, stated that the withdrawal of the drug product was due to nonmedical reasons, noting significant adverse publicity and the burdens of litigation. At the same time, Merrell Dow asserted its view that ''available medical evidence does not demonstrate a cause and effect relationship between the use of Bendectin and birth defects.'' In an FDA Talk Paper issued on the day Bendectin was withdrawn from sale, the agency stated that Merrell Dow's decision was ''independent'' of action by FDA. HMR and predecessors in interest to HMR have continually maintained that the withdrawal of Bendectin tablets was for reasons other than safety or effectiveness.

On June 24, 1992, Townley & Updike, on behalf of Pharmaceutical Development and Licensing, Inc., submitted a citizen petition under 21 CFR 10.30 (Docket No. 92P–0274/CP1) regarding the status of Bendectin. A similar citizen petition was filed by Cato Research on behalf of Duchesnay Inc., on October 20, 1997 (Docket No. 97P–0437/CP1). Both petitions request that the agency determine whether Bendectin was withdrawn from sale for reasons of safety or effectiveness and, if the agency determines that the drug was not withdrawn from sale for reasons of safety or effectiveness, relist the drug in the Orange Book.

Under § 314.161, the relevant inquiry is whether the manufacturer withdrew the drug from the market for reasons of safety or effectiveness. Where, as here, a substantial amount of time has elapsed since a drug was withdrawn from the market, the agency's inquiry considers not only the reasons the manufacturer initially ceased marketing the product, but also any relevant information that has become available since the market withdrawal. Because a finding that a product was not withdrawn for safety or effectiveness reasons will permit the approval of ANDA's for the drug, the agency considers all relevant information, not just information available at the time of the initial withdrawal, to determine whether a drug is no longer on the market due to safety or effectiveness concerns.

The agency's review of the withdrawal of Bendectin from the market has considered the sponsor's explanation of the basis for the withdrawal of the product in 1983 and information available to the agency regarding safety or effectiveness concerns for Bendectin. As noted previously, the sponsor has consistently maintained that it withdrew Bendectin from the market for reasons other than safety or effectiveness. The agency has reviewed information submitted with the petitions, published studies, U.S. and foreign adverse event reports, and FDA records. The current evidence supports the conclusion that Bendectin was not withdrawn from the market for reasons of safety or effectiveness.

Doxylamine succinate is an active ingredient in several over-the-counter (OTC) antihistamines and sleep aids. The labeling of these OTC products bears statements that pregnant women should seek the advice of a health professional before using the products or that the products should not be taken by pregnant women. These statements do not contradict FDA's present determination because the combination product pyroxidine hydrochloride, 10 mg, and doxylamine succinate, 10 mg, is a prescription drug product. As with all prescription drug products that are being considered for use in a pregnant woman, a health professional may appropriately assess the risks and benefits of pyroxidine hydrochloride and doxylamine succinate for its intended use.

Pyroxidine hydrochloride is also known as vitamin B_6. As an individual product, it is readily available to U.S. consumers without the requirement of a prescription.

The agency has determined under § 314.161 that Bendectin was not withdrawn from the market for reasons of safety or effectiveness. Accordingly, the agency will list Bendectin tablets in the ''Discontinued Drug Product List'' section of the Orange Book. The ''Discontinued Drug Product List'' delineates, among other items, drug products that have been discontinued from marketing for reasons other than safety or effectiveness. ANDA's that refer to the combination product pyroxidine hydrochloride, 10 mg, and doxylamine succinate, 10 mg, tablets may be approved by the agency.

Dated: July 28, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–20362 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee); Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Advisory Committee on Special Studies Relating to the Possible Long-Term Health Effects of Phenoxy Herbicides and Contaminants (Ranch Hand Advisory Committee).

General Function of the Committee: To advise the Secretary and the Assistant Secretary for Health concerning its oversight of the conduct of the ranch hand study by the U.S. Air Force and to provide scientific oversight of the Department of Veterans Affairs Army Chemical Corps Vietnam Veterans Health Study, and other studies in which the Secretary or the Assistant Secretary for Health believes involvement by the committee is desirable.

Date and Time: The meeting will be held on August 26 and 27, 1999, 8:30 a.m. to 5 p.m.

Location: Parklawn Bldg., 5600 Fishers Lane, conference room K, Rockville, MD.

Contact Person: Ronald F. Coene, Food and Drug Administration, 5600 Fishers Lane, rm. 16–53, Rockville, MD 20857, 301–827–6696, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12560. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee will review the draft report of the Air Force Health Study–Cycle 5.

Procedure: Interested persons may present data, information, or views,

orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by August 6, 1999. Oral presentations from the public will be scheduled on August 27, 1999, between approximately 11 a.m. to 12 noon. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before August 6, 1999, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 30, 1999

Linda A. Suydam,

Senior Associate Commissioner

[FR Doc. 99–20365 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–98–6000]

Memorandum of Understanding Between the Food and Drug Administration and States of Illinois

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a Memorandum of Understanding (MOU) between FDA and the State of Illinois Department of Nuclear Safety. The purpose of the MOU is to authorize the State to implement a State certification program under the Mammography Quality Standards Act.

DATES: The agreement became effective August 3, 1998.

FOR FURTHER INFORMATION CONTACT: Lireka P. Joseph, Center for Devices and Radiological Health (HFZ–200), Food and Drug Administration, 2094 Gaither Rd., Gaithersburg, MD 20850, 301–443–2845. **SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 20.108(c), which states that all written agreements and MOU's between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

BILLING CODE 4160–01–F

Control No. 225-98-6000

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

STATE OF ILLINOIS
DEPARTMENT OF NUCLEAR SAFETY

AND

U.S. FOOD AND DRUG ADMINISTRATION
CENTER FOR DEVICES AND RADIOLOGICAL HEALTH
OFFICE OF HEALTH AND INDUSTRY PROGRAMS

I. PURPOSE:

The purpose of this Memorandum of Understanding (MOU) is to authorize the State of Illinois, through the Department of Nuclear Safety (Department), to implement a State certification program in Illinois under the Mammography Quality Standards Act (MQSA). The MOU will authorize the Department to implement MQSA certification standards as approved by the United States Food and Drug Administration (FDA), and to issue certificates to mammography facilities to ensure safe, reliable, and accurate mammography in Illinois. FDA recognizes that the Radiation Protection Act of 1990 and Department emergency/proposed rules, to be filed and effective upon execution of this MOU, meet the requirements of the MQSA for approval by FDA of a State certification program in Illinois.

II. BACKGROUND:

The MQSA (Pub. L. 102-539) was enacted on October 27, 1992, to establish national quality standards for mammography. Pursuant to MQSA, the authority to approve accreditation bodies and to certify facilities was delegated by the Secretary of Health and Human Services (Secretary) to the FDA.

Subsection (q) of the MQSA authorized the Secretary to authorize State programs to carry out certain MQSA certification program requirements. Section 24.5 of the Radiation Protection Act of 1990 authorizes the Department to enter agreements and promulgate rules as necessary to implement such a State program in Illinois.

FDA has developed a States as Certifiers Demonstration Project (Project) to allow a limited trial of State Programs under Subsection (q) of the Act. The State of Illinois has applied and been approved by the FDA to participate in the Project. The Project is for one year, but may be renewed by mutual agreement. FDA anticipates that the Demonstration Project will lead to a national States as Certifiers program which will be

open to all states that apply and are approved by FDA.

III. AUTHORITY:

FDA has been delegated authority by the Secretary to authorize, under Subsection (q) of the MQSA, State MQSA certification programs. Pursuant to Section 24.5 of the Radiation Protection Act of 1990, the Department is authorized to enter into agreements to carry out the State Certification program requirements provided for in the MQSA.

IV. TERMS:

1. FDA, under the Project, hereby authorizes the State of Illinois, through the Department, to implement a program to carry out the certification requirements of subsections (b), (c), (d), (g)(1), (h), (i), and (j) of the MQSA (including the requirements under regulations promulgated pursuant to such subsections). The Department shall implement the program in accordance with its application dated February 9, 1998 and its response to the FDA review letter of April 7, 1998, submitted with the Department's letter of April 20, 1998.

2. FDA shall continue to carry out subsections (e) and (f), may take action under subsections (h), (i), and (j), and shall conduct oversight functions under subsections (g)(2) and (g)(3) of the MQSA.

3. The State of Illinois will provide the FDA with the results of all MQSA inspections conducted by the State during the Project. Based on this information, the FDA will bill and charge each inspected mammography facility a fee of $509 to cover the FDA's costs for the annual inspection. This fee may be subject to change.

4. Under the MQSA, all certified mammography facilities except governmental entities are subject to the payment of inspection fees. During the period of time the State of Illinois is participating in the Project, facilities that qualify as government entities will not be required to pay the FDA inspection fee but will be required to recertify their government entity status using the form provided when billed by FDA

   During the period of time Illinois is participating in the Project, the Department will directly bill and charge all facilities certified by the Department to perform mammography under MQSA an annual certification fee of $750.

V. NAME AND ADDRESSES OF PARTICIPATING AGENCIES:

FDA:	State of Illinois
Office of Health and Industry Programs 1350 Piccard Drive Rockville, MD 20850	Department of Nuclear Safety 1035 Outer Park Drive Springfield, IL 62704

VI. LIAISON OFFICERS:

For matters and notices related to this MOU, the contact person for FDA is:

Al Van De Griek
Division of Mammography Quality and Radiation Programs
Food and Drug Administration, HFZ-240
1350 Piccard Drive
Rockville, Maryland 20850
(301) 594-0866

The contact person for the Department is:

Paul Brown, Chief
Illinois Department of Nuclear Safety
Division of Electronic Products
1035 Outer Park Drive
Springfield, Illinois 62704
(217) 785-9978

Either party may, from time to time, designate in writing different contact persons or addresses.

VII. PERIOD OF AGREEMENT:

After acceptance by both parties, this MOU will be become effective on the effective date of 32 Illinois Administrative Code 370 (Quality Standards and Certification Requirements for Facilities Performing Mammography) and continue until the completion of the Project or upon termination in writing by either party with a 30-day prior notice (such notice shall be sent to the addresses listed in Section VI). This MOU may be modified by mutual written consent at any time.

NOW THEREFORE, the parties hereto mutually agree to the terms and conditions set forth above.

FDA:

8/3/98
(Signature and date)
Lireka P. Joseph, Dr.P.H.
Director
Office of Health and Industry Programs
Center for Devices and Radiological Health
Food and Drug Administration

State of Illinois:

8/3/98
(Signature and date)
Thomas W. Ortciger
Director
Department of Nuclear Safety
State of Illinois

Dated: August 2, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–20358 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2359]

Medical Devices; Global Harmonization Task Force: Summary Technical File Documents for Premarket Documentation of Conformity With Requirements for Medical Devices; Recommendations on the Role of Standards in the Assessment of Medical Devices; and a Recommendation on Medical Device Classification; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of three documents entitled ''Summary Technical File for Premarket Documentation of Conformity With Requirements for Medical Devices;'' ''Recommendation: Role of Standards in the Assessment of Medical Devices;'' and ''Recommendation on Medical Devices Classification.'' Study group 1 of the Global Harmonization Task Force (GHTF) has prepared these documents on premarket regulation of medical devices. These documents are intended to provide information only and represent harmonized proposals and recommendations that may be used by governments developing or updating their premarket regulation schemes for medical devices. Elements of the approach set forth in these documents may not be consistent with current U. S. regulatory requirements. FDA is requesting comments on these documents.

DATES: Written comments by September 30, 1999. After the close of the comment period, written comments may be submitted at any time to Kimber C. Richter (address below).

ADDRESSES: Submit written comments on the documents to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Comments should be identified with the docket number found in brackets in the heading of this document. If you do not have access to the World Wide Web (WWW), submit written requests for single copies on a 3.5″ diskette of the document listed above to the Division of Small Manufacturers Assistance (HFZ–220), Center for Devices and Radiological Health, Food and Drug Administration, 1350 Piccard Dr., Rockville, MD 20850. Send two self-addressed adhesive labels to assist that office in processing your requests, or fax your request to 301–443–8818. See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to these documents.

FOR FURTHER INFORMATION CONTACT: Kimber C. Richter, Office of Device Evaluation (HFZ–400), Center for Devices and Radiological Health, Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–594–2022.

SUPPLEMENTARY INFORMATION:

I. Background

FDA has participated in a number of activities to promote the international harmonization of regulatory requirements. In September 1992, a meeting was held in Nice, France, by senior regulatory officials to evaluate international harmonization. At this time it was decided to form GHTF to facilitate harmonization. Subsequent meetings have been held on a yearly basis in various locations throughout the world. The most recent GHTF meeting was held in June and July 1999, in Bethesda, MD, in the United States.

The objective of the GHTF is to encourage convergence at the global level of regulatory systems of medical devices in order to facilitate trade while preserving the right of participating members to address the protection of public health by regulatory means considered most suitable. One of the ways this objective is achieved is by identifying and developing areas of international cooperation in order to facilitate progressive reduction of technical and regulatory differences in systems established to regulate medical devices. In an effort to accomplish these objectives, the GHTF has formed four study groups to draft documents and carry on other activities designed to facilitate global harmonization. This notice is a result of documents that have been developed by study group 1.

Study group 1 was formed in January 1993, and was originally tasked with identifying differences between various regulatory systems. In 1995, the group was asked to propose areas of potential harmonization for premarket device regulations and possible guidance that could help lead to harmonization. As a result of their efforts, this group has developed three draft documents that are described briefly in the following paragraphs.

(1) ''Summary Technical File for Premarket Documentation of Conformity With Requirements for Medical Devices'' (GHTF.SG1.NO11R7). Study group 1 suggests that this document should be used with the document

entitled ''Essential Principles of Safety and Performance of Medical Devices on a Global Basis; Final Working Draft'' (63 FR 46227, August 31,1998).

This document has been developed to encourage global convergence of regulatory systems and provide one means of potential future achievement. It is intended for use by medical device regulators, conformity assessment bodies, and industry, and offers an economic and effective approach to the control of medical devices in the interest of public health. The document will be of value to countries developing or amending regulations. The regulatory requirements of some countries may not, at present, reflect the contents of this document.

The purpose of this document is to propose a format and harmonized content for a summary technical file to be held by the sponsor or submitted, as required by the regulatory authority, for premarket clearance/approval. It proposes a format that may be used as an alternative to country-specific current submission formats by GHTF member states. This document summarizes the technical information needed to demonstrate conformity to premarket requirements that are consistent across various regulatory systems. Users of this document may submit it to various regulatory authorities with country specific additions as needed. (These will be defined in a second volume still under development.) Study group 1 may focus on these differences for future harmonization efforts. It should be noted that the amount of detail and information that will be needed in the summary technical file may vary considerably with the risk class of the product concerned.

(2)''Recommendation: Role of Standards in the Assessment of Medical Devices'' (GHTF.SG1.NO12R7). This GHTF document provides harmonized guidance for regulatory authorities on the use of standards in premarket regulation of devices. It suggests that international standards may assure the safety, quality and performance of medical devices and should serve as the building blocks for a harmonized regulatory process. Additionally, it recommends that regulatory authorities and industry should encourage and support the development of international standards for medical devices to demonstrate compliance with the essential principles of safety and performance of medical devices. It suggests that the use of standards is voluntary, except in those particular cases where the regulatory authority has deemed certain standards mandatory.

(3)''Recommendation on Medical Devices Classification.'' This GHTF document suggests some general guidelines for classification of medical devices to achieve eventual harmonization. It recommends that there is a need to classify medical devices based on their risk to patients, users and other persons; and that there is a benefit for manufacturers and regulatory authorities if a globally harmonized classification system is developed. This document goes on to say that there is a risk presented by a particular device and that the risk depends on its intended purpose and the effectiveness of the risk management techniques applied during the design, manufacture, and use of that device. The document also suggests that the regulatory controls applied should be proportional to the level of risk associated with a medical device and should increase with the associated degree of risk presented by the medical device. The GHTF Study Group suggests four global classifications of devices. This document also presents a Decision Tree Logic that may help regulatory authorities develop different parameters that might be used to classify specific devices.

These documents are presented for review and comment so that industry and other members of the public may express their views and opinions on these matters.

II. Electronic Access

Persons interested in obtaining copies of these draft documents may also do so using the WWW. Updated on a regular basis, the CDRH home page includes the document entitled ''Essential Principles for Safety and Performance of Medical Devices on a Global Basis; Final Working Draft,'' device safety alerts, (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video-oriented conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at ''http://www.fda.gov/CDRH''. Information on the GHTF may be accessed at http://www.GHTF.org''.

III. Comments

Interested persons may, on or before September 30, 1999, submit to the Dockets Management Branch (address above) written comments regarding the draft documents. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with docket number found in brackets in the heading of this document and with the full title of these documents. The draft documents and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

After September 30, 1999, written comments regarding the draft documents may be submitted at any time to the contact person (address above).

Dated: July 25, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–20367 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97D–0302]

Guidance For Industry on Consumer-Directed Broadcast Advertisements; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a final guidance for industry entitled ''Consumer-Directed Broadcast Advertisements.'' The agency sought public comment on a draft version of this guidance, which was announced in the **Federal Register** of August 12, 1997. The agency considered the comments received and, where appropriate, revised the draft guidance. The final guidance describes how consumer-directed broadcast advertisements for prescription drugs for humans and animals, and human biological products, may comply with the requirement that they make adequate provision for dissemination of the approved package labeling.

DATES: Written comments on the final guidance may be submitted at any time.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852. Submit written requests for copies of the final guidance to the Office of Training and Communications, Division of Communications Management, Drug Information Branch (HFD–210), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, http://www.fda.gov/cder/guidance/index.htm; or Office of Communication, Training,

and Manufacturers Assistance (HFM–40), Center for Biologics Evaluation and Research, Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, http://www.fda.gov/cber/guidelines.htm, FAX 1–888–CBERFAX or 301–827–3844, Mail: the Voice Information System at 800–835–4709 or 301–827–1800; or Communications Staff (HFV–12), Center for Veterinary Medicine (CVM), 7500 Standish Pl., Rockville, MD 20855, 301–594–1755, http://www.fda.gov/cvm.

FOR FURTHER INFORMATION CONTACT:

Regarding prescription human drugs: Nancy M. Ostrove, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2828, or via e-mail at ''ostrove@cder.fda.gov''.

Regarding prescription human biological products: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–602), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–3028, or via e-mail at ''stifano@cber.fda.gov''.

Regarding prescription animal drugs: Mukund R. Parkhie, Center for Veterinary Medicine (HFV–216), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–6642, or via e-mail at ''mparkhie@bangate.fda.gov''.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 12, 1997 (62 FR 43171), FDA announced the availability of a draft guidance for industry concerning consumer-directed broadcast advertisements. The draft guidance was intended to describe how advertisers could fulfill their obligations under the regulations to provide consumers with necessary risk information in connection with prescription drug advertisements broadcast through general public media such as radio, television, and telephone communications systems. The prescription drug advertising regulations (§ 202.1 (21 CFR 202.1)) distinguish between print and broadcast advertisements. Print advertisements must include a ''brief summary,'' which generally contains each risk concept in the product's approved package labeling. In contrast, advertisements broadcast through media such as television, radio, or telephone communications systems must disclose the product's major risks in either the audio or audio and visual parts of the presentation; this is sometimes called the ''major statement.'' Sponsors of broadcast advertisements are also required to present a brief summary, or alternatively, may make ''adequate provision * * * for dissemination of the approved or permitted package labeling in connection with the broadcast presentation'' (§ 202.1(e)(1)). The draft guidance described and explained the rationale behind one possible multifaceted approach that would fulfill the ''adequate provision'' requirement.

After considering comments received by the public, FDA has revised the draft guidance and is publishing it as a final guidance. FDA notes that although the comments did not address the specific issue of telephone advertisements, the lack of a specific discussion concerning such advertisements may have led to the assumption that the same multifaceted approach appropriate for television and radio advertisements was also appropriate for telephone advertisements. Therefore, in the final guidance FDA clarified its position with regard to fulfilling the ''adequate provision'' requirement for telephone advertisements. Aside from the addition of this clarification and the revision of introductory language to reinforce the importance in broadcast advertisements of complying with the more general requirements of the advertising regulations, there were no major revisions to the draft guidance.

As specified in its good guidance practices policy (62 FR 8961, February 27, 1997), the agency is not obliged to specifically address every comment on a draft or final guidance. However, because this draft guidance had a substantial impact on the direct-to-consumer broadcast environment, FDA believes that discussion of the agency's response to some of the issues raised in the comments will be helpful to certain individuals and groups. Therefore, FDA has placed a document entitled ''Consumer-Directed Broadcast Advertisements Guidance: Questions and Answers'' in the docket with this final guidance (see docket number in brackets in the heading of this document), as well as on FDA's website at ''www.fda.gov/cder/guidance/index.htm''.

As discussed in the August 12, 1997, **Federal Register** notice announcing availability of the draft guidance, within 2 years of publication of this final guidance, FDA intends to evaluate its effects on the public health. At the end of this evaluation period, FDA will determine whether this guidance should be withdrawn, continued, or modified to reflect the agency's current thinking.

This guidance for industry represents the agency's current thinking on consumer-directed broadcast advertisements. It does not create or confer any rights for or on any person and does not operate to bind FDA or the public. An alternative approach may be used if such approach satisfies the requirements of the applicable statute, regulations, or both.

Interested persons may, at any time, submit written comments on the final guidance to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The final guidance and received comments are available for public examination in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: June 17, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–20364 Filed 8–6–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–1055–NC]

Medicare and Medicaid Programs; Announcement of Additional Applications From Hospitals Requesting Waivers for Organ Procurement Service Areas

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

ACTION: Notice with comment period.

SUMMARY: This notice announces additional applications that we have received from hospitals requesting waivers from entering into agreements with their designated organ procurement organizations. Section 1138(a)(2) of the Social Security Act allows the Secretary of the Department of Health and Human Services to grant waivers to hospitals that want to enter into an agreement with a specific OPO that is not the designated OPO for the hospital's service area. This notice requests comments from OPOs and the general public for our consideration in determining whether these waivers should be granted.

COMMENT DATE: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on October 8, 1999.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health

and Human Services, Attention: HCFA–1055–NC, P.O. Box 9016, Baltimore, MD 21244–9016.

If you prefer, you may deliver your written comments (1 original and 3 copies) to one of the following addresses:

Room 443–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room C5–14–03, 7500 Security Boulevard, Baltimore, MD 21244–1850.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code HCFA–1055–NC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in Room 443–G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, Monday through Friday from 8:30 a.m. to 5 p.m. (phone: (202) 690–7890).

FOR FURTHER INFORMATION CONTACT: Mark A. Horney, (410) 786–4554.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1138(a)(1)(A)(iii) of the Social Security Act (the Act) provides that a participating hospital must notify its designated organ procurement organization (OPO) of potential organ donors. The designated OPO, as defined under section 1138(a)(3)(B) of the Act, is determined by the service area in which the hospital is located. Under section 1138(a)(1)(C) of the Act, the hospital must have an agreement with only that designated OPO to identify potential organ donors.

Section 1138(a)(2) of the Act provides that a participating hospital may obtain a waiver of these requirements from the Secretary of the Department of Health and Human Services (the Secretary). A waiver allows the hospital to have an agreement with an OPO other than the designated OPO if the conditions specified in section 1138(a)(2)(A) of the Act are met.

Section 1138(a)(2)(A) states that in granting a waiver, the Secretary must determine that the waiver: (1) Is expected to increase organ donations; and (2) will ensure equitable treatment of patients referred for transplants within the service area served by the hospital's designated OPO and within the service area served by the OPO with which the hospital seeks to enter into an agreement under the waiver.

In making a waiver determination, section 1138(a)(2)(B) of the Act provides that the Secretary may consider, among other factors: (1) Cost effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO service area due to the changes made on or after December 28, 1992, in definition of metropolitan statistical areas (MSAs); and (4) the length and continuity of a hospital's relationship with the OPO other than the designated OPO.

Under section 1138(a)(2)(D) of the Act, the Secretary is required to publish a notice of any waiver application within 30 days of receiving the application and offer interested parties an opportunity to comment in writing within 60 days of the published notice.

The regulations at 42 CFR 486.316(d) provide that if we change the OPO designated for an area, hospitals located in that area must enter into agreements with the newly designated OPO or submit a request for a waiver within 30 days of notice of the change in designation. The criteria that the Secretary uses to evaluate the waiver in these cases are the same as those described above under section 1138(a)(2)(A) of the Act and have been incorporated into the regulations at § 486.316(e). Section 486.316(g) further specifies that a hospital may continue to operate under its existing agreement with an out-of-area OPO while we process its waiver request it submitted in accordance with § 486.316(d).

This notice supplements previous notices announcing OPO waivers published in the **Federal Register** on January 19, 1996 (61 FR 1389), May 17, 1996 (61 FR 24941), November 8, 1996 (61 FR 57876), April 21, 1997 (62 FR 19326), September 17, 1997 (62 FR 48872), September 23, 1998 (63 FR 50919), and January 12, 1999 (64 FR 1811).

II. Waiver Request Procedures

In October 1995, we issued a Program Memorandum (Transmittal No. A–95–11) that was supplied to each hospital. This Program Memorandum detailed the waiver process and discussed the information that hospitals must provide in requesting a waiver. We indicated that upon receipt of the waiver requests, we would publish a **Federal Register** notice to solicit public comments, as required by section 1138(a)(2)(D) of the Act.

We will review the requests and comments received. During the review process, we may consult, on an as-needed basis, with the Health Resources and Services Administration's Division of Transplantation; the Organ Procurement and Transplantation Network Contractor, United Network for Organ Sharing; and our regional offices. If necessary, we may request additional clarifying information from the applying hospital or others. We will then make a final determination on the waiver requests and notify the affected hospitals and OPOs.

III. Hospital Waiver Requests

As allowed under § 486.316(e), each of the following hospitals has requested a waiver to have an agreement with an alternative, out-of-area OPO. The listing includes the name of the facility, the city and state of the facility, the currently designated area OPO and the requested OPO.

Name of facility	City	State	Designated OPO	Requested OPO
Keweenaw Memorial Hospital	Laurium	MI	WIWU	MIOP
Jefferson Memorial Hospital	Ranson	WV	DCTC	VAOP
Dickinson County Healthcare System	Iron Mountain	MI	WIWU	MIOP

The following two hospitals have requested a waiver under § 486.316 (e) for a reason unrelated to a change in the designated service area of an OPO. These waivers will only be effective upon completion of our review if the provider meets the requirement of § 486.316 (e).

Name of facility	City	State	Designated OPO	Requested OPO
Fairview Hospital	Great Barrington	MA	MAOB	NYAP
Elko General Hospital	Elko	NV	NVLV	UTOP

IV. Key to the OPO Codes

The key to the acronyms used in the listings to identify OPOs and their addresses are as follows:

DCTC—WASHINGTON REGIONAL TRANSPLANT CONSORTIUM, 8110 Gatehouse Road, Suite 101 W, Falls Church, VA 22042
MAOB—NEW ENGLAND ORGAN BANK, One Gateway Center, Newton, MA 02458
MIOP—ORGAN PROCUREMENT AGENCY OF MICHIGAN, 2203 Platt Road, Ann Arbor, MI 48104
NVLV—NEVADA DONOR NETWORK, 4850 Southeastern Avenue, Suite 33, Las Vegas, NV 89119
NYAP—CENTER FOR DONATION AND TRANSPLANT, 218 Great Oaks Blvd., Albany, NY 12203
UTOP—INTERMOUNTAIN ORGAN PROCUREMENT AGENCY, 230 South 500 East, Suite 290, Salt Lake City, UT 84102
VAOP—VIRGINIA ORGAN PROCUREMENT AGENCY, 1527 Houguenot Road, Midlothian, VA 23113
WIWU—UNIVERSITY OF WISCONSIN OPO, University of Wisconsin Hospitals and Clinics, 600 Highland Avenue, Madison, Wisconsin 53792

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995, we are required to provide 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection requirement should be approved by OMB, section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires that we solicit comment on the following issues:

- The need for the information collection and its usefulness in carrying out the proper functions of our agency.
- The accuracy of our estimate of the information collection burden.
- The quality, utility, and clarity of the information to be collected.
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques.

Therefore, we are soliciting public comment on the following issue for the information collection requirements described below.

Designation of one OPO for each service area:

Section 486.316(e) states the requirements for a Medicare or Medicaid participating hospital to qualify for a waiver permitting the hospital to have an agreement with a designated OPO other than the OPO designated for the service area in which the hospital is located. The burden associated with these requirements is currently approved under OMB 0938–0688, HCFA–R–13, Conditions of Coverage for Organ Procurement Organizations, with an expiration date of November 30, 1999.

If you comment on any of these information collection and recordkeeping requirements, please mail copies directly to the following:

Health Care Financing Administration, Office of Information Services, Security and Standards Groups, Division of HCFA Enterprise Standards, Attention: Louis Blank, HCFA–1055–NC, Room N2–14–26, 7500 Security Boulevard, Baltimore, MD 21244–1850, and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Allison Eydt, HCFA Desk Officer, Room 10235, New Executive Office Building, Washington, DC 20503.

Authority: Section 1138 of the Social Security Act (42 U.S.C. 1320b–8).

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

Dated: August 2, 1999.

Robert A. Berenson,

Director, Center for Health Plans and Providers, Health Care Financing Administration.

[FR Doc. 99–20403 Filed 8–6–99; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Invention; Availability for Licensing: ''Novel Method and Composition to Induce Apoptosis in Tumor Cells''

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development.

ADDRESSES: Licensing information and a copy of the U.S. patent application referenced below may be obtained by contacting J. R. Dixon, Ph.D., at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804 (telephone 301/496–7056 ext 206; fax 301/402–0220; E-Mail: jd212g@NIH.GOV). A signed Confidential Disclosure Agreement is required to receive a copy of any patent application.

SUPPLEMENTARY INFORMATION: Invention Title: ''Apoptosis Inducing Agents and Methods'' Inventors: Drs. Lucio Miele (U.S.F.D.A.) and Leslie L. Shelly (NICHD) USPA SN: 60/102,816 [=DHHS Ref. No. E–176–98/0]—Filed with the U.S.P.T.O. October 2, 1998.

Apoptosis or programmed cell death is caused by many anti-tumor drugs and by radiation therapy. These treatment modalities cause apoptosis in tumor cells and in many normal cells in the body. As cancer cells progress towards more aggressive forms, they often become highly resistant to drug- or radiation-induced apoptosis, generally through the loss of function p53, a gene which can trigger apoptosis in response to DNA damage. Thus, novel strategies to induce apoptosis in tumor cells, especially p53-deficient cells, is an attractive and an active area of research.

An antisense molecule is a DNA or RNA which has the opposite beginning to end orientation compared to the ''normal'' gene. These molecules reduce the expression of the target gene by forming pairs with its ''normal'' DNA and RNA. Notch-1 is a gene which is known to be important in controlling cell differentiation in many organisms. Notch-1 is expressed at high levels in several human tumors. However, its function in tumor cells has not been characterized. So far, its role in maintaining tumor cell survival has not been identified. Using a model constituted by a p53-deficient mouse leukemia cell line, NIH scientists found that: 1.) Antisense synthetic DNA oligonucleotides and stable incorporation of an antisense gene (a model for gene therapy) targeting notch-1, when given together with a differentiation-inducing antitumor drug, cause the cells to respond by massive apoptosis rather than differentiation; 2.) stable incorporation of an antisense notch-1 gene increases apoptosis in these cells even in the absence of any antitumor drugs. This suggests that antisense notch-1 treatment, by antisense oligonucleotides or by gene therapy, may be used alone or together with anti-cancer drugs to cause apoptosis in tumor cells.

The notch gene belongs to a family of epidermal growth factor (''EGF'') like homeotic genes, which encode transmembrane proteins with a variable number of cystgeine-rich EGF-like repeats in the extracellular region. Four notch genes have been described in mammals, which include notch-1, notch-2, notch-3, and notch-4 (Int-3), which have been implicated in the differentiation of the nervous system and other structures. The EGF-like proteins Delta and Serrate have been identified as ligands of notch-1.

Mature notch proteins are heterodimeric receptors derived from the cleavage of notch pre-proteins into an extracellular subunit (N^{EC}) containing multiple EGF-Like repeats and a transmembrane subunit including intracellular region (N^{tm}). Notch activation results from the binding of ligands expressed by neighboring cells, and signaling from activated notch involves a network of transcription regulators.

Alteration of notch-1 signaling or expression may contribute to tumorigenesis. Deletions of the extracellular portion of human notch-1 are associated with about 10% of the cases of T-Cell acute lymphoblastic leukemia. Truncated forms of notch-1 cause T-Cell lymphomas when introduced into mouse bone marrow stem cells and are onogenic in rat kidney cells. The human notch-1 gene is in a chromosomal region (9q34) associated with hematopoietic malignancies of lymphoid, myeloid, and erythroid lineage. Additionally, strikingly increased expression of notch-1 has been documented in a number of human tumors including cervical cancer, colon tumors, lung tumors, and pre-neoplastic lesions of the uterine cervix.

Notch antisense oligonucleotides (or other molecules that interfere with the expression or function of notch) could be therapeutically administered to treat or prevent tumors. It has not been found that administration of notch antisense oligonucleotide alone is ineffective as an anti-neoplastic treatment. The present invention has overcome this problem by combining the administration of a cell differentiation agent with a molecule that interferes with the expression or function of a notch protein (such as the notch-1 protein). This combination of approaches has unexpectedly been found to induce apoptosis in neoplastic cells, and provide a useful therapeutic application of this technology. The method of the present invention includes inducing apoptosis in a target cell by inhibiting a cell fate determining function of a notch protein in the target cell at a time when the cell is undergoing differentiation. In particular, the target cell is induced to differentiate and upregulate notch expression, so that interference with notch expression or function causes the target cell to commit to an apoptotic pathway. Inhibition of notch expression or interference with its function can include exposing the cell to a notch protein antisense oligonucleotide that includes at least six nucleotides that comprise a sequence complementary to at least a portion of the RNA transcript of a notch gene (such as the notch-1 gene), and is hybridizable to the RNA transcript. Although the antisense oligonucleotide can be hybridizable to any region of the RNA transcript, particular oligonucleotides that have been found to be useful are antisense oligonucleotides to the notch-1 EGF repeat region, Lin/notch region, or ankyrin region. Alternatively the molecule can be a monoclonal antibody that antagonizes the function of a notch protein in the cell.

In particular the tumor cell is one that is characterized by increased activity or increased expression of a notch protein, such as a notch-1 or notch-2 protein. Examples of tumor types that over express notch-1 include cervical cancer, breast cancer, colon cancer, melanoma, seminoma, lung cancer and hematopoietic malignancies, such as erythroid leukemia, myeloid leukemia, (such as chronic or acute myelogenous leukemia), neuroblastoma and medulloblastoma. The differentiation inducing agent to which the cell is exposed can be selected from a broad variety of agents, including retinoids, polar compounds (such as hexamethylene bisacetanmide), short chain fatty acids, organic acids, Vitamin D derivatives, cyclooxygenase inhibitors, arachidonate metabolism inhibitors, ceramides, diacylglycerol, cyclic nucleotide derivatives, hormones, hormone antagonists, biologic promoters of differentiation, and derivatives of any of these agents.

Technology

This invention provides a method and pharmaceutical composition for treating a tumor by causing apoptosis in tumor cells that expresses notch-1 protein, and in particular cells that exhibit increased expression of notch-1. Hence, this technology discloses methods and compositions to induce apoptosis in cells that over express the notch proteins. A cell fate determining function of notch is specifically disrupted at a time when the cell is undergoing differentiation, which causes the cell to undergo apoptosis. The invention includes therapies for tumors that over express a notch protein (such as notch-1) by inducing differentiation of the cells in the tumor with a differentiation inducing agent such as hexamethylene bisacetamide and other such differentiation agents. At a time during which differentiation has been promoted, and the cell is susceptible to interference with the anti-apoptosis effect of notch, the function of the notch protein is disrupted. Disruption of notch function can be achieved, for example, by the expression of antisense oligonucleotides that specifically interfere with expression of the notch protein on the cell, or by monoclonal antibodies that specifically bind to notch and inactivate it. This technology represents a novel method to induce apoptosis in tumor cells.

The above mentioned invention is available, including any available foreign intellectual property rights, for licensing.

Dated: August 3, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–20455 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will

be required to receive copies of the patent applications.

Direct C–14 Oxidation of Opioids

A Coop and KC Rice (NIDDK)

Serial No. 60/132,628 filed 05 May 1999, Licensing Specialist: Leopold J. Luberecki, Jr.; 301/496–7735 ext. 223; e-mail: leo__luberecki@nih.gov.

This application describes a simple one-step method for the direct oxidation of 14-H opioids into the desired 14-hydroxy opioid derivatives, providing a quicker and less expensive means for the manufacture of these compounds. For example, this process converts codeinone into 14-hydroxycodeinone, eliminating the need for using thebaine, the currently used common starting material, whose price is increasing at 10% annually. The invention claims a process of employing certain oxidizing agents, using much less reagent volume than the present standard. The invention also circumvents diene intermediate formation, thus eliminating the need for expensive chromatographic isolation. The process takes much less time than the industry standard and produces high yields between 50% and 80% at higher cost-effectiveness than current methods. The 14-hydroxyl substituted opioid antagonists are useful in a number of medicinal applications. For instance, the antagonists naltrexone and naloxone are drugs used in the treatment of opiate abuse, opiate overdose, and alcohol addiction. In addition, certain derivatives of these compounds have been found useful in the prevention of tolerance to morphine and as immunosuppressants.

Methods for Detecting Cancer Cells

Thomas Ried, Evelin Schrock, Bijan M. Ghadimi (NHGRI)

DHHS Reference No. E–211–98/0 filed 01 Apr 1999, Licensing Contact: John Fahner-Vihtelic; 301/496–7735 ext. 270; e-mail: jf36z@nih.gov

The present application describes a highly sensitive assay for distinguishing between cancer and non-cancer epithelial cells in the blood. It provides an improved diagnostic technique for detecting cancer and determining the organ-origin of the cancer. This assay can be used to prove the neoplastic nature of cells and predict when shed tumor cells have or will become metastatic. A major advantage of the present invention is that tumor cells can also be recovered as viable cells. Thus, the tumor cells can be kept alive in vitro for a sufficient period of time to determine the effect of particular anti-tumor pharmaceuticals on the cells. Furthermore, the assay provides an early detector of treatment success or failure and thereby allows a treatment regimen to be customized for an individual patient with advanced primary cancer.

Replication-Defective Dengue Viruses that are Replication-Defective in Mosquitoes for Use as Vaccines

L Zeng, L Markoff (FDA)

Serial No. 60/098,981 filed 01 Sep 1998, Licensing Contact: Carol Salata; 301/496–7735 ext. 232; e-mail cs253n@nih.gov

Although flaviviruses cause a great deal of human suffering and economic loss, there is a shortage of effective vaccines. The present invention is directed toward vector stage replication-defective flaviviruses that are replication-defective in mosquito vectors that transmit them to humans. The replication-defective flaviviruses of the present invention demonstrate a limited ability to replicate in the vector organisms that transmit flaviviruses from one host to another. More specifically, the present invention is directed toward the construction and propagation of flaviviruses that possess 3'-noncoding regions altered in such a way as to prevent or severely limit viral reproduction in a vector organism. Such mutant flaviviruses may be useful as vaccines.

Vaccine Against Eschericha coli 0157 Infection, Composed of Detoxified LPS Conjugated to Proteins

Shousun C. Szu, Edward Konadu, and John B. Robbins (NICHD) DHHS Reference No. E–158–98/0 filed 20 July 1998 (PCT/US98/14976)

Licensing Contact: Robert Benson; 301/496–7056 ext. 267; e-mail: rb20m@nih.gov

This invention is a conjugate vaccine to prevent infection, in particular in young children under 5 years of age, by E. coli 0157:H7, an emerging human pathogen which causes a spectrum of illnesses with high morbidity and mortality, ranging from diarrhea to hemorrhagic colitis and hemolytic-uremic syndrome (HUS). Infection is due to the consumption of water or meat contaminated by feces from infected animals, such as cattle. The conjugate is composed of the O-specific polysaccharide isolated from E. coli 0157, or other Shiga-toxin producing bacteria, conjugated to carrier proteins, such as non-toxic P. aeruginosa exotoxin A or Shiga toxin 1. A Phase I clinical trial, involving adult humans, showed the vaccine is safe and highly immunogenic. Adults, after one injection containing 25 (g of antigen, responded with high titers of bactericidal antibodies. Thus the conjugates of the invention are promising vaccines, especially for children and the elderly, who are most likely to suffer serious consequences from infection. The clinical study is described in J. Infectious Diseases 177, 383–387, 1998.

Applicator System and Method of Use

Michael J. Lenardo, Galen Fisher (NIAID)

Serial No. 09/005,475 filed 12 Jan 1998, Licensing Contact: John Fahner-Vihtelic, 301/496–7735 ext. 270

The present application describes a novel microcentrifuge tube and tube cap and research method, which allows for dispensing the contents of a microcentrifuge tube without pipetting. The design eliminates pipetting volume error and prevents the cross-contamination which can be experienced in conventional pipetting. This invention is particularly useful for such applications as loading tube contents into an electrophoresis gel after a reaction such as PCR. Using the disclosed apparatus and methods increases the speed of a variety of routine procedures and prevents contamination of samples due to soiled lab apparatus.

Method To Reduce the Bias in the Mean and Variance of Indices of Water Diffusion Anisotropy as Measured by Diffusion Tensor MRI

Carlo Pierpaoli (NINDS/NICHD), Peter J. Basser (NICHD)

Serial No. 08/824,706 filed 14 Apr 1997; Licensing Contact: John Fahner-Vihtelic; 301/496–7735, ext. 270; e-mail: jf36z@nih.gov.

This invention describes several novel MRI ''stains'' to measure and display water diffusion anisotropy data obtained by diffusion tensor MRI (DT–MRI). One problem that this invention overcomes is that it significantly reduces the statistical bias in the mean and variance of the measured anisotropy of water diffusion caused by background noise in the MR images. These benefits are achieved by exploiting the idea that fiber tracts exhibiting diffusion anisotropy vary continuously in most regions. Thus, the principal axes of the diffusion tensor (or eigenvectors) can be used to improve the estimate of the principal diffusivities (or eigenvalues) within a local region of interest. These eigenvalues, in turn, are used to

compute our improved local measures of diffusion anisotropy. Images or maps of water diffusion anisotropy are increasingly being used to gather structural information about fibrous tissue, such as white matter fibers as well as cardiac and skeletal muscle fibers in vivo, in health, disease, development, and aging. This invention results not only in a more accurate measurement of diffusion anisotropy, but it improves image quality and reduces scanning time in clinical and biological applications of DT–MRI. Since the reduction in diffusion anisotropy has been shown to be sensitive to nerve fiber degeneration, this new data should be useful in studies to screen for and determine the efficacy of neuroprotective agents, as well as streamline multi-site and longitudinal clinical trials designed to assess their safety and efficacy.

A New Class of Anti-Tumor Agents

Christopher J. Michejda (NCI), Richard H. Smith, Jr.

Serial No. 07/179,622 filed 29 Mar 1988; U.S. Patent 4,9023,970 issued 08 May 1990; Licensing Contact: Girish Barua; 301/496–7056, ext. 263; e-mail: gb18t@nih.gov

Substituted triazenes are potentially useful anti-tumor agents. Examples of substituted triazenes in clinical use include 5-(dimethyltriazeno)imidazole-4-carboxamide (DTIC), which is used in the treatment of metastatic melanoma and some soft tissue sarcomas, and the recently approved temozolomide, which is used in brain cancer. The National Institutes of Health has developed compounds which have many advantages over known triazene anti-cancer compounds. Advantages include a novel mechanism of action for at least one of them, namely, 1-(2-chloroethyl)-3-(N-methylcarbamoyl)-methyltriazene, which is a highly selective, non-toxic anti-tumor compound, their well understood chemistry, and ease of synthesis of new analogs.

The technology covers compounds of the series of 1-(2-chloroethyl)-3-acyl-3-alkyltriazenes and a method for their synthesis. Some of the subject acyl triazenes generate 2-chloroethyldiazonium ions at very easily controlled rates, while others require metabolic activation to release the electrophilic agent.

Several of the acyltriazenes have shown excellent in vivo activity against human tumor xenografts in nude mice and low toxicity. These compounds are good candidates for development as anti-tumor drugs.

Dated: August 3, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. 99–20456 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by contacting Susan S. Rucker, J.D., Patent and Licensing Specialist, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057 ext. 245; fax: 301/402–0220; e-mail: sr156v@nih.gov. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Lentivirus Vector System

SK Arya (NCI)

Serial No. 60/115,247 filed 07 Jan 1999

This application relates to the field of gene therapy. More, particularly the application describes a vector system useful in gene therapy. The vectors employed in this system are lentiviral vectors, particularly retroviral vectors based on HIV2. Retroviral vectors based on HIV2, unlike most other retroviral vectors such as MuLV, are capable of infecting non-proliferating cells thereby making them useful in situations where other retroviral vectors are not. The vector system uses a two vector approach to minimize the possibility of HIV infection and comprises a transfer vector, for carrying the foreign gene of interest, and a packaging vector. The vector system demonstrates an improved ability to package the gene of interest when compared to a control without a loss in production of the transgene. In the experimental system this increase was 25 fold. This improved packaging ability is one means to address current low viral titers which are problematic in the gene therapy field.

This research has been published, in part, in Human Gene Therapy 1998 June 10; 9(9): 1371–86.

Thymosin β4 Promotes Wound Repair

KM Malinda, HD Kleinman (NIDCR) and A Goldstein

Serial No. 60/094,690 filed 30 Jul 1998

This application describes the use of the compound thymosin β4 as an agent for promoting wound healing. Thymosin β4 is a small, 43 mer, 4.9 kDa, peptide which can be produced by chemical synthesis or recombinantly. Studies using a punch model for wounds in rats have shown that providing thymosin β4 either by systemic delivery (intraperitoneal) or topical delivery accelerates wound healing and that extracellular matrix deposition occurs in the wound bed. In addition, thymosin β4 has been shown previously to promote endothelial cell migration and to promote angiogenesis.

Mammalian Selenoprotein Differentially Expressed in Tumor Cells

VN Gladyshev (NCI), DL Hatfield (NCI), JC Wooten (NLM) and K Jeang (NIAID)

PCT/US99/07560 filed 06 Apr 1999 and Serial No. 60/080,850 filed 06 Apr 1998

This application describes the identification, cloning, and sequencing of a human protein which contains selenium. A murine homolog has also been identified. The gene encoding the protein has been localized to the short arm of chromosome 1 at 1p31. Early work indicates that levels of the protein and/or mRNA are decreased in prostate, liver, ovarian and fallopian tube cancers and in lymphoma. Thus, levels of the protein or mRNA may be useful clinically as diagnostic or prognostic tools. The fact that other selenium proteins are known to be involved in the immunological response and the fact that this protein was originally detected in T cells leads to a hypothesis that the protein may play a role in the immunological response. Antibodies and tools for expressing the protein recombinantly may be useful in conducting further research on the functionality of this protein. This selenoprotein may potentially mediate a chemopreventative effect of selenium in prostate cancer.

This research has been published, in part, in JBC 1998 Apr 10; 272(15): 8910–15.

Methods of Stimulating Proliferation and Differentiation of Human Pancreatic Cells Ex Vivo

JS Rubin (NCI), A Hayek, GM Beattie, T Otonkoski, V Quaranta

Serial Nos. 08/732,230 filed 14 Apr 1997; U.S. Patent 5,888,705 issued 30 Mar 1999; PCT/US9/05521 filed 28 Apr 1995, and 08/235,394 filed 29 Apr 1994; U.S. Patent 5,857,309 issued 24 Dec 1996

These patents and applications generally relate to methods which may be used in treating diabetes. In particular, they describe methods for culturing pancreatic islet cells which will later be transplanted into patients. The culture of the pancreatic islet cells is carried out in the presence of hepatocyte growth factor/scatter factor (HGF/SF) under conditions such that differentiation and/or proliferation of the pancreatic islet cells occurs and insulin production is stimulated or increased. These insulin-producing pancreatic islet cells can then be transplanted into patients having diabetes mellitus (Type I diabetes).

This work has also been published in Otonkoski T et al. Diabetes 43(7): 947–53 (Jul 1994), Hayek A et al. Diabetes 44(12): 1458–60 (Dec 1995), Otonkoski T et al. Endocrinology 137(7): 3131–9 (Jul 1996), and Beattie, GM et al. Diabetes 45(9): 1223–8 (Sep 1996).

Date: August 3, 1999.

Jack Spiegel,

Director, Division of Technology Development and Transfer Office of Technology Transfer National Institutes of Health.

[FR Doc. 99–20458 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–P 5

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel R13 Review Mtg.

Date: August 10, 1999.

Time: 1:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: J. Patrick Mastin, Scientific Review Administrator, NIEHS, P.O. Box 12233 MD EC–24, Research Triangle Park, NC 27709, (919) 541–1446.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel Contract Review on Pathology Support.

Date: August 12, 1999.

Time: 1:00 pm to 5:00 pm.

Agenda: To review and evaluate contract proposals.

Place: NIEHS, 79 T. W. Alexander Drive, Building 4401, Conference Room 3446, Research Triangle Park, NC 27709, (Telephone Conference Call).

Contact Person: David Brown, Scientific Review Administrator, Nat'l Institute of Environmental Health Sciences, P.O. Box 12233, Research Triangle Park, NC 27709, (919) 541–4964.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing; 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences, National Institute of Health, HHS).

Dated: August 3, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20459 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the National Advisory Council on Aging.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council on Aging.

Date: September 23–24, 1999.

Open: September 23, 1999, 1:00 p.m. to 5:30 p.m.

Agenda: Call to Order; Report of Review of NIA Minority Research Program; Program Highlights and Presentation on Perspectives on Minority Aging.

Place: National Institutes of Health, Shannon Building, Wilson Hall, 1 Center Drive, Bethesda, MD 20892.

Open: September 24, 1999, 8:00 a.m. to 10:15 a.m.

Agenda: Report on Working Group on Program and Discussion on NIA Strategic Plan.

Place: National Institutes of Health, Shannon Building, Wilson Hall, 1 Center Drive, Bethesda, MD 20892.

Closed: September 24, 1999, 10:30 a.m. to Adjournment.

Agenda: To review and evaluate review of Applications.

Place: National Institutes of Health, Shannon Building, Wilson Hall, 1 Center Drive, Bethesda, MD 20892.

Contact Person: Miriam F. Kelty, Director, Office of Extramural Affairs, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Suite 2C218, Bethesda, MD 20892, 301–496–9322.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National institutes of Health, HHS)

Dated: August 3, 1999.

Anna Snouffer,

Acting, Committee Management Officer, NIH.

[FR Doc. 99–20460 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of Exclusive License: Vaccine to Treat and Prevent Disease Caused by Human Papillomaviruses, Particularly Cervical Cancer

AGENCY: National Institutes of Health, Public Health Service, DHHS.

ACTION: Notice.

SUMMARY: This notice, in accordance with 35 U.S.C. 209(c)(1) and 37 CFR 404.7(a)(1)(I), that the National Institutes of Health (NIH), Department of Health and Human Services, is contemplating the grant of a exclusive license worldwide to practice the invention embodied in: PCT Patent Application Number PCT/US97/12115 (NIH Reference Number E–032–96/1), entitled ''Infectious Papillomavirus Pseudoviral Particles'', filed July 14, 1997, to American Home Products Corporation through its Wyeth-Ayerst Laboratories Division, Wyeth-Lederle Vaccines business unit, having a place of business in Madison, N.J. The patent right in this invention has been assigned to the United States of America.

DATES: Only written comments and/or application for a license which are received by the NIH Office of Technology Transfer on or before October 8, 1999 will be considered.

ADDRESSES: Requests for a copy of the patent application, inquiries, comments and other materials relating to the contemplated license should be directed to: Robert Benson, Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, MD 20852–3804; Telephone: (301) 496–7056, ext. 267; Facsimile: (301) 402–0220, e mail: rb20m@nih.gov..

SUPPLEMENTARY INFORMATION: The patent application describes pseudoviral particles of papillomavirus capsids encapsidating DNA useful for gene therapy and as vaccines. The pseudoviral particles are made by co-expressing the papillomavirus L1, L2 and E2 genes in a cell line along with a vector comprising the useful DNA and DNA containing E2 protein binding sites (E2BS). The presence of the E2BS containing DNA results in the encapsidation of the DNA. The encapsidated DNA can be a gene to replace a defective gene, or can encode an antigen, for gene therapy or immunization respectively. Since papillomaviruses selectively multiply in epithelial cells, the capsids may be particularly useful for mucosal vaccines, and for delivering genes to epithelial tissues. The existence of many non-crossreacting serotypes of human and other animal papillomaviruses can be taken advantage of to eliminate the problem of immune rejection upon the second injection of a pseudoviral particle. The same gene or antigen encoding DNA can be incorporated in pseudoviral particles of different serotypes for multiple dosing.

The prospective exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective exclusive license may be granted unless, within 60 days from the date of this published Notice, NIH receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

The field of use may be limited to the development of vaccines for the prevention or treatment of diseases in humans caused by infection with human papillomaviruses.

Properly filed competing applications for a license filed in response to this notice will be treated as objections to the contemplated license. Comments and objections submitted in response to this notice will not be made available for public inspection, and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

Date: August 3, 1999

Jack Spiegel,

Director, Division of Technology Development and Transfer, Office of Technology Transfer.

[FR Doc. 99–20457 Filed 8–6–99; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4441–N–44]

Submission for OMB Review: HMDA Loan/Application Register

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Notice.

SUMMARY: This report collects information for mortgage lenders on application for, and originations and purchases of, mortgage and home improvement loans. Non-depository mortgage lending institutions are required to use the report as a running log throughout the calendar year and send it to HUD by March 1 of the following calendar year.

DATES: *Comments Due Date:* September 8, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35). The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hour of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act of 1955, 44 U.S.C. 35, as amended.

Dated: August 3, 1999.

David S. Cristy,

Director, Investment Strategies, Policy, and Management.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: HMDA Loan/ Application Register.

Office: Housing.

OMB Approval Number: 2502–XXXX.

Description of the Need for the Information and its Proposed Use: This report collects information for mortgage lenders on application for, and originations and purchases of, mortgage and home improvement loans. Non-depository mortgage lending institutions are required to use the report as a running log throughout the calendar year and send it to HUD by March 1 of the following calendar year.

Form Number: None.

Respondents: Business or Other For-Profit.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	x	Frequency of response	x	Hours per response	=	Burden hours
Non-Depository Institutions	1,800		1		148		266,666

Total Estimated Burden Hours: 266,666.

Status: New.

Contact: Janet Tasker, HUD, (202) 708–7500 ext. 101. Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 99–20461 Filed 8–6–99; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Notice of Proposed Information Collection

AGENCY: Office of the Secretary, Interior.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Department of the Interior, Office of the Secretary is announcing its intention to request re-approval for the collection of information for the DI-Form 381, Claim for Relocation Payments—Residential and DI-Form 382, Claim for Relocation Payments—Nonresidential.

DATES: Comments on the proposed information collection must be received by October 8, 1999 to be assured of consideration.

ADDRESSES: Comments may be mailed to John Moresko, Department of the Interior, Office of Acquisition and Property Management, 1849 C Street NW, Mail Stop 5512, Washington, DC 20240. Comments may also be submitted electronically to john __moresko@ios.doigov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John Moresko, at (202) 208–5704.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 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 the Office of the Secretary will be submitting to OMB for extension or re-approval.

Form DI–381 and Form DI–382 were created because of the amendments to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Act) made by the Uniform Relocation Act Amendments of 1987, Title IV of the Surface Transportation and Uniform Relocation Assistance Act of 1987, Public Law 100–17.

The Office of the Secretary has revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. The Office of the Secretary 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 the Office of the Secretary'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: Claim for Relocation Payments-Residential; Claim for Relocation Payments-Nonresidential.

OMB Control Number: 1084–0010.

Summary: The information required is obtained through application made by displaced person(s) or business(es) to the funding agency for determination as to specific amount of monies due under the law.

Bureau Form Numbers: DI–381, DI–382.

Frequency of Collection: On occasion.

Description of Respondents: Individuals and businesses who are displaced because of Federal acquisitions of their real property.

Total Annual Responses: 200.

Total Annual Burden Hours: 88 hours.

Dated: August 3, 1999.

Wiley W. Horsley, Jr.,

Acting Director, Office of Acquisition and Property Management.

[FR Doc. 99–20411 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–RF–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Environmental Assessment of Designation of Critical Habitat for the Woundfin (Plagopterus argentissimus) and Virgin River Chub (Gila seminuda) Within the Virgin River Basin

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: We, the Fish and Wildlife Service, announce the availability of the Draft Environmental Assessment for Designation of Critical Habitat for the Woundfin (*Plagopterus argentissimus*) and Virgin River Chub (*Gila seminuda*) within the Virgin River Basin. The purpose of the proposed federal action described in the environmental assessment is to formally designate critical habitat for two endangered fishes inhabiting the Virgin River. Both woundfin and Virgin River chub are listed as endangered species under provisions of the Endangered Species Act of 1973, as amended (Act). The designation of critical habitat for woundfin and Virgin River chub is needed pursuant to the non-discretionary legal requirement under the Act to designate critical habitat when a species is listed, and to comply with a court order to make a determination with regard to these

species. We are seeking comments from the public, other concerned governmental agencies, the scientific community, industry, or any other interested parties on this Draft Environmental Assessment.

DATES: We must receive comments on the Draft Environmental Assessment on or before September 8, 1999 to be considered. All comments received by the above date will be considered in our final determination whether to prepare an environmental impact statement or a finding of no significant impact on designation of critical habitat within the Virgin River Basin.

ADDRESSES: Written comments and other materials regarding the Draft Environmental Assessment should be directed to the Field Supervisor, Utah Ecological Services Field Office, Lincoln Plaza, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. Copies of the draft document are also available from the Field Office. All comments and materials received will be available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Reed E. Harris, Utah Field Supervisor (see ADDRESS above), or at (801) 524–5001 extension 126.

SUPPLEMENTARY INFORMATION

Background

In March of 1994, in response to complaint filed in U.S. District Court, District of Colorado, the Court ordered us to designate critical habitat for the endangered woundfin and Virgin River chub, and for the Virgin spinedace (if listed before December 31, 1994). The Court further ordered that critical habitat be proposed no later than April of 1995, and finalized by December of 1995. In April of 1995 (60 FR 17296) we proposed designation of critical habitat for the woundfin, Virgin River chub, and Virgin spinedace. Shortly after that proposal we entered into a Conservation Agreement with other Federal, State, and private entities to eliminate or reduce impacts threatening the continued existence of the Virgin spinedace. We then withdrew the proposed listing and designation of critical habitat for the Virgin spinedace on February 6, 1996 (61 FR 44010. Subsequent to the proposed designation of critical habitat, and prior to the publishing of a final rule, we were precluded from completing the designation by a Congressional moratorium prohibiting listing species as endangered or threatened, and designating critical habitats for species already listed. Beginning in April 1995 and extending well into 1996, Congress passed a number of spending moratoria prohibiting us from using funds previously allocated for such purposes. These budgetary restrictions created a significant backlog of proposed listing actions, including designation of critical habitat. For this reason, we developed Listing Priority Guidance for fiscal years 1997 (62 FR 55268), and 1998 and 1999 (63 FR 25502) to help prioritize the backlog of listing activities. The designation of critical habitat was given the lowest priority in this Guidance. However, in December, 1998, the 10th circuit court ruled that the Service can no longer use this justification for not designating critical habitat and ordered designation of critical habitat for the Rio Grande silvery minnow *(Hybognathus amarus).* Shortly after the silvery minnow decision, the plaintiffs in the Virgin River case filed a motion for the Service to finalize critical habitat designation. A hearing is scheduled in August 1999 on this issue. We are in the process of proposing a schedule to the Plaintiffs for finalization of critical habitat for the woundfin and Virgin River chub in the Virgin River.

We are proceeding with steps necessary to finalize critical habitat designation for these two species in the Virgin River Basin and are providing notice of availability of an Environmental Assessment for this critical habitat designation.

Public Comments Solicited

We are seeking public input on the Draft Environmental Assessment for critical habitat designation within the Virgin River basin for the woundfin and Virgin River chub. Comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry and/or any interested party regarding the Draft Environmental Assessment are hereby solicited. All comments received will be fully considered prior to a determination whether to prepare a finding of no significant impact or an environmental impact statement on designation of critical habitat within the Virgin River Basin.

Author: The primary author of this notice is Keith L. Rose, U.S. Fish and Wildlife Service, 764 Horizon Drive, Room 227, Grand Junction, Colorado 81506, or at (970) 243–4552.

Authority

The authorities for this action are the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and the Endangered Species Act of 1973 (16 U.S.C.. 1532 *et seq.*.)

Dated: August 3, 1999.

Terry Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 99–20379 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Fish and Wildlife Service

Central Valley Project Improvement Act, Central Valley, CA

AGENCIES: Bureau of Reclamation and Fish and Wildlife Service, Interior.

ACTION: Addition of Fish and Wildlife Service as co-lead agency for Programmatic Environmental Impact Statement.

SUMMARY: The role of the Fish and Wildlife Service (Service) has been changed from cooperating to co-lead agency, as defined under the National Environmental Policy Act (NEPA) pursuant to the Council on Environmental Quality regulations (40 CFR Parts 1500–1508), in on-going efforts to prepare the Programmatic Environmental Impact Statement (PEIS) on implementation of the Central Valley Project Improvement Act (CVPIA).

FOR FURTHER INFORMATION CONTACT: Alan Candlish, Bureau of Reclamation, 2800 Cottage Way, Sacramento, California 95825, (916) 978–5197; or James McKevitt, Fish and Wildlife Service, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821–6340, (916) 979–2760.

SUPPLEMENTARY INFORMATION: On October 30, 1992, the President signed into law the Reclamation Projects Authorization and Adjustment Act of 1992 (Pub. L. 102–575) that included Title XXXIV, the CVPIA. The CVPIA amends the previous authorizations of the California Central Valley Project (CVP) to include fish and wildlife protection, restoration, and mitigation as project purposes having equal priority with irrigation and domestic uses and fish and wildlife enhancement as a project purpose equal to power generation. The CVPIA identifies a number of specific measures to meet these new purposes and directs the Secretary of the Interior (Secretary) to operate the CVP consistent with these purposes, to meet the Federal trust responsibilities to protect the fishery resources of affected federally recognized Indian tribes, and to meet all requirements of Federal and California law and to achieve a reasonable balance among competing demands for use of

CVP water. Section 3409 directs the Secretary to complete a PEIS to analyze the direct and indirect impacts and benefits of implementing the CVPIA.

On February 25, 1993, the Secretary approved a memorandum signifying roles of the Bureau of Reclamation (Reclamation) and the Service in regards to implementing the CVPIA. The Service's role was defined as having ''* * *primary responsibility for decisions on biological resource issues; for studies on fish and wildlife, their populations and habitat requirements; for fishery restoration program direction; and for the planning, design, and decisions on the administration of fish and wildlife facilities.'' Because of this language and other specifications in the CVPIA, the Service began implementing, in an interim manner and jointly with Reclamation, provisions of the CVPIA which met the definition of its responsibility. It also began participating in efforts to complete the PEIS for implementing the CVPIA, supporting complete environmental analysis of long-term program implementation efforts for both Reclamation and the Service.

Since 1993, the Service has participated in efforts leading to release of the Draft PEIS for the CVPIA in 1997. Efforts to date suggest the Service was more a de-facto co-lead agency than cooperating agency. Service efforts included such things as attending public and agency meetings, providing responses from the Department of the Interior perspective on fish and wildlife issues; participating in decisions regarding assumptions, model usage, and analysis in the PEIS; and participating in preparation of documentation. Additionally, possible programmatic-level actions that the Service might take to implement the CVPIA were discussed and evaluated during scoping processes associated with completion of the draft NEPA document.

Dated: July 24, 1999.

Michael J. Spear,

Manager, California/Nevada Operations Office, Fish and Wildlife Service.

Dated: July 30, 1999.

Kirk C. Rodgers,

Acting Regional Director, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 99–20385 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–962–1410–00–P and AA–8096–03]

Notice for Publication; Alaska Native Claims Selection

In accordance with Departmental regulations 43 CFR 2650.7(d), notice is hereby given that the decision to issue conveyance (DIC) to Chugach Alaska Corporation, notice of which was published in the **Federal Register** on June 24, 1999, is modified to add the right-of-way interest in Federal Aid Secondary Route No. 851 (FAS 851) as to T. 8 S., R. 3 E., Copper River Meridian.

A notice of the modified decision will be published once a week, for four (4) consecutive weeks, in the *Anchorage Daily News.* Copies of the modified decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599 ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government, or regional corporation, shall have until September 8, 1999 to file an appeal on the issue in the modified DIC. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements in 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Except as modified, the decision, notice of which was given June 24, 1999, is final.

Christine Sitbon,

Land Law Examiner, Branch of 962 Adjudication.

[FR Doc. 99–20382 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–960–99–1990–00]

Resource Advisory Council Meeting, Butte, MT

AGENCY: Butte Field Office, Bureau of Land Management, DOI.

ACTION: Notice of meeting.

SUMMARY: The Western Montana Resource Advisory Council will convene at 9 a.m., Wednesday, September 1, 1999, at the Dillon Field Office, 1005 Selway Drive, Dillon, Montana. Issues will include an update on the Whitetail-Pipestone (Tailpipe) Environmental Impact Statement and a review of the Muddy Creek Allotment Decision.

The meeting is open to the public and written comments may be given to the Council. Oral comments may be presented to the Council at 11:30 a.m. The time allotted for oral comment may be limited, depending on the number of persons wishing to be heard. Individuals who plan to attend and need further information about the meeting, or who need special assistance, such as sign language or other reasonable accommodations, should contact the Butte Field Office, 106 North Parkmont (P.O. Box 3388), Butte, Montana 59702–3388, telephone 406–494–5059.

FOR FURTHER INFORMATION CONTACT: BLM Butte Field Manager Merle Good at the above address or telephone number.

Dated: July 30, 1999.

Merle Good,

Field Manager.

[FR Doc. 99–20439 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–930–1430–01; NVN–62570]

Partial Cancellation of Proposed Withdrawal; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management has cancelled its withdrawal application N–62570 for the protection of Ash Springs in Lincoln County, Nevada, as to 4.24 acres. The original Notice of Proposed Withdrawal was published as FR Doc. 98–23426, 63 FR 46467, September 1, 1998. The Bureau of Land Management has determined the 4.24 acres are not needed for the protection of Ash Springs.

EFFECTIVE DATE: September 8, 1999.

FOR FURTHER INFORMATION CONTACT: Dennis J. Samuelson, BLM Nevada State Office, P.O. Box 12000, Reno, Nevada 89520, 775–861–6532.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has cancelled withdrawal application N–

62570 (FR Doc. 98–2346, 63 FR 46467, September 1, 1998) as it affects the following described land:

Mount Diablo Meridian

T. 6 S., R. 61 E.,
Sec. 6, lot 9 (formerly a portion of lot 4).

The area described contains 4.24 acres in Lincoln County.

The land is not needed for the protection of Ash Springs. The land remaining in the application will be processed in accordance with the regulations set forth in 43 CFR Part 2300.

At 9 a.m. on September 8, 1999, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 8, 1999, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

At 9 a.m. on September 8, 1999, the land will be opened to location and entry under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: July 27, 1999.

Jim Stobaugh,

Lands Team Lead.

[FR Doc. 99–20383 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–920–1430–06; WYW 142589]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) proposes to withdraw 3759.12 acres of public land in Fremont County, to protect the habitat of the Desert yellowhead, *Yermo xanthocephalus.* This notice closes the land for up to 2 years from surface entry and mining. The land will remain open to mineral leasing.

DATES: Comments and requests for a public meeting must be received by November 8, 1999.

ADDRESSES: Comments and requests should be sent to the BLM Wyoming State Director, P.O. Box 1828, Cheyenne, Wyoming 82003–1828.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, 307–775–6124, or Jack Kelly, BLM Lander Field Office Manager, 1335 Main Street, Lander, Wyoming 82520, 307–332–8400.

SUPPLEMENTARY INFORMATION: On July 8, 1999, a petition/application was approved allowing the Bureau of Land Management to file an application to withdraw the following described public land from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian

T. 30 N., R. 95 W.,
Sec. 2, lots 1–3, incl.
T. 31 N., R. 95 W.,
Sec. 22, SE¼NE¼, SE¼SW¼, SE¼;
Sec. 23, all;
Sec. 26, all;
Sec. 27, all;
Sec. 28, E½E½;
Sec. 33, E½NE¼;
Sec. 34, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 35, all.

The area described contains 3759.12 acres in Fremont County.

The purpose of the proposed withdrawal is to protect the habitat of the *Yermo xanthocephalus,* a plant species officially classified as a Candidate species, Priority 1, under the Endangered Species Act (ESA) by the U.S. Fish and Wildlife Service. The only known location is within the Beaver Rim area of central Wyoming.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the BLM.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the Wyoming State Director within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. Licenses, permits, cooperative agreements, or discretionary land use authorizations of a temporary nature which would not impact the plant habitat may be allowed with the approval of an authorized officer of the BLM during the segregative period.

Dated: July 26, 1999.

Alan L. Kesterke,

Associate State Director.

[FR Doc. 99–20384 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–22–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities; Submission for Office of Management and Budget (OMB) Review; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of currently approved information collection (1010-0079).

SUMMARY: To comply with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501, *et seq.*), we are notifying you that we have submitted the information collection request (ICR) discussed below to the Office of Management and Budget (OMB) for review and approval. We are also inviting your comments on this ICR.

DATES: Submit written comments by September 8, 1999.

ADDRESSES: You may submit comments directly to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for the Department of the Interior (1010–0079), 725 17th Street, NW, Washington, DC 20503. Mail or handcarry a copy of your comments to the Department of the Interior; Minerals Management Service; attention: Rules

Processing Team; Mail Stop 4024; 381 Elden Street; Herndon, Virginia 20170–4817.

FOR FURTHER INFORMATION CONTACT: Alexis London, Rules Processing Team, telephone (703) 787–1600. You may also contact Alexis London to obtain a copy of the collection of information at no cost.

SUPPLEMENTARY INFORMATION:

Title: 30 CFR 250, Subpart G, Abandonment of Wells.

OMB Control Number: 1010–0079.

Abstract: The Outer Continental Shelf (OCS) Lands Act (43 U.S.C. 1331 *et seq.*) gives the Secretary of the Interior the responsibility to preserve, protect, and develop oil and gas resources in the OCS consistent with the need to make such resources available to meet the Nation's energy needs as rapidly as possible; balance orderly energy resource development with protection of human, marine, and coastal environments; ensure the public a fair and equitable return on the resources of the OCS; and preserve and maintain free enterprise competition. In 1978, section 3(6) of the OCS Lands Act was amended to state that ''operations in the outer Continental Shelf should be conducted * * * using technology, precautions, and techniques sufficient to prevent or minimize * * * physical obstruction to other users of the waters or subsoil and seabed, or other occurrences which may cause damage to the environment or to property, or endanger life or health.'' To carry out these responsibilities, we established regulations at 30 CFR 250, subpart G, ''Abandonment of Wells.''

Respondents submit requests to abandon operations and procedures for site clearance. They also submit annual reports describing plans for reentry to complete or permanently abandon a well. For us to decide the necessity for allowing a well to be temporarily abandoned, the lessee/operator must show that there is a reason to not permanently abandon the well and the temporary abandonment is not a significant threat to fishing, navigation, or other uses of the seabed. If we did not collect the information, we could not determine: (a) the intent of the lessee, (b) if the final disposition of the well is being diligently pursued, (c) any deviations from the approved Exploration or Development and Production Plan, and (d) if the lessee/operator has documented the temporary plugging of the well and marked the location.

We will protect proprietary information submitted with the plans according to the Freedom of Information Act and 30 CFR 250.118, ''Data and information to be made available to the public.'' No items of a sensitive nature are collected. Responses are mandatory.

The PRA provides that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. We published a **Federal Register** notice with the required 60-day comment period soliciting comments on this ICR on January 14, 1999 (64 FR 2501).

Estimated Number and Description of Respondents: Approximately 130 Federal OCS sulphur or oil and gas lessees.

Frequency: The frequency of reporting is on occasion and annual.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: 650 burden hours, averaging approximately 3.25 hours per response. See following chart.

BURDEN BREAKDOWN

Citation 30 CFR 250 subpart G	Requirement	Average number per year	Burden	Annual burden hours
701	Request approval to abandon operations (form MMS–124)	(40)(1)	Burden included with 1010–0045.	0
703(c)	Submit annual report on plans for reentry to complete or permanently abandon the well..	75 reports	2 hours	150
704(a)	Request approval of site clearance method.	125 requests	4 hours	500
704(b)	Certify location cleared of obstructions (form MMS–124).	(40)(1)	Burden included with 1010–0045..	0
Total Reporting		200 responses		650

Estimated Annual Reporting and Recordkeeping ''Cost'' Burden: We have identified no information collection cost burdens for this collection of information.

Comments: All comments are made a part of the public record. Section 3506(c)(2)(A) of the PRA requires each agency ''. . . to provide notice . . . and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. . . .'' Agencies must specifically solicit comments to: (a) Evaluate whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) enhance the quality, usefulness, and clarity of the information to be collected; and (d) minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Send your comments directly to the offices listed under the addresses section of this notice. The OMB has up to 60 days to approve or disapprove the information collection but may respond after 30 days. Therefore, to ensure maximum consideration, OMB should receive public comments by September 8, 1999.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: June 3, 1999.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–20387 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from the State of Minnesota in the Possession of the Minnesota Indian Affairs Council, Bemidji, MN

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from the State of Minnesota in the possession of the Minnesota Indian Affairs Council, Bemidji, MN.

A detailed assessment of the human remains was made by the Minnesota Indian Affairs Council professional staff in consultation with representatives of Prairie Island Community Council, Shakopee Mdewakanton Sioux Community of Minnesota, Grand Portage Reservation Business Committee, Fond du Lac Reservation Business Committee, Nett Lake Reservation (Bois Forte) Tribal Council, Upper Sioux Community of Minnesota, Lower Sioux Mdewakanton Community, Mille Lacs Band of Chippewa Indians, White Earth Band of Minnesota Chippewa, Leech Lake Tribal Council, Minnesota Chippewa Tribe, Red Lake Nation, Iowa Tribe of Oklahoma, Iowa Tribe of Kansas and Nebraska, Ho-Chunk Nation of Wisconsin, Santee Sioux Tribe of the Santee Reservation of Nebraska, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, Yankton Sioux Tribe of South Dakota, Chippewa-Cree Indians of the Rocky Boy's Reservation, Turtle Mountain Band of Chippewa Indians, Assinaboine and Sioux Tribes of the Fort Peck Reservation and Winnebago Tribe of Nebraska, and the non-Federally recognized Indian groups the Mendota Mdewakanton Dakota Community and the Kah-Bay-Kah-Nong (Warroad Chippewa).

In 1934, human remains representing 26 individuals were recovered from site 21-PL-6, Warner Mounds 1 and 2, also known as the Peter Lee Mound (21-PL-13) near Fertile, Polk County, MN during an archeological excavation conducted by A.E. Jenks and L.A. Wilford of the University of Minnesota. No known individuals were identified. The 15 associated funerary objects include an arrowshaft ''polisher'', projectile points, a shell bead necklace, bone bracelet fragments, shell rings, bone beads, beaver teeth fragments, red ochre, and a soil sample.

Site 21-PL-6/13 has been identified as Arvilla Complex, an archeological culture which cannot be identified with any present-day Indian tribe or group.

In 1941, human remains representing 37 individuals were recovered from site 21-MU-3, Lake Shetek Mounds, Murray County, MN during an archeological excavation conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The two associated funerary objects include a ceramic vessel and an end scraper.

Site 21-MU-3 has been identified only as Woodland, a broad archeological tradition that cannot be identified with any present-day Indian tribe or group.

In 1954, human remains representing 27 individuals were recovered from site 21-BW-2, Sievert Mound site, Brown County, MN during an archeological excavation conducted by L.A. Wilfor of the University of Minnesota. No known individuals were identified. No associated funerary object are present.

Site 21-BW-2 has been identified only as Woodland, a broad archeological tradition that cannot be identified with any present-day Indian tribe or group.

In 1978, human remains representing 58 individuals were recovered from site 21-PO-14, Noyes site, Pope County, MN during a rescue excavation conducted by S. Anfinson of the Minnesota Historical Society after construction had removed a burial mound. No known individuals were identified. No associated funerary objects were present.

Site 21-PO-14 has been identified only as Woodland, possibly Onamia, a broad archeological tradition that cannot be identified with any present-day Indian tribe or group.

In 1970, human remains representing 27 individuals were recovered from site 21-SN-11, Syl Sand site, Stearns County, MN during archeological excavations conducted by D. Birk and C. Tiling of the Minnesota Historical Society. No known individuals were identified. The 15 associated funerary objects include two antelope antlers with pierced holes, two bird-bone flutes, beaver incisors, a quartz flake, a black stone with modified grooves, a clay pipe bowl, four modified turtle shell squares, numerous flakes, and two lithics.

Site 21-SN-11 has been identified as a Middle to Late Woodland site, a broad archeological tradition that cannot be identified with any present-day Indian tribe or group.

At an unknown date, human remains representing 13 individuals were most likely removed from site 21-PO-3, the Pelican Lake Gravel Pit site, Pope County, MN by unknown person(s) and donated to the University of Minnesota Geology Laboratory. No known individuals were identified. No associated funerary objects are present.

Site 21-PO-3 is associated with the Archaic Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1963, human remains representing a minimum of 36 individuals were recovered from site 21-DK-41, River Hills Housing Development site, Dakota County, MN by V. Helmen of the Science Museum of Minnesota when they were encountered during construction. No known individuals were identified. No associated funerary objects are present.

Site 21-DK-41 has been identified as possibly an Archaic site, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1964, human remains representing 33 individuals were recovered from site 21-HE-98, the Macmillan site, Hennepin County, MN during an archeological excavation conducted by K. Day of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

Site 21-HE-98 is associated with the Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1934, human remains representing 19 individuals were recovered from a destroyed mound in Freeborn County, MN by person(s) unknown. These human remains were turned over to the County sheriff who donated them to the University of Minnesota. No known individuals were identified. The three associated funerary objects include a copper ring-pendant, pieces of turtle shell, and a chert knife.

Based on the associated funerary objects, the human remains from Freeborn County are associated with the Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1936, human remains representing 26 individuals were recovered from site 21-RL-1, Red Lake River Mounds, Red Lake County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The 41 associated funerary objects include clam shells, worked and unmodified flakes, projectile points, worked bone, broken bifaces, scrapers, a hafted antler-beaver tooth tool, shell beads, black quartz, a

spiral shell pendant, a small core, worked shell, a moose metapodial tool, elk antler tool, three blades, a hammerstone, a slate tool, a knife, and a maul.

Site 21-RL-1 has been identified as Arvilla Complex, an archeological culture which cannot be associated with any present-day Indian tribe or group.

In 1932, human remains representing ten individuals were recovered from site 21-CW-1, Pine River Mounds site, Crow Wing County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. No associated funerary objects were present.

Site 21-CW-1 has been identified as part of the Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1961, human remains representing 11 individuals were recovered from site 21-WN-15, Vaigt or Voight site, Winona County, MN during archeological excavations conducted by T. Fiske and D. Hume of the University of Minnesota. No known individuals were identified. The nine associated funerary objects include cclamshells, animal bone and antler, a beaver tooth, and a point fragment.

Site 21-WN-15 has been identified as part of the Archaic Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual identified as being from Kandiyohi County, MN were donated to the Minnesota Historical Society from an unknown person. No known individual was identified. No associated funerary objects are present.

These remains from Kandiyohi County have no archeological associations and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual identified as having come from site 21DL9, Douglas County, MN were donated to the Minnesota Historical Society by an unknown person. No known individual was identified. No associated funerary objects are present.

These remains from Douglas County have no archeological associations and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual identified as having come from site 21-AN-16, Anoka County, MN were donated to the Minnesota Indian Affairs Council's laboratory at Hamline University by an unknown person. No known individual was identified. No associated funerary objects are present.

Site 21-AN-16 has been identified as part of the Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

At an unknown date, human remains representing four individuals were recovered form 21-OT-78, Clitheral site, Otter Tail County, MN by unknown person(s) and donated to the Minnesota Indian Affairs Council's laboratory at Hamline University. No known individuals were identified. No associated funerary objects are present.

Site 21-OT-78 has been identified as part of the Archaic Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

At an unknown date, human remains representing four individuals from site 21-DL-72, Burkey Farm, Douglas County, MN were removed following their disturbance during construction. No known individuals were identified. No associated funerary objects were present.

Site 21-DL-72 has no archeological identification and cannot be associated with any present-day Indian tribe or group.

In 1977, human remains representing one individual were recovered from 21-CA-22, Pine River Resort, Cass County, MN during archeological excavations conducted by D. Birk, who donated these remains to the Minnesota Indian Affairs Council. No known individual was identified. The associated funerary objects were not included in the donation.

Site 21-CA-22 has been identified as Woodland, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1985, human remains representing three individuals were recovered from Long Lake (Union) Cemetery, Hennepin County, MN. These human remains were recovered by representatives of the Minnesota Indian Affairs Council from two spoil piles where recent graves had been dug. No known individuals were identified. No associated funerary objects were present.

These Hennepin County human remains have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1985, human remains representing three individuals were recovered from site 21-BK-37, the Hildebrand site, Becker County, MN by representatives of the Minnesota Indian Affairs Council following their disturbance during construction. No known individuals were identified. No associated funerary objects were present.

Site 21-BK-37 has no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from Traverse County, MN by W. Jensen and donated to the Minnesota Indian Affairs Council by J. Presley. No known individual was identified. No associated funerary objects are present.

These human remains from Traverse County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the 1940s, human remains representing one individual were removed from a WPA road construction site near Sauk Centre, Stearns County, MN and donated to the University of Minnesota. No known individual was identified. No funerary objects are present.

These human remains have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1987, human remains representing three individuals were recovered from the Longville area of Cass County, MN during housing construction by unknown person(s) and turned over to the Minnesota State Archeologist acting on behalf of the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1989, human remains representing one individual were recovered from Crow Wing County, MN and turned over to the Minnesota Indian Affairs Council by the Crow Wing County sheriff. No known individual was identified. No associated funerary objects are present.

These human remains from Crow Wing County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1991, human remains representing one individual were recovered from Minnetonka Regional Park, Hennepin County, MN during an archeological survey conducted by R. Thompson. No known individual was identified. No associated funerary objects were present.

These human remains from Hennepin County have no archeological

classification and cannot be associated with any present-day Indian tribe or group.

In 1991, human remains representing two individuals were recovered from private land in Kanabec County, MN during housing construction and were turned over to the Minnesota Indian Affairs Council by the Kanabec County sheriff. No known individuals were identified. No associated funerary objects are present.

These human remains have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1992, human remains representing one individual were recovered from site 21-KC-25, Hannaford, Koochiching County, MN during an archeological excavation conducted by C. Caine, State Archeologist. No known individual was identified. No associated funerary objects were present.

These human remains from site 21-KC-25 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1992, human remains representing one individual were donated to the Minnesota Indian Affairs Council by S. Simon of Winona, MN. The skull had been in the possession of his grandfather, a physician, who received it from someone who reported that it came from a mound, possibly in Freeborn County, MN. No known individual was identified. No associated funerary objects are present.

The human remains from Freeborn County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1993, human remains representing one individual were removed from site 21-PO-13, Pope County, MN by person(s) unknown. These human remains were turned over to the Minnesota Indian Affairs Council by the Science Museum of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-PO-13 may be associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1992, human remains representing one individual were recovered from the east shore of Otter Tail Lake, Otter Tail County, MN by R. Clouse of the Minnesota Historical Society acting on behalf of the Minnesota Indian Affairs Council. No known individual was identified. No associated funerary objects are present.

The human remains from Otter Tail County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1989-1990, human remains representing one individual were removed from site 21-WR-176, Wright County, MN by R. Andrews and sent to the Minnesota Indian Affairs Council through M. Galvin. No known individual was identified. No associated funerary objects are present.

The human remains from site 21-WR-176 have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1993, human remains representing two individuals were removed from site 21-BE-135, Malvin site, Blue Earth County, MN during archeological excavations conducted by R. Strachan and K. Roetzel of Mankato State University and transferred to the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects were present.

These human remains from site 21-BE-135 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1993, human remains representing one individual were removed from site 21-NL-47, Minnemishinona Falls, Nicollet County, MN by C.L. Smith and turned over to the Nicollet County Sheriff's department. No known individual was identified. No associated funerary objects are present.

Site 21-NL-47 has been identified as Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1989, human remains representing one individual were recovered from near Pickeral Lake, Freeborn County, MN and turned over to the Science Museum of Minnesota by E.R. Feikema. In 1994, the Science Museum of Minnesota transferred these remains to the Minnesota Indian Affairs Council. No known individual was identified. No associated funerary objects are present.

These human remains from Freeborn County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were recovered from a cave on Grey Cloud Island, Washington County, MN and transferred to the Ramsey County Medical Examiner's Office. In 1994, these human remains were transferred to the Minnesota Indian Affairs Council. No known individual was identified. No associated funerary objects are present.

These human remains from Washington County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1994, human remains representing one individual were recovered from site 21-MU-10, Lake Shetek State Park, Murray County, MN during an archeological survey conducted by D. Radford, Minnesota Department of Natural Resources. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-MU-10 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed from site 21-RA-7, Big Mound, White Bear Lake, Ramsey County, MN by unknown individuals and turned over to the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

Based on skeletal morphology, these human remains (H319.2- Female, 18-20 years old) have been identified as Native American. These human remains from site 21-RA-7 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed from an unknown site in Wabasha County, MN by J.V. Brower. In the 1970s, these human remains were catalogued into the collections of the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from Wabasha County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed from site 21-MA-3, Marshall County, MN during excavations conducted by A.J. Hill. In 1905, these human remains were donated to the Minnesota Historical Society as part of the Mitchell collection. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-MA-3 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing four individuals were removed from site 21-WN-14, Winona County, MN during excavations conducted by T.H. Lewis. In 1905, these human remains were donated to the Minnesota Historical Society as part of the Mitchell collection. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-WN-14 may be associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing four individuals from an unknown site in Clearwater County, MN were removed by J.V. Brower and donated to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Clearwater County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing five individuals were removed from site 21-RA-5, Mounds Park, Ramsey County, MN during excavations by T.H. Lewis and cataloged into the collections of the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-RA-5 are associated with the Middle Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed from site 21-BL-30, Beltrami County, MN during excavations by T.H. Lewis and cataloged into the collections of the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-BL-30 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed from an unidentified location in Traverse County, MN by T.H. Lewis and later cataloged into the collections of the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from Traverse County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1938, human remains representing 22 individuals were removed from an undesignated site in Anoka County, MN by R. Golden who donated them to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Anoka County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1952, human remains representing 48 individuals were removed from site 21-BW-1, Synsteby Mound and Village site, Brown County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The two associated funerary objects include a clam shell and a broken chert knife.

These human remains from site 21-BW-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1950, human remains representing 16 individuals were removed from site 21-AN-1, the Howard Lake site, Anoka County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects were present.

These human remains from site 21-AN-1 are associated with the Middle Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1946, human remains representing 42 individuals were removed from site 21-BS-3, Lindholm Mounds site, Big Stone County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The four associated funerary objects include one shell bead, a bone pin, a ceramic vessel, and worked bone.

These human remains from site 21-BS-3 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1952, human remains representing 16 individuals were removed from site 21-KH-2, Nest Lake Mound site, Kandiyohi County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects were present.

These human remains from site 21-KH-2 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the 1970s, human remains representing eight individuals were removed from a location in the vicinity of Cambria, Blue Earth County, MN by an unknown donor who gave them to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Blue Earth County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the early 1970s, human remains representing 69 individuals were removed from site 21-WW-4, Alton Anderson site, Watonwan County, MN during archeological excavations conducted by A.G. Lothson of the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from 21-WW-4 are probably associated with the Besant and Avonlea Phases, archeological classifications for certain Plains-oriented groups which cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing one individual were removed form 21-RA-7, the Big Mound site at White Bear Lake, Ramsey County, MN by person(s) unknown. No known individual was identified. No associated funerary objects are present.

These human remains (H319.19) from 21-RA-7 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

During the 1970s, human remains representing two individuals were removed from an unknown location in Hennepin County, MN by an unknown person who donated these remains to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated

with any present-day Indian tribe or group.

In 1974, human remains representing one individual were removed from an unknown location in Koochiching County, MN by J. Oothoudt of the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from Koochiching County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the late 19th century, human remains representing four individuals were removed from an unknown location in Mille Lacs County, MN by J.V. Brower and donated to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Mille Lacs County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed form a site at Sandy Lake, Aitkin County, MN by unknown persons and donated to the Science Museum of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains (SMMA 6662) from Aitkin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing three individuals were removed from an unknown location in Minneapolis, Hennepin County, MN by unknown persons and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1970, human remains representing one individual were removed from 21-YM-19, Yellow Medicine County, MN during a survey conducted by D. Nystuen of the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-YM-19 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing two individuals were removed from an unknown location in Hennepin County, MN and donated by unknown persons to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1933, human remains representing one individual were recovered from site 21–TR–5, Brown's Valley Man site, Traverse County, MN by W. Jensen and later donated to the Minnesota Indian Affairs Council by E. Weeks, and J.J. Presley. No known individuals were identified. The associated funerary objects were not donated.

These human remains from site 21-TR-5 are associated with the Paleoindian Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing two individuals were removed from site 21–BK–5, Becker County, MN and donated to the Minnesota Historical Society by a survey crew. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BK-5 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual (SMMA 6665) were removed from an unknown location near Sandy Lake, Aitkin County, MN by unknown persons and donated to the Science Museum of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains from Aitkin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from an unknown location, possibly a mound near Rice Lake, Mille Lacs County, MN by unknown persons and donated to the Minnesota Historical Society where they were registered in 1976. No known individual was identified. No associated funerary objects are present.

These human remains from Mille Lacs County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1976, human remains representing four individuals were removed from site 21-MA-10, Marshall County, MN during archeological excavations conducted by the University of North Dakota and donated to the Minnesota Historical Society by K. Lund. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-MA-10 are assoicated with the Late Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from site 21-RA-5, Mound Park, Ramsey County, MN by unknown person(s) and became part of the Mitchell collection which was donated to the Minnesota Historical Society. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-RA-5 are associated with the Middle Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1971, human remains representing five individuals were removed from site 21-OT-31, Otter Tail County, MN during an archeological survey conducted by D. Nystuen of the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-OT-31 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1931, human remains representing seven individuals were removed form an undesignated site at Gray's Bay, Lake Minnetonka, Hennepin County, MN by H. Fuhs and donated to the Minnesota Historical Society. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1970, human remains representing 12 individuals were removed from a gravel pit at Lake Minnetonka, Hennepin County, MN and donated to the Minnesota Historical Society by L. Studlareck. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated

with any present-day Indian tribe or group.

At an unknown date, human remains representing two individuals were removed from an unknown site in Koochiching County, MN by unknown persons and donated to the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains from Koochiching County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from an unknown location in Beltrami County, MN by unknown persons and donated to the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains from Beltrami County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from an unknown location in Blue Earth County, MN by unknown persons and donated to the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains from Blue Earth County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from an unknown location near Sandy Lake in Aitkin County, MN by unknown persons and donated to the Science Museum of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains (SMMA 6666) from Aitkin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing two individuals were removed from site 21-BK-14, Becker County, MN by unknown persons and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BK-14 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing two individuals were removed from site 21-ME-3, Clear Lake, Meeker County, MN by unknown persons and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-ME-3 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from an unknown location near Litchfield, Meeker County, MN by unknown persons and donated to the University of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains from Meeker County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1933, human remains representing one individual were removed from site 21-OT-3, Minnesota Woman site (formerly Minnesota Man site), Otter Tail County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individual was identified. The three associated funerary objects include one pendant, one ''dagger'' and soil samples.

These human remains and associated funerary objects are associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1933, human remains representing three individuals were removed from site 21-ML-1 the Brower/Anderson/Vanderbloom/Kern site, Mille Lacs County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The one associated funerary object are samples of ochorous clay.

These human remains and associated funerary object from site 21-ML-1 are associated with the Malmo Culture of the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1930, human remains representing four individuals were removed from an undesignated site in Otter Tail County on the property of O.M. Carr, who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Otter Tail County are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1931, human remains representing nine individuals were removed from an undesignated site along the north bank of the Minnesota River in Hennepin County, MN by D.H. Nordenson and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1934, human remains representing 33 individuals were removed from site 21-TR-1, Round Mound site, Traverse County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-TR-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1934, human remains representing five individuals were removed from site 21-TR-2, Wilson Mound site, Traverse County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The 17 associated funerary objects include shell pendants, a scraper, columnella beads, four bone bracelets, seven bone beads, and a shell.

These human remains from site 21-TR-2 are associated with the Arvilla Complex, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1934, human remains representing one individual were removed from site 21-TR-3, K Group Mound site, Traverse County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individual was identified. The one associated funerary object is a projectile point.

These human remains and associated funerary object from site 21-TR-3 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1935, human remains representing four individuals were removed from site

21-BS-2, Schoen Mound site, Mound ı1, Big Stone County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BS-2 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1935, human remains representing nine individuals were removed from site 21-BS-1, Schoen Mound site, Mound ı2, Big Stone County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The one associated funerary object is a bison bone.

These human remains and associated funerary object from site 21-BS-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1946, human remains representing one individual were removed from site 21-BS-4, Lou Miller Mounds site, Big Stone County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individual was identified. The two associated funerary objects are a scraper and a ceramic vessel.

These human remains and associated funerary objects from site 21-BS-4 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1935, human remains representing nine individuals were removed from site 21-BS-5, Holtz Mound site, Big Stone County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BS-5 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing four individuals were removed from an unknown location in Polk County, MN and donated to the University of Minnesota by M. Nelson. No known individuals were identified. No associated funerary objects are present.

These human remains from Polk County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing three individuals were removed from an undesignated site on Big Split Hand Lake near Grand Rapids, Itasca County, MN by H.P. Hulin who donated these remains to the University of Minnesota. No known individuals were identified. The 44 associated funerary objects are ceramic sherds.

These human remains and associated funerary objects from the site on Big Split Hand Lake are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing ten individuals were removed from site 21-KT-1, Lake Bronson site, Kittson County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The two associated funerary objects are a ceramic vessel and a necklace of canine teeth.

These human remains from site 21-KT-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing four individuals were removed from site 21-MA-1, Snake River Mounds site, Marshall County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The 21 associated funerary objects include bear claws, a flat rocke, bone pins, stone tools, two pieces of flat bone, flakes, a projectile point, a clay pipe, and a perforated antler handle.

These human remains from site 21-MA-1 are associated with the Arvilla Complex, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing 27 individuals were removed from site 21-AK-1, Malmo Mounds site, Aitkin County, MN during archeological excavations conducted by G. Ekhom of the University of Minnesota. No known individuals were identified. The three associated funerary objects include red ochre, clay pieces, and fragments of logs surrounding the burials.

These human remains from site 21-AK-1 are associated with the Middle Woodland Malmo Culture, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1933, human remains representing three individuals were removed from an unknown location near Hugo, Washington County, MN by P.F. Flaskerd who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site Washington County are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1936, human remains representing two individuals were removed from site 21-BK-14, Shell Lake, near Ponsford, Becker County, MN by J.W. Nunn who donated these remains to the University of Minnesota. No known individuals were identified. The one associated funerary object is a shell pendant.

These human remains and associated funerary object from site 21-BK-14 have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing four individuals were removed from site 21-OT-1, Peterson Mound Group site, Otter Tail County, MN by unknown person(s) and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-OT-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1937, human remains representing two individuals were removed from site 21-OT-1, Peterson Mound Group site, Otter Tail County, MN during archeological excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-OT-1 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1938, human remains representing one individual were removed from an unknown location near Verndale, Wadena County, MN by a road crew and donated to the University of Minnesota by H.G. Bosland. No known individual was identified. The one associated funerary object is a stemmed projectile point.

These human remains and associated funerary object from Wadena County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1938, human remains representing 13 individuals were removed from site

21-BE-2, Cambria site and Mounds, Blue Earth County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The nine associated funerary objects include flakes, pottery sherds, unfired clay pellets, a scraper, two notched arrowheads, and red ochre.

These human remains and associated funerary objects from site 21-BE-2 are associated with the Woodland or Mississippian Traditions, broad archeological classifications which cannot be associated with any present-day Indian tribe or group.

In 1938, human remains representing four individuals were removed from an unknown location near Perham, Otter Tail County, MN and collected by E. Weber who donated these human remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Otter Tail County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1940, human remains representing nine individuals were removed from site 21-SL-1, Pike Bay Mound, St. Louis County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The six associated funerary objects include a ceramic vessel and bone harpoons.

These human remains and associated funerary objects from site 21-SL-1 are associated with the Late Woodland Blackduck Culture, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1941, human remains representing five individuals were removed from site 21-BS-2, Schoen Mound site, Mound ı1, Big Stone County, MN during archeological excavations conducted by G.H. Smith of the University of Minnesota. No known individuals were identified. The eight associated funerary objects include dog skulls, animal bones, pottery sherds, clamshells, a chert core and limestone fossil, groundstone hammer, and worked bone.

These human remains and associated funerary objects from site 21-BS-2 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1941, human remains representing five individuals were removed from 21-BE-2, Cambria, Blue Earth County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BE-2 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1942, human remains representing two individuals were removed from an unknown location along Lake Vermillion, St. Louis County, MN by J. Peil and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from St. Louis County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

During the 1930s, human remains representing one individual were removed from an unknown location, possibly a burial mound in Aitkin County, MN and collected by F. Swain who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Aitkin County have been tentatively associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1944, human remains representing one individual were removed from site 21-TO-1, Sauk Valley Man site, Todd County, MN during archeological excavations conducted by H. Retzek and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-TO-1 have been tentatively associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1947, human remains representing four individuals were removed from an unnumbered site, the Prairie Lake Mound site, near Pelican Rapids, Otter Tail County, MN by O. Kopperud and donated to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Otter Tail County are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1947, human remains representing one individual were removed from site 21-WA-2, Michaud Mounds/Grey Cloud Island Mounds, Washington County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-WA-2 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1947, human remains representing 13 individuals were removed from site 21-HE-3, Halpin Mounds, Hennepin County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The three associated funerary objects are projectile points.

These human remains from site 21-HE-3 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1947, human remains representing five individuals were removed from an unnumbered site at the Crow Lake gravel pit, Belgrade, Stearns County, MN by H. Retzek who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Stearns County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1947, human remains representing three individuals were removed from the Mankato gravel pit, Mankato, Blue Earth County, MN by F. Hicks who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Blue Earth County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1948, human remains representing one individual were removed from an unnumbered site at the Davidson Farm, Beardsley, Big Stone County, MN by J. Davidson and donated to the Unversity of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Big Stone County have no archeological classification and cannot be associated

with any present-day Indian tribe or group.

In 1949, human remains representing two individuals were removed from the property of Lamphrey Gun Club, Forest Lake, Washington County, MN by J.A. Houle who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Washington County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1949, human remains representing two individuals were removed from site 21-ME-3 on Clear Lake, Meeker County, MN by H.E. Wilmot who donated these human remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from Meeker County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1903, human remains representing two individuals were removed from site 21-WL-1, Femco Mound site, Wilkin County, MN and donated in 1949 by SE. Mathews to the University of Minnesota. No known individuals were identified. The one associated funerary object is a partial ceramic vessel.

In 1940, human remains representing 38 individuals were removed from 21-WL-1, Femco Mound site, Wilkin County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The one associated funerary object includes a shell bead.

These human remains and associated funerary object from site 21-WL-1 are associated with the Arvilla Complex, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1949, human remains representing three individuals were removed from site 21-OT-5, Graham Lake site, Otter Tail County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The eight associated funerary objects include flakes, scrapers, stone knives, projetile points, and a ceramic vessel.

The human remains and associated funerary objects from site 21-OT-5 are associated with the Middle Woodland Malmo Culture, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1951, human remains representing seven individuals were removed from site 21-BE-6, Lewis Mounds, Blue Earth County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The five associated funerary objects include pottery sherds, a biface base, a knife/blade, and a ceramic vessel.

The human remains and associated funerary objects from 21-BE-6 are associated with the Mississippian Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1952, human remains representing two individuals were removed from site 21-ML-1, Brower/Anderson/Vanderbloom/Kern site, Mille Lacs County, MN during archeologicial excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The six associated funerary objects include potsherds, flakes, and burned red clay.

The human remains and associated funerary objects from site 21-ML-1 are associated with the Middle Woodland, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1953, human remains representing one individual were removed from site 21-WN-2, Volkart Mound site, Winona County, MN during an archeological excavation conducted by L.A. Wilford of the University of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-WN-2 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1954, human remains representing six individuals were removed from site 21-PO-3, Pelican Lake Gravel Pit site, Pope County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The nine associated funerary objects include a side-notched point, copper objects, shell beads, shell ornament, tubular pipe, a knife, an antler with beaver tooth, and red ochre.

The human remains and associated funerary objects from site 21-PO-3 are associated with the Archaic Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1955, human remains representing three individuals were removed from site 21-WB-1, Brostrom site, Wabasha County, Mn during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-WB-1 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1956, human remains representing one individual were removed from site 21-CW-207, Tip-Top Resort site, Crow Wing County, MN by A. Schwantes who donated these remains to the University of Minnesota. No known individual was identified. The one associated funerary object is a partial ceramic vessel.

These human remains from site 21-CW-207 are associated with the Late Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1957, human remains representing three individuals were removed from site 21-CW-3, McAloon Mound site, Crow Wing County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The one associated funerary object are ceramic sherds.

These human remains and associated funerary object from site 21-CW-3 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1957, human remains representing six individuals were removed form site 21-SH-2, Moorhouse Mound site, Sherburne County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The eight associated funerary objects include worked bone, a sherd, a hammerstone, bone, an end scraper, a pottery pipe, a rasp or stamp, and a knife.

These human remains and associated funerary objects from site 21-SH-2 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1937, human remains representing 21 individuals were removed from the Morrison Mound site (21-OT-2), Otter Tail County, MN during excavations conducted by A.E. Jenks of the University of Minnesota. No known individuals were identified. The one associated funerary object is an end scraper.

The Morrison Mound site is associated with the Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1987, human remains representing three individuals from unspecified public lands in Beltrami County, MN were donated to the Minnesota Indian Affairs Council from the Bemidji Chamber of Commerce. No known individuals were identified. No associated funerary objects are present.

These human remains from Beltrami County date from the Archaic period, an archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1958, human remains representing one individual were removed from an unnumbered site near Porter, Yellow Medicine County, MN by E. Prenevast who donated these remains to the University of Minnesota. No known individual was identified. The one associated funerary object is a projectile point.

The human remains from Yellow Medicine County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1960, human remains representing one individual were removed from an unknown location at Big Stone Lake, Big Stone County, MN by unknown person(s) and donated to the University of Minnesota. No known individual was identified. No associated funerary objects are present.

The human remains from Big Stone County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1961, human remains representing one individual were removed from site 21-MA-6, Haarstad Mound site, Marshall County, MN during an archeological excavation conducted by O.E. Johnson of the University of Minnesota. No known individuals were identified. The 32 associated funerary objects include miscellaneous material, three claws, bone and bone fragments, bird bones, limestone rock, antler, beaver incisors, clay elbow pipe, carbon and material from pipe, snail shell beads, tubular shell beads, quartz pebbles, red and yellow ochre, scrapers, flakes, clamshell, bone awls, soil sample, small vertebra and tooth.

These human remains and associated funerary objects from site 21-MA-6 are associated with the Arvilla Complex, an archeological classification which cannot be associated with any present-day Indian tribe or group.

During the 1960s, human remains representing one individual were removed from a highway construction site and deposited at Central Jr. High School, Alexandria, Douglas County, MN. During the 1990s, these human remains were turned over to the Minnesota Indian Affairs Council. No known individual was identified. No associated funerary objects are present.

These human remains from Douglas County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1963, human remains representing 32 individuals were removed from site 21-DL-1, Hoffman Mound site, Douglas County, MN duirng an archeological excavation conducted by O.E. Johnson of the University of Minnesota. No known individuals were identified. The five associated funerary objects include a projectile point, shell, flakes, a sherd, and birch bark grave lining.

These human remains and associated funerary objects from site 21-DL-1 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1966, human remains representing one individual were removed from site 21-AK-9, Battle Island site, Aitkin County, MN by Mr. and Mrs. E.T. Grolla who donated these remains to the University of Minnesota. No known individual was identified. No associated funerary objects are present.

These human remains from site 21-AK-9 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1966, human remains representing four individuals were removed from site 21-BE-2, Cambria site, Blue Earth County, MN by W. Jones who donated these remains to the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

These human remains from site 21-BE-2 are associated with the Mississippian Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1967, human remains representing four individuals were removed from site 21-BS-16 in Big Stone State Park, Big Stone County, MN by K. Sanders who donated these remains to the University of Minnesota. No known individual was identified. No associated funerary objects are present.

The human remains from site 21-BS-16 have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1971, human remains representing one individual were removed from site 21-SL-12, Cemetery Island, St. Louis County, MN by H.W. McClusky who donated these remains to the University of Minnesota. No known individual was identified. No associated funerary objects are present.

The human remains from site 21-SL-12 are tentatively associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

In 1992, human remains representing two individuals were recovered from a gravel pit in Otter Tail County, MN by G. Goltz and J. Harrison acting on behalf of the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains from Otter Tail County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

In 1992, human remains representing four individuals were recovered from a bank of the Minnesota River across from Murphy's Landing, Hennepin County, MN by T. Hein, B. O'Connell, and S. Myster on behalf of the Minnesota Indian Affairs Council. No known individuals were identified. No associated funerary objects are present.

These human remains from Hennepin County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing 12 individuals were recovered from site 21-CA-3, Pillager Mounds, Cass County, MN by an unidentified person. No known individuals were identified. No associated funerary objects are present.

Site 21-CA-3 has been identified only as Woodland, a broad archeological tradition that cannot be identified with any present-day Indian tribe or group.

In 1963, human remains representing one individual were removed from site 21-DL-2, Lake Carlos Beach, Douglas County, MN during excavations conducted by Elden Johnson of the University of Minnesota. No known individual was identified. No associated funerary objects are present.

Site 21-DL-2 has been identified as Woodland Tradition, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1946, human remains representing two individuals were removed from site 21-NR-2, the Habben Mound site, Norman County, MN during excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

Site 21-NR-2 has been identified as Arvilla Complex, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1946, human remains representing 15 individuals were removed from site 21-NR-1, the Slininger Mound site, Norman County, MN during excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. No associated funerary objects are present.

Site 21-NR-1 has been identified as Arvilla Complex, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

During the 1950s, human remains representing one individual were removed from private property in Eden Prairie, Carver County, MN during capping of a well. In 1992, Mrs. Fowler, the property owner, transferred these human remains to the Minnesota Indian Affairs Council. No known individual was identified. No associated funerary objects are present.

These human remains from Carver County have no archeological classification and cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were removed from 21-SL-9, Esquagama, St. Louis County, MN by W.D. Wright and donated to the Minnesota Indian Affairs Council (H135). No known individual was identified. No associated funerary objects are present.

Site 21-SL-9 has been identified as a Woodland Tradition site, a broad archeological tradition which cannot be identified with any present-day Indian tribe or group.

In 1935, human remains representing two individuals were removed from site 21-BS-16, Big Stone State Park, Big Stone County, MN by M. Matthews and M. Finberg and donated to the University of Minnesota. No known individuals were identified. The minimum of five associated funerary objects include bear skulls, a pottery sherd, and carnivore skulls.

These human remains from site 21-BS-16 are associated with the Woodland Tradition, a broad archeological classification which cannot be associated with any present-day Indian tribe or group.

At an unknown date, human remains representing one individual were donated by an unknown person to the Traverse County Historical Society, MN for a display. No known individual was identified. No associated funerary objects are present.

These human remains have no further documentation, but are most likely to have come from a site in Traverse County, MN.

In 1948, human remains representing seven individuals were removed from site 21-SH-01, Christensen Mound, Sherburne County, MN during archeological excavations conducted by L.A. Wilford of the University of Minnesota. No known individuals were identified. The eight associated funerary objects includ a lithic tool, flakes, a projectile point, a pottery pipe, bear skulls, and a projectile point tip.

In 1995, these human remains were reburied under Minnesota statute 307.08. The associated funerary objects were transferred to the Minnesota Indian Affairs Council in 1997–1998 for reburial with their human remains. These human remains and associated funerary objects from site 21–SH–01 are associated with the Woodland Tradition, an archeological classification which cannot be associated with any present-day Indian tribe or group.

Based on the above mentioned information, officials of the Minnesota Indian Affairs Council have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of a minimum of 1,059 individuals of Native American ancestry. Officials of the Minnesota Indian Affairs Council have also determined that, pursuant to 43 CFR 10.2 (d)(2), the approximately 306 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, and in accordance with the recommendations of the NAGPRA Review Committee, officials of the Minnesota Indian Affairs Council have determined that, pursuant to 43 CFR 10.2 (e), there is no relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and any present-day Indian tribe or group; and the disposition of these Native American human remains and associated funerary objects will follow Minnesota Statute 307.08.

This notice has been sent to officials of Prairie Island Community Council, Shakopee Mdewakanton Sioux Community of Minnesota, Grand Portage Reservation Business Committee, Fond du Lac Reservation Business Committee, Nett Lake Reservation (Bois Forte) Tribal Council, Upper Sioux Community of Minnesota, Lower Sioux Mdewakanton Community, Mille Lacs Band of Chippewa Indians, White Earth Band of Minnesota Chippewa, Leech Lake Tribal Council, Minnesota Chippewa Tribe, Red Lake Nation, Iowa Tribe of Oklahoma, Iowa Tribe of Kansas and Nebraska, Ho-Chunk Nation of Wisconsin, Santee Sioux Tribe of the Santee Reservation of Nebraska, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, Yankton Sioux Tribe of South Dakota, Chippewa-Cree Indians of the Rocky Boy's Reservation, Turtle Mountain Band of Chippewa Indians, Assinaboine and Sioux Tribes of the Fort Peck Reservation and Winnebago Tribe of Nebraska, and the non-Federally recognized Indian groups the Mendota Mdewakanton Dakota Community and the Kah-Bay-Kah-Nong (Warroad Chippewa). Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact James L. (Jim) Jones, Cultural Resource Specialist, Minnesota Indian Affairs Council, 1819 Bemidji Ave. Bemidji, MN 56601; telephone: (218) 755-3825, before September 8, 1999. Repatriation of the human remains and associated funerary objects to the Prairie Island Community Council, Shakopee Mdewakanton Sioux Community of Minnesota, Grand Portage Reservation Business Committee, Fond du Lac Reservation Business Committee, Nett Lake Reservation (Bois Forte) Tribal Council, Upper Sioux Community of Minnesota, Lower Sioux Mdewakanton Community, Mille Lacs Band of Chippewa Indians, White Earth Band of Minnesota Chippewa, Leech Lake Tribal Council, Minnesota Chippewa Tribe, Red Lake Nation, Iowa Tribe of Oklahoma, Iowa Tribe of Kansas and Nebraska, Ho-Chunk Nation of Wisconsin, Santee Sioux Tribe of the Santee Reservation of Nebraska, Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, Yankton Sioux Tribe of South Dakota, Chippewa-Cree Indians of the Rocky Boy's Reservation, Turtle Mountain Band of Chippewa Indians, Assinaboine and Sioux Tribes of the Fort Peck Reservation and Winnebago Tribe of Nebraska, and the non-Federally recognized Indian groups the Mendota Mdewakanton Dakota Community and the Kah-Bay-Kah-Nong (Warroad

Chippewa) may begin after that date if no additional claimants come forward.

Dated: August 2, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–20369 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects from North Carolina in the Possession of the University of North Carolina at Chapel Hill, Chapel Hill, NC

AGENCY: National Park Service.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act (NAGPRA), 43 CFR 10.9, of the completion of an inventory of human remains and associated funerary objects from North Carolina in the possession of the University of North Carolina at Chapel Hill, Chapel Hill, NC.

A detailed assessment of the human remains was made by Research Laboratories of Archaeology, University of North Carolina at Chapel Hill professional staff in consultation with representatives of the Eastern Band of Cherokee Indians, the Cherokee Nation of Oklahoma, and the United Keetoowah Band of Cherokee Indians.

In 1880, human remains representing two individuals from the Peachtree Mound site (31Ce1), Cherokee County, NC were excavated by B.D. McCombs for Mann S. Valentine of Richmond, VA. In 1969, these human remains were transferred from the Valentine Museum in Richmond, VA to the Research Laboratories of Archaeology, UNC-Chapel Hill. No known individuals were identified. No associated funerary objects are present.

Based on the archeological context, these individuals have been identified as Native American. Artifacts recovered at the Peachtree Mound site are attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

In 1964, human remains representing a minimum of one individual from the Townson site (31Ce15), Cherokee County, NC were recovered during excavations conducted by UNC-Chapel Hill archeologists. No known individual was identified. No associated funerary objects are present.

Based on historical documents and archeological evidence, the Townson site has been tentatively identified as a Cherokee village burned by the Rutherford expedition in 1776. These human remains were found within the remains of a burned house at the site. Artifacts recovered at the Townson site have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

During the early 1880s, human remains representing seven individuals from the Cullowhee Mound (31Jk2), Jackson County, NC were excavated by G.G. Valentine and E.P. Valentine for Mann S. Valentine of Richmond, VA. In 1969, these human remains were transferred from the Valentine Museum to the Research Laboratories of Archaeology, UNC-Chapel Hill. No known individuals were identified. No associated funerary objects are present.

In 1966, human remains representing at least one individual from the Cullowhee Mound (31Jk2), Jackson County, NC were recovered by UNC-Chapel Hill archeologists while conducting salvage excavations during a building construction project. No known individuals were identified. No associated funerary objects were present.

Based on archeological context, these individuals have been identified as Native American. Artifacts recovered at the Cullowhee Mound have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

In 1961, human remains representing one individual from the Nikwasi Mound (31Ma2), Macon County, NC were given to UNC-Chapel Hill archeologists. These remains had been found in a previously dug drainage ditch near the mound. No known individual was identified. No associated funerary objects are present.

Based on archeological context, this individual has been identified as Native American. Artifacts recovered at the Nikwasi Mound site have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

Between 1965 and 1971, human remains representing 87 individuals from the Coweeta Creek site (31Ma34), Macon County, NC were recovered during excavations conducted by UNC-Chapel Hill archeologists. No known individuals were identified. The 391 associated funerary objects include shell ornaments, shell and glass beads, stone and clay pipes, stone disks and celts, objects of worked animal bone, and a clay pot.

Based on the archeological context and funerary objects, these individuals have been identified as Native American. Artifacts recovered at the Coweeta Creek site have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

In 1882, human remains representing five individuals from the Nununyi Mound (31Sw3) in Swain County, NC were excavated by E.P. Valentine for Mann S. Valentine of Richmond, VA. In 1969, these human remains were transferred from the Valentine Museum in Richmond, VA to the Research Laboratories of Archaeology, UNC-Chapel Hill. No known individuals were identified. No associated funerary objects are present.

Based on the archeological context, these individuals have been identified as Native American. Artifacts recovered at the Nununyi Mound have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

In 1883, human remains representing one individual from the Birdtown Mound (31Sw7), Swain County, NC were excavated by E.P. Valentine for Mann S. Valentine of Richmond, VA. In 1969, these human remains were transferred from the Valentine Museum in Richmond, VA to the Research Laboratories of Archaeology, UNC-Chapel Hill. No known individual was identified. No associated funerary objects are present.

Based on the archeological context, this individual has been identified as Native American. Artifacts recovered at the Birdtown Mound have been attributed to the Qualla phase which has been identified with both the protohistoric and historic Cherokee in western North Carolina.

Between 1966 and 1985, human remains representing 58 individuals from the Warren Wilson site (31Bn29), Buncombe County, NC were recovered during excavations conducted by UNC-Chapel Hill archeologists and Warren Wilson College students. No known individuals were identified. The 1,034 associated funerary objects include shell ornaments, shell beads, cut mica ornaments, and objects of worked animal bone.

Based on the archeological context and funerary objects, these individuals have been identified as Native American. Artifacts recovered at the Warren Wilson site have been attributed

to the Pisgah phase (A.D. 1000-1450), which has been identified as likely ancestral to the Qualla phase and protohistoric and historic Cherokee.

In 1964, human remains representing one individual from site 31Cy42 in Clay County, NC were recovered in a test excavation during a county-wide archeological survey conducted by UNC-Chapel Hill archeologists. No known individual was identified. The 475 associated funerary objects include shell beads, nine fragments of a shell dipper, and a shell ornament.

Based on the archeological context and funerary objects, this individual has been identified as Native American. Artifacts recovered at site 31Cy42 have been attributed to the early Qualla phase which has been identified as likely ancestral to protohistoric and historic Cherokee.

In 1965 and 1966, human remains representing nine individuals from the Garden Creek Mound No. 2 (31Hw2) were recovered during excavations conducted by UNC-Chapel Hill archeologists. No known individuals were identified. The 50 associated funerary objects include a shell ornament, shell beads, and two pieces of copper.

Based on the archeological context and funerary objects, these individuals have been identified as Native American. Associated artifacts indicate that the Garden Creek Mound No. 2 was a burial location dating to the Pisgah phase (A.D. 1000-1450), which has been identified as likely ancestral to the Qualla phase and to protohistoric and historic Cherokee.

Between 1879 and 1883, human remains representing ten individuals from unknown site(s) in Haywood County or Swain County, NC were excavated by A.J. Osborne or E.P. Valentine for Mann S. Valentine of Richmond, VA. While the exact locations of these burials are unknown, they probably came from one or more of the following sites: Garden Creek Mound No. 2 (31Hw2), Kituwah Mound (31Sw2), or Karr Mound. In 1969, these human remains were transferred from the Valentine Museum, Richmond, VA to the Research Laboratories of Archaeology, UNC-Chapel Hill. No known individuals were identified. No associated funerary objects are present.

Based on the condition of the remains and their probable burial locations, these individuals have been identified as Native American. The preponderance of the evidence indicates these remains are attributable to either the Pisgah phase (A.D. 1000-1450) or the Qualla phase (after A.D. 1450), both earlier cultural groups which have been identified as likely ancestral to the historic Cherokee.

Between 1965 and 1967, human remains representing 26 individuals from the Garden Creek Mound No. 1 (31Hw1) in Haywood County, NC were recovered during excavations conducted by UNC-Chapel Hill archeologists. No known individuals were identified. The 738 associated funerary objects include shell ornaments, shell beads, shell dipper fragments, stone disks, and stone celts.

Based on the archeological context and funerary objects, these individuals have been identified as Native American. Associated artifacts indicate that the Garden Creek Mound No. 1 was a burial location dating to the Pisgah phase (A.D. 1000-1450), which has been identified as likely ancestral to the Qualla phase and to protohistoric and historic Cherokee.

In 1964, human remains representing two individuals from the Men's Dormitory site (31Jk129) in Jackson County, NC were donated to the Research Laboratories of Archaeology, UNC-Chapel Hill by officials at Western Carolina University following their recovery during a construction project on the WCU campus. No known individuals were identified. The one associated funerary object is a clay pot.

Based on the archeological context and funerary object, these individuals have been identified as Native American. The associated artifact indicates that these burials date to the Pisgah phase (A.D. 1000-1450), which has been identified as ancestral to the Qualla phase and to protohistoric and historic Cherokee.

Based on the above mentioned information, officials of the University of North Carolina at Chapel Hill have determined that, pursuant to 43 CFR 10.2 (d)(1), the human remains listed above represent the physical remains of 211 individuals of Native American ancestry. Officials of the University of North Carolina at Chapel Hill have also determined that, pursuant to 43 CFR 10.2 (d)(2), the 2,689 objects listed above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony. Lastly, officials of the University of North Carolina at Chapel Hill have determined that, pursuant to 43 CFR 10.2 (e), there is a relationship of shared group identity which can be reasonably traced between these Native American human remains and associated funerary objects and the Eastern Band of Cherokee Indians, the Cherokee Nation of Oklahoma, and the United Keetoowah Band of Cherokee Indians.

This notice has been sent to officials of the Eastern Band of Cherokee Indians, the Cherokee Nation of Oklahoma, and the United Keetoowah Band of Cherokee Indians. Representatives of any other Indian tribe that believes itself to be culturally affiliated with these human remains and associated funerary objects should contact Vincas P. Steponaitis, Director, Research Laboratories of Archaeology, University of North Carolina at Chapel Hill, Chapel Hill, NC 27599-3120; telephone: (919) 962-6574, before September 8, 1999. Repatriation of the human remains and associated funerary objects to the Eastern Band of Cherokee Indians, the Cherokee Nation of Oklahoma, and the United Keetoowah Band of Cherokee Indians may begin after that date if no additional claimants come forward.

Dated: August 3, 1999.

Francis P. McManamon,

Departmental Consulting Archeologist, Manager, Archeology and Ethnography Program.

[FR Doc. 99–20370 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–70–F

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

CALFED Bay-Delta Program, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of public hearings for the Draft Programmatic Environmental Impact Statement/Environmental Impact Report (EIS/EIR).

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (as amended) and the California Environmental Quality Act, the Bureau of Reclamation, Fish and Wildlife Service, National Marine Fisheries Service, Environmental Protection Agency, Natural Resources Conservation Service, Army Corps of Engineers, and the California Resources Agency, as co-lead agencies, have prepared a Draft EIS/EIR for the CALFED Bay-Delta Program. A notice of availability appeared in the **Federal Register** (64 FR 34677–34678, June 28, 1999). This notice stated that additional information would be provided on the specific locations and times for public hearings. All hearings will start at 6 p.m., with a 1-hour question and answer period, and the formal hearing will start at 7 p.m.

DATES: See Supplementary Information section for hearing dates.

ADDRESSES: See Supplementary Information section for hearing locations.

FOR FURTHER INFORMATION CONTACT: For further information regarding the public hearings, contact Mr. Rick Breitenbach, CALFED Bay-Delta Program, 1416 Ninth Street, Suite 1155, Sacramento CA 95814; telephone (800) 900–3587.

SUPPLEMENTARY INFORMATION: The dates and addresses for the public hearings are:

- Wednesday, August 18, 1999, at 6 p.m., University of California Cooperative Extension, South Wilson Way, Stockton CA.
- Thursday, August 19, 1999, at 6 p.m., City Council Chambers, 300 North D Street, San Bernardino CA.
- Tuesday, August 24, 1999, at 6 p.m., Huntington Park Family Center, 3355 E. Gage Avenue, Huntington Park CA.
- Wednesday, August 25, 1999, at 6 p.m., Rodeo Inn, 808 North Main Street, Salinas CA.
- Thursday, August 26, 1999, at 6 p.m., Preservation Park, Nile Hall, 1233 Preservation Park Way, Oakland CA.
- Tuesday, August 31, 1999, at 6 p.m., Holiday Inn, Magnolia Room, 303 East Cordoba Street, Pasadena CA.
- Wednesday, September 1, 1999, at 6 p.m., Ruben H. Fleet Science Center, Balboa Park, 1875 El Prado, San Diego CA.
- Thursday, September 2, 1999, at 6 p.m., Westin Southcoast Plaza Hotel, 1400 Bristol Street, Costa Mesa CA.
- Tuesday, September 7, 1999, at 6 p.m., San Jose Unified School District Board Room, 855 Lenzen Avenue, San Jose CA.
- Wednesday, September 8, 1999, at 6 p.m., Rodriguez Community Center Theater, 213 F Street, Antioch CA.
- Thursday, September 9, 1999, at 6 p.m., Burbank Center for the Arts, Merlot Theater, 50 Mark West Springs Road, Santa Rosa CA.
- Tuesday, September 14, 1999, at 6 p.m., Visalia Convention Center, San Joaquin Room, 303 E. Acequia, Visalia CA.
- Wednesday, September 15, 1999, at 6 p.m., Community Center, 545 Vallombrosa Avenue, Chico CA.
- Tuesday, September 21, 1999, at 6 p.m., Doubletree Hotel, Sierra Room, 1830 Hilltop Drive, Redding CA.
- Wednesday, September 22, 1999, at 6 p.m., Convention Center, Room 203 , 1030 15th Street, Sacramento CA.

Dated: July 30, 1999.

Kirk C. Rodgers,

Acting Regional Director, Mid-Pacific Region, Bureau of Reclamation.

[FR Doc. 99–20386 Filed 8–6–99; 8:45 am]

BILLING CODE 4310–94–P

DEPARTMENT OF JUSTICE

Notice of Consent Decrees in Comprehensive Environmental Response, Compensation and Liability Act Action

Notice is hereby given that two consent decrees in *United States et al.* v. *ALCOA et al.*, Civil Action No. 89–7421, was lodged with the United States District Court for the Eastern District of Pennsylvania on July 26, 1999.

On October 16, 1989, the United States filed a complaint against 18 generator and owner/operator defendants under section 108(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9607(a), for response costs incurred and to be incurred by the United States at the Moyer Landfill Superfund Site in Collegeville, Pennsylvania (the ''Site''). The Commonwealth of Pennsylvania joined the action as plaintiff seeking reimbursement of its response costs incurred and to be incurred at the Site. The proposed consent decree resolves the liability of the City of Philadelphia and three agencies of the Commonwealth of Pennsylvania, subject to reopeners for new information and new site conditions. The City of Philadelphia agrees to pay $4 million in reimbursement of response costs at the Site. The Commonwealth of Pennsylvania agencies agree to pay a total of $639.347 in reimbursement of response costs at the Site and to contribute approximately $112,000 worth of operation and maintenance activities at the Site.

The Department of Justice will accept written comments relating to the proposed Consent Decrees for thirty (30) days from the date of publication of this notice. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, PO Box 7611, Ben Franklin Station, Washington, DC 20044 and refer to *United States et al.* v. *ALCOA et al.*, DOJ No. 90–11–3–145. Commenters may request an opportunity for a public meeting in the affected area, in accordance with Section 7003(d) of RCRA.

Copies of the proposed Consent Decrees may be examined at the Office of the United States Attorney, Eastern District of Pennsylvania, 615 Chestnut Street, Suite 1250, Philadelphia, PA 19106; the Region III Office of the Environmental Protection Agency, 1650 Arch Street, Philadelphia, Pennsylvania 19103; and at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005 (202) 624–0892. Copies of the Consent Decree may also be examined and obtained by mail at the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005 (202–624–0892). When requesting copies by mail, please enclose a check in the amount of $6.00 for the City of Philadelphia consent decree and a check in the amount of $7.00 for the Commonwealth agencies consent decree (twenty-five cents per page reproduction costs) payable to the ''Consent Decree Library.''

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division, Department of Justice.

[FR Doc. 99–20160 Filed 8–6–99; 8:45 am]

BILLING CODE 4410–15–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, ISP Freetown Fine Chemicals, Inc., 238 South Main Street, Assonct, Massachusetts 02702, made application to the Drug Enforcement Administration to be registered as an importer of 2,5-dimethoxyamphetamine (7396), a basic class of controlled substance listed Schedule I.

The firm plans to import 2,5-dimethoxyamphetamine for the manufacture of a photographic dye.

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, D.C. 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than September 8, 1999.

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 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 28, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–20435 Filed 8–6–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated May 12, 1999, and published in the **Federal Register** on May 25, 1999, (64 FR 28215), Research Triangle Institute, Kenneth H. Davis, Jr., Hermann Building, East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Marihuana (7360)	I
Cocaine (9041)	II

The firm plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse and other clients.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Research Triangle Institute to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1301.34, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 26, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–20437 Filed 8–6–99; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated May 14, 1999, and published in the **Federal Register** on May 25, 1999 (64 FR 28215), Sigma Chemical Company, Subsidiary of Sigma-Aldrich Company, 3500 Dekalb Street, St. Louis, Missouri 63118, made application to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed below:

Drug	Schedule
Cathinone (1235)	I
Methcathinone (1237)	I
Methaqualone (2565)	I
Ibogaine (7260)	I
Lysergic acid diethylamide (7315).	I
Tetrahydrocannabinols (7370)	I
Mescaline 7381)	I
4-Bromo-2,5-dimethoxyamphetamine (7391).	I
3,4-Methylenedioxyamphetamine (7400).	I
3,4-Methylenedioxy-N-ethylamphetamine (7404).	I
3,4-Methylenedioxymethamphetamine (7405).	I
4-Methoxyamphetamine (7411)	I
Psilocyn (7438)	I
Heroin (9200)	I
Normorphine (9313)	I
Etonitazene (9624)	II
Amphetamine (1100)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	I
Amobarbital (2125)	II
Pentobarbital (2270)	II
Secobarbital (2315)	II
Phencyclidine (7471)	II
Cocaine (9041)	II
Codeine (9050)	II
Oxycodone (9143)	II
Hydromorphone (9150)	II
Benzoylecgonine (9180)	II
Ethylmorphine (9190)	II
Hydrocodone (9193)	II
Levorphanol (9220)	II
Meperidine (9230)	II
Methadone (9250)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273).	II
Morphine (9300)	II
Thebaine (9333)	II
Opium powdered (9639)	II
Oxymorphone (9652)	II
Fentanyl (9801)	II

The firm plans to repackage and offer as pure standards controlled substances in small milligram quantities for drug testing and analysis.

No comments or objections have been received. DEA has considered the factors in Title 21, United States Code, Section 823(a) and determined that the registration of Sigma Chemical Company to import the listed controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Sigma Chemical Company on a regular basis to ensure that the company's continued registration is consistent with the public interest. These investigations have included inspection and testing of the company's physical security systems, audits of the company's records, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to Section 1008(a) of the Controlled Substances Import and Export Act and in accordance with Title 21, Code of Federal Regulations, Section 1311.42, the above firm is granted registration as an importer of the basic classes of controlled substances listed above.

Dated: July 26, 1999.

John H. King,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 99–20436 Filed 8–6–99; 8:45 am]

BILLING CODE 4401–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

AGENCY: Employment and Training Administration, DOL.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed extension of the ETA 204, Experience Rating Report. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee's section below on or before October 8, 1999.

ADDRESSES: Edward M. Dullaghan, Unemployment Insurance Service, Employment and Training Administration, U.S. Department of Labor, Room S4231, 200 Constitution Ave. N.W., Washington, DC, 20210; Telephone number (202) 219–5312 (This is not a toll-free number); fax (202) 219–8506.

SUPPLEMENTARY INFORMATION:

I. Background

The data submitted annually on the ETA 204 report enables the Employment and Training Administration to project revenues for the Unemployment Insurance program on a State by State basis and to measure the variations in assigned contribution rates which result from different experience rating systems. Used in conjunction with other data, the ETA 204 assists in determining the effects of certain factors (e.g., seasonality, stabilization, expansion, or contraction in employment, etc.) on the unemployment experience of various groups of employers. The data also provide an early signal for potential solvency problems, are useful in analyzing factors which give rise to these potential problems and permit an evaluation of the effectiveness of the various approaches available to correct the detected problems. Further, the data are the basis for determining the Experience Rating Index; the index allows for the evaluation of the extent to which benefits in States are effectively charged, noncharged, and ineffectively charged.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

The extension of the Experience Rating Report will allow for the continued calculation of the Experience Rating Index and to continue experience rating analysis and research on a national, regional or state level.

Type of Review: Extension.

Agency: Employment and Training Administration.

Title: Experience Rating Report.

OMB Number: 1205–0164.

Affected Public: State Government.

Cite/Reference/Form/etc: ETA 204.

Frequency: Annually.

Total Responses: 53.

Average Time per Response: 15 minutes.

Estimated Total Burden Hours: 14.

Total Burden Cost (operating/maintaining): $350.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: August 3, 1999.

Grace A. Kilbane,

Director, Unemployment Insurance Service, Employment and Training Administration.

[FR Doc. 99–20405 Filed 8–6–99; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Advisory Committee on Construction Safety and Health; Notice of Open Meeting

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

SUMMARY: Notice is hereby given that the Advisory Committee on Construction Safety and Health (ACCSH) will meet September 2 and 3, 1999, at the Frances Perkins Department of Labor Building, 200 Constitution Avenue, NW, Washington, DC. This meeting is open to the public.

TIMES, DATES, ROOMS: ACCSH will meet from 9 a.m. to 4:30 p.m., Thursday, September 2 and from 9 a.m. to Noon, Friday, September 3, in room C–5521. ACCSH work groups will meet August 31 and September 1 and, if necessary, after Noon on September 3.

SUPPLEMENTARY INFORMATION: For further information contact Theresa Berry, Office of Public Affairs, Room N–3647, telephone (202) 693–1999 at the Occupational Safety and Health Administration, 200 Constitution Avenue, NW, Washington, DC 20210.

An official record of the meeting will be available for public inspection at the OSHA Docket Office, Room N–2625, telephone 202–693–2350. All ACCSH meetings and those of its work groups are open to the public. Individuals needing special accommodation should contact Theresa Berry by August 25, 1999, at the above address.

ACCSH was established under section 107(e)(1) of the Contract Work Hours and Safety Standards Act (40 U.S.C. 333) and section 7(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 656).

The agenda items include:

- Remarks by the Assistant Secretary for the Occupational Safety and Health Administration, Charles N. Jeffress.
- ACCSH Work Group Updates, including:
  - Data Collection/Targeting,
  - Musculoskeletal Disorders,
  - Subpart N-Cranes,
  - Fall Protection,

- Diversified Workforce Initiatives,
- Construction Certification and Paper-work Reduction Review
- OSHA Form 170

Reports on construction standards updates.

Special presentations including:

- Silica,
- Construction Advisory and the ACCSH Web Page,
- Strategic Plan Update, and
- Health Standards Technical Updates.

The following ACCSH Work Groups are scheduled to meet in the Frances Perkins Building:

Musculoskeletal Disorders—9:30 a.m.–5:00 p.m., Tuesday, August 31, in room C55521.

Construction Certification and Paper-work Reduction Review—8:30 a.m.–12:30 p.m., Tuesday, August 31, in room C–5515 Conference Room 2.

OSHA Form 170–1–5 p.m., Tuesday, August 31, in room C–5515, Conference Room 2.

Data Collection/Targeting—8:30 a.m.–12:30 p.m., Wednesday, September 1, in room C–5521.

Subpart N—Cranes—1–5 p.m., Wednesday, September 1, in room C–5515, Conference Room 2.

Diversified Workforce Initiatives—8:30 a.m.–12:30 p.m., Wednesday, September 1, in room C–5515, Conference Room 2.

Fall Protection—1–5 p.m., Wednesday, September 1, in room C–5521.

Other workgroups may meet after the adjournment of the ACCSH meeting on September 3, 1999.

Interested persons may submit written data, views or comments, preferably with 20 copies, to Theresa Berry, at the address above. Submissions received prior to the meeting will be provided to ACCSH and will be included in the record of the meeting.

Interested persons may also request to make an oral presentation by notifying Theresa Berry before the meeting. The request must state the amount of time desired, the interest that the person represents, and a brief outline of the presentation. ACCSH may grant requests, as time permits, at the discretion of the Chair of ACCSH.

Signed at Washington, DC this 3rd day of August, 1999.

Charles N. Jeffress,

Assistant Secretary of Labor.

[FR Doc. 99–20406 Filed 8–6–99; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–443]

North Atlantic Energy Service Corporation, et al. (Seabrook Station Unit 1); Order Approving Transfer of License and Conforming amendment

I

North Atlantic Energy Service Corporation (North Atlantic) is authorized to act as agent for the joint owners of the Seabrook Station Unit 1 (Seabrook) and has exclusive responsibility and control over the physical construction, operation, and maintenance of the facility as reflected in Operating License NPF–86. Montaup Electric Company (Montaup), one of the joint owners, holds a 2.9 percent possessory interest in Seabrook. The Nuclear Regulatory Commission issued Operating License NPF–86 on March 15, 1990, pursuant to Part 50 of Title 10 of the Code of Federal Regulations (10 CFR Part 50). The facility is located in Seabrook Township, Rockingham County, on the southeast coast of the State of New Hampshire.

II

Under cover of a letter dated September 29, 1998, North Atlantic forwarded an application by Montaup and Little Bay Power Corporation (Little Bay) requesting approval of the proposed transfer of Montaup's rights under the operating license for Seabrook to Little Bay. The application was supplemented March 8, 1999, and April 7, 1999. In addition, the application requested approval of a conforming amendment to reflect the transfer.

Little Bay is a newly formed and wholly owned subsidiary of BayCorp Holdings, Ltd., which is the holding company that also owns Great Bay Power Corporation, an existing joint owner of Seabrook. According to the application, Montaup has agreed to sell its 2.9 percent ownership interest in Seabrook to Little Bay, subject to obtaining all necessary regulatory approvals. North Atlantic would remain as the Managing Agent for the joint owners of the facility and would continue to have exclusive responsibility for the management, operation, and maintenance of Seabrook. The conforming amendment would remove Montaup from the facility operating license and would add Little Bay in its place.

Approval of the transfer and conforming license amendment was requested pursuant to 10 CFR 50.80 and 50.90. Notice of the application for approval and an opportunity for a hearing was published in the **Federal Register** on December 14, 1998 (63 FR 68801). Pursuant to such notice, joint Seabrook owners New England Power Company (NEP) and United Illuminating Company (United) filed, respectively, a timely intervention petition and hearing request, and an untimely intervention petition, and Massachusetts Municipal Wholesale Electric Company (MMWEC) filed written comments. In an order dated March 5, 1999, the Commission denied United's petition and granted NEP's intervention petition and hearing request. However, NEP's petition to intervene and hearing request were subsequently withdrawn, and an order was issued on April 26, 1999, terminating the proceeding. The March 5, 1999, order also referred MMWEC's comments to the staff. MMWEC's comments are addressed in the safety evaluation.

Under 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. Upon review of the information in the application submitted by Montaup and Little Bay dated September 29, 1998, the supplements dated March 8, and April 7, 1999, and other information before the Commission, the NRC staff has determined that Little Bay is qualified to hold the license to the same extent the license is now held by Montaup and that the transfer of the license to the extent it is held by Montaup to Little Bay is otherwise consistent with applicable provisions of law, regulations, and orders issued by the Commission. The NRC staff has further found that the application for the proposed license amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations set forth in 10 CFR Chapter I; the facility will operate in conformity with the application, the provisions of the Act, and the rules and regulations of the Commission; there is reasonable assurance that the activities authorized by the proposed license amendment can be conducted without endangering the health and safety of the public and that such activities will be conducted in compliance with the Commission's regulations; the issuance of the proposed license amendment will not be inimical to the common defense and security or to the health and safety of the public; and the issuance of the

proposed amendment will be in accordance with 10 CFR Part 51 of the Commission's regulations, and all applicable requirements have been satisfied. The foregoing findings are supported by a safety evaluation dated August 3, 1999.

III

Accordingly, pursuant to Sections 161b, 161i, and 184 of the Atomic Energy Act of 1954, as amended; 42 U.S.C. 2201(b), 2201(i), and 2234; and 10 CFR 50.80, *it is hereby ordered* that the license transfer referenced above is approved, subject to the following conditions:

1. For purposes of ensuring public health and safety, Little Bay shall provide decommissioning funding assurance of no less than $11.8 million, after payment of any taxes, in the Seabrook Decommissioning Trust Fund maintained and administered by the State of New Hampshire under its applicable law upon the transfer of Montaup's interest in Seabrook to Little Bay.

2. After they have received all required regulatory approvals of the transfer, Montaup and Little Bay shall inform the Director, Office of Nuclear Reactor Regulation, in writing of the date of the closing of the transfer no later than two business days prior to the date of closing. Should the transfer not be completed by August 1, 2000, this Order shall become null and void, provided, however, on application and for good cause shown, such date may be extended.

It is further ordered that, consistent with 10 CFR 2.1315(b), a license amendment that makes changes to conform the license to reflect the subject license transfer is approved. Such amendment shall be issued and made effective at the time the proposed license transfer is completed.

This Order is effective upon issuance.

For further details with respect to this Order, see the application dated September 29, 1998, and supplements dated March 8, 1999, and April 7, 1999, which are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Exeter Public Library, Founders Park, Exeter, NH 03833.

Dated at Rockville, Maryland, this 3d day of August, 1999.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director Office of Nuclear Reactor Regulation.

[FR Doc. 99–20400 Filed 8–6–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Tennessee Valley Authority

[Docket No. 50–259]

Browns Ferry Nuclear Plant, Unit 1; Environmental Assessment and Finding of No Significant Impact

Introduction

The US Nuclear Regulatory Commission (NRC, or the Commission) is considering issuance of an exemption to Facility Operating License No. DPR–33, issued to the Tennessee Valley Authority (TVA) for operation of the Browns Ferry Nuclear Plant (BFN) Unit 1, located in Limestone County, Alabama.

Environmental Assessment

Identification of the Proposed Action

The proposed action is in response to TVA's application dated February 4, 1999, for a temporary exemption from certain requirements of 10 CFR 50.65 (Maintenance Rule). Specifically, this action would exempt TVA from the explicit scoping requirements of 10 CFR 50.65(b), and instead it would allow TVA to consider the defueled and long-term layup status of BFN Unit 1 when establishing the scope of TVA's Maintenance Rule Program. Structures, systems, and components (SSCs) that perform a required function for Unit 1 in its present defueled status or that directly support the operation of Unit 2 or Unit 3 would be included in the scope of the BFN Maintenance Rule Program, but Unit 1 systems and components not required to be operational would not be required to be included in the Maintenance Rule Program.

The Need for the Proposed Action

10 CFR 50.65(a)(1) requires, in part, that, power reactor licensees shall monitor the performance or condition of SSCs against licensee-established goals to provide reasonable assurance that the SSCs, defined in 10 CFR 50.65(b), are capable of fulfilling their intended functions.

TVA requested the exemption to resolve a 10 CFR 50.65 compliance issue that was identified during an NRC inspection at the facility (cf., NRC combined Inspection Reports 50–259/97–04; 50–260/97–04; and 50–296/97–04, (IR 97–04) dated May 21,1997). The issue relates to the acceptability of TVA's approach to addressing the SSCs required to be within the scope of the regulation as specified in 10 CFR 50.65(b). As a result of the inspection finding, the NRC informed TVA by letter dated July 30, 1997, that the scope of the BFN maintenance rule program for Unit 1 was not consistent with the requirements 10 CFR 50.65, and identified three options available to TVA to resolve the issue. One of the options identified was for TVA to request an exemption from the requirements of the rule that are not currently being met.

Environmental Impacts of the Proposed Action

No changes are being made in the types or amounts of any radiological effluent that may be released off site. There is no significant increase in the allowable individual or cumulative occupational radiation exposure. The Commission concludes that granting the proposed exemption would result in no significant radiological environmental impact.

With regard to potential non-radiological impacts, the proposed exemption does not affect non-radiological plant effluents and has no other environmental impact. The Commission concludes that there are no significant non-radiological impacts associated with the proposed exemption.

Alternative to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (no alternative action). Denial of the exemption would result in no change in current environmental impacts. The environmental impacts of the proposed exemption and this alternative are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement dated September 1, 1972 for BFN Units 1, 2 and 3.

Agencies and Persons Consulted

In accordance with its stated policy, on June 23, 1999, the NRC staff consulted with the Alabama State official, Mr. David Walter of the State Office of Radiation Control, regarding the environmental impact of the proposed action. Mr. Walter had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to

prepare an environmental impact statement for the proposed action.

For further details with respect to this action, see the application for exemption dated February 4, 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 Athens Public Library, 405 E. South Street, Athens, Alabama.

Dated at Rockville, Maryland, this 29th day of July 1999.

For the Nuclear Regulatory Commission.

William O. Long,

Senior Project Manager, Section 2, Project Directorate II, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20399 Filed 8–6–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Texas Utilities Electric Company

[Docket Nos. 50–445 and 50–446]

Comanche Peak Steam Electric Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of license amendments to Facility Operating Licenses Nos. NPF–87 and NPF–89, issued to Texas Utilities Electric Company (TU Electric, or the licensee), for operation of the Comanche Peak Steam Electric Station (CPSES), Units 1 and 2, located in Somervell County, Texas.

Environmental Assessment

Identification of the Proposed Action

The proposed action would change the licenses to reflect the change of the name of the CPSES licensee from ''Texas Utilities Electric Company.''

The Need for the Proposed Action

The proposed action is needed to accurately reflect the legal name of the licensee. The CPSES licensee has already changed its name for business purposes.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed action is solely administrative in nature and will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released off site, and there is no significant increase in occupational or public radiation exposure. Therefore, there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not involve any historic sites. It does not affect nonradiological plant effluents and has no other environmental impact. Therefore, there are no significant nonradiological environmental impacts associated with the proposed action.

Accordingly, the Commission concludes that there are no significant environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action (*i.e.*, the ''no-action'' alternative). Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the Final Environmental Statement for CPSES, Units 1 and 2.

Agencies and Persons Consulted

In accordance with its stated policy, on June 24, 1999, the staff consulted with the Texas State official, Arthur C. Tate, of the Texas Department of Health, Bureau of Radiation Control, 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 application dated May 14, 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 University of Texas at Arlington Library, 702 College, P.O. Box 19497, Arlington, Texas.

Dated at Rockville, Maryland, this 2nd day of August, 1999.

For the Nuclear Regulatory Commission.

Robert A. Gramm,

Chief, Section 1, Project Directorate IV and Decommissioning Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20398 Filed 8–6–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NUREG–1600, Rev. 1]

Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study

AGENCY: Nuclear Regulatory Commission.

ACTION: Policy statement: Amendment.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its ''General Statement of Policy and Procedure for NRC Enforcement Actions,'' NUREG–1600, Rev. 1, by adding Appendix F. This amendment revises the treatment of violations of 10 CFR Part 50 and associated license conditions during the pilot plant study of the new NRC power reactor oversight process. The Commission is applying this new oversight process to the nine reactor sites that are part of a pilot plant study scheduled to begin in June 1999.

DATES: This amendment becomes effective on (the implementation date of the pilot plant study). Comments on this amendment should be submitted by September 8, 1999 and will be considered by the NRC as it evaluates lessons learned from the pilot plant study.

ADDRESSES: Submit written comments to: David L. Meyer, Chief, Rules and Directives Branch, Division of Administrative Services, Office of Administration, Mail Stop: T6D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Hand deliver comments to: 11545 Rockville, Maryland, between 7:30 a.m. and 4:15 p.m., Federal workdays. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street, NW, (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: R. William Borchardt, Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555–0001, (301) 415–2741.

SUPPLEMENTARY INFORMATION: As described in NUREG–1600, Revision 1, ''General Statement of Policy and Procedures for NRC Enforcement Actions,'' the purpose of the Commission's current enforcement program is to support the NRC's overall safety mission in protecting the public and the environment. The Enforcement Policy provides that prompt and vigorous enforcement action should be taken when dealing with licensees, contractors, and their employees who did not achieve the necessary attention to detail and did not achieve the high standards of compliance that the Commission expects. Enforcement actions have been used as a deterrent to emphasize the importance of compliance with requirements and to encourage prompt identification and prompt, comprehensive correction of violations.

The current Enforcement Policy successfully focuses attention on compliance issues to improve safety. The process uses enforcement to—

(1) Assess the safety significance of individual inspection findings and events;

(2) Formulate the appropriate agency response to these findings and events;

(3) Emphasize good performance and compliance;

(4) Provide incentives for performance improvement; and

(5) Provide public notification of the Commission's views on licensees' performance and actions.

The Commission has made substantial changes to the Enforcement Policy since 1980. However, the Commission has continued to employ a basic theory of using sanctions, including the use of civil penalties, to deter noncompliance. Escalated enforcement actions have provided regulatory messages to encourage improved licensee performance. However, the Commission has not always integrated decision making in the performance assessment program with the enforcement program. This has resulted in mixed regulatory messages regarding performance and approaches to improve it. Further, the enforcement process has been criticized as being difficult to understand, subjective, inconsistent, unpredictable, and not being sufficiently risk-informed. Licensee's have indicated that this has resulted in setting high priorities for issues of low risk significance at the expense of more risk-significant items.

The Commission has developed a new reactor oversight process and is applying it to nine reactor sites as part of a pilot plant study scheduled to begin in June 1999. The new reactor oversight process which includes a structured performance assessment process and evaluates the significance of individual findings provides an opportunity to reconsider the existing Enforcement Policy. In considering a new approach to enforcement, the Commission is not suggesting that the existing policy which used civil penalties has not served the agency or is ineffective. However, because of the new oversight process, a greater agency focus on risk and performance, and the overall improved industry performance, an opportunity now exists to better integrate the enforcement policy and the reactor oversight process. Based on the following, the new assessment process and the current Enforcement Policy provides similar functions:

- Both the current enforcement and the new oversight processes result in formulating NRC responses to violations and performance issues. The enforcement process uses sanctions such as citations and penalties. Both use actions such as meetings to discuss performance, 10 CFR 50.54(f) letters, Demands for Information, Confirmatory Action Letters, and Orders as NRC responses.
- They evaluate individual compliance findings for significance under each process.
- Both processes provide incentives to improve performance, compliance and deterrence since licensees normally strive to avoid regulatory actions and enforcement sanctions.
- Both approaches give the public the Commission's views on the status of licensee's performance and compliance.

Given the similarities in the purpose of the two programs, the Commission seeks to discontinue having two separate and independent processes. The interim Enforcement Policy will complement the assessment program by focusing on individual violations. The Agency Action Matrix [1] will dictate the Commission's response to declining performance whether caused by violations or other concerns. The result will be a unified agency approach for determining and responding to performance issues of a licensee that—

(a) Maintains a focus on safety and compliance;

(b) Is more consistent with predictable results;

(c) Is more effective and efficient;

(d) Is easily understandable; and

(e) Decreases unnecessary regulatory burden.

In most cases, this approach should provide similar deterrence to that provided by issuing civil penalties. Having a more consistent approach should also promote public confidence in the regulatory process.

The new assessment process will use a Significance Determination Process (SDP) to characterize inspection findings based on their risk significance and performance impact. The SDP will assign a color band of green, white, yellow, or red to each violation (or plant issue) to reflect its significance. To support a unified approach to significance, the Enforcement Policy will use the results of the SDP, where applicable, to disposition violations.

The enforcement approach for the pilot program divides violations into two groups. The first group includes violations that the SDP can evaluate, where the Agency Action Matrix will determine appropriate action. The second group includes violations associated with actual consequences; violations that the SDP does not evaluate, such as willful violations; and those that may impact the regulatory process for oversight of reactors.

I. Violations Evaluated by the Significance Determination Process

The first group consists of those violations that the SDP evaluates, where the Agency Action Matrix will determine appropriate action. Violations will be either cited or non-cited. Normally, severity levels and civil penalties will not be used.

A. Violations of Low Significance

Violations that the SDP has evaluated as of low significance (*i.e.*, green) will be information for the assessment process and considered within the licensee response band according to the Agency Action Matrix. These violations will be documented in inspection reports as Non-Cited Violations (NCVs). However, a Notice of Violation (NOV) will be issued for the following three exceptions:

(1) The licensee fails to restore compliance within a reasonable time after identification of the violation;

(2) The licensee fails to place the violation into the corrective action program; or

(3) The violation was willful. An NCV may be appropriate if the violation meets the criteria in Section VII.B.1.(d) of the Enforcement Policy which addresses the exercise of enforcement discretion for certain willful violations.

The guidance of Appendix C: Interim Enforcement Policy for Severity Level

[1] The Agency Action Matrix as described in SECY–99–007, ''Recommendations for Reactor Oversight Process Improvements,'' provides guidance for consistent agency action in response to licensee performance. These actions are graded across the range of licensee performance and are triggered by threshold assessments of the performance indicators and inspection findings.

IV Violations Involving Activities of Power Reactor Licensees (64 FR 6388; February 9, 1999), is applicable to these three exceptions.

B. Significant Violations

Violations that the SDP evaluates as risk significant (*i.e.*, white, yellow, or red) will be information for the assessment process and considered in the regulatory response band according to the Agency Action Matrix. Such violations, being risk significant, will result in issuing a formal NOV requiring a written response, unless sufficient information is already on the docket. The Agency Action Matrix and not the Enforcement Policy will guide the agency response, to determine root causes if warranted, and to emphasize the need to improve performance for safety significant violations. The Agency Action Matrix will specify whether regulatory conferences and other actions will be taken if merited by the specific violations or overall licensee performance. The Commission reserves the use of discretion for particularly significant violations (*e.g.* an accidental criticality) to assess civil penalties in accordance with Section 234 of the Atomic Energy Act of 1954, as amended.

II. Violations Not Evaluated by the SDP and Those Having Actual Consequences

The current Enforcement Policy will be applied for the second group of violations. This includes the use of severity levels to characterize the significance of violations and the use of civil penalties or other appropriate enforcement action. Three categories of violations are within this group:

(A) Violations that involve willfulness including discrimination;

(B) Violations that may impact the NRC's ability for oversight of licensee activities, such as those associated with reporting requirements; failure to obtain NRC approvals, such as required by 10 CFR 50.59, 10 CFR 50.54(a), 10 CFR 50.54(p); and failure to provide the NRC with complete and accurate information or to maintain complete and accurate records ; and

(C) Violations that involve actual consequences. These violations include an overexposure to the public or plant personnel, the failure to make the required notifications that impact the ability of federal, state and local agencies to respond to an actual emergency preparedness or transportation event, or a substantial release of radioactive material.

The guidance in Appendix C: Interim Enforcement Policy for Severity Level IV Violations Involving Activities of Power Reactor Licensees, will be applicable to Severity Level IV violations in this group.

Paperwork Reduction Act

This policy statement does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Existing requirements were approved by the Office of Management and Budget, approval number 3150–0136.

Public Protection Notification

If a means used to impose an information collection does not display a currently valid OMB control number, the NRC may not conduct or sponsor, and a person is not required to respond to, the information collection.

Small Business Regulatory Enforcement Fairness Act

In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that this action is not a ''major'' rule and has verified this determination with the Office of Information and Regulatory Affairs, Office of Management and Budget.

Accordingly, adding Appendix F amends the NRC Enforcement Policy as follows:

General Statement of Policy and Procedure for NRC Enforcement Actioins

* * * * *

Appendix F: Interim Enforcement Policy for Use During the NRC Power Reactor Oversight Process Pilot Plant Study

The Commission is issuing this Appendix to revise the Policy and Procedure for NRC Enforcement Actions (Enforcement Policy) NUREG 1600, Rev. 1. The Appendix affects violations of the requirements of 10 CFR Part 50 and associated license conditions at nine power reactor sites participating in the NRC reactor oversight process pilot plant study beginning in June 1999. The Commission is issuing as an appendix to the Enforcement Policy and characterizing this policy amendment as interim because the Commission may make additional changes to the Enforcement Policy following a review of the results from the pilot plant study. Then, assuming an acceptable outcome from the pilot plant study, the Enforcement Policy for all power reactors will be changed. This Appendix revises the NRC's Enforcement Policy for the plants participating in the pilot plant study by dividing identified violations into two groups.

I. Violations Evaluated by the Significance Determination Process

The first group consists of those violations that the Reactor Oversight Program's Significance Determination Process (SDP) can evaluate. For these violations, the SDP will determine the significance of the violation and the Agency Action Matrix will determine the appropriate agency response. These violations will be cited or non-cited. Normally, no severity levels and civil penalties will be used to characterize these violations.

A. Violations of Low Significance

Violations that the SDP evaluates as not being risk significant (*i.e.*, green) will be described in inspection reports as Non-Cited Violations (NCVs) and be categorized by the assessment process within the licensee response band. However, a Notice of Violation (NOV) will be issued:

(1) The licensee fails to restore compliance within a reasonable time after they identified the violation;

(2) The licensee fails to place the violation into the corrective action program; or

(3) The violation was willful. An NCV may be appropriate if the violation meets the criteria in Section VII.B.1. (d) of the Enforcement Policy.

The three exceptions are consistent with items (1), (2), and (4) of Appendix C: Interim Enforcement Policy for Severity Level IV Violations Involving Activities of Power Reactor Licensees (64 FR 6388; February 9, 1999).

B. Significant Violations

Violations that the SDP evaluates as risk significant (*i.e.*, white, yellow, or red) will be assigned a color band related to its significance for use by the assessment process. Because of being risk significant, an NOV will be issued requiring a formal written response unless sufficient information is already on the docket. The Commission reserves the use of discretion for particularly significant violations (*e.g.* an accidental criticality) to assess civil penalties in accordance with Section 234 of the Atomic Energy Act of 1954, as amended.

II. Violations Not Evaluated by the SDP and Those Having Actual Consequences

In the second group of violations, the Enforcement Policy will be retained, along with severity levels and the potential for the imposition of civil penalties or other appropriate enforcement action. Three categories of violations are within this group:

(A) Violations that involve willfulness including discrimination,

(B) Violations that may impact the NRC's ability for oversight of licensee activities such as those associated with reporting issues, failure to obtain NRC approvals such as for changes to the facility as required by 10 CFR 50.59, 10 CFR 50.54(a), 10 CFR 50.54 (p), and failure to provide the NRC with complete and accurate information or to maintain accurate records, and

(C) Violations that involve actual consequences such as an overexposure to the public or plant personnel, failure to make the required notifications that impact the ability of federal, state and local agencies to respond to an actual emergency preparedness or transportation event, or a substantial release of radioactive material.

To the extent the above does not modify the NRC Enforcement Policy, the

Enforcement Policy remains applicable to power reactor licensees.

Dated at Rockville, Maryland, this 3rd day of August, 1999.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 99–20396 Filed 8–6–99; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17f–2(d), SEC File No. 270–36, OMB Control No. 3235–0028

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget a request for approval of extension on the following rule:

Rule 17f-2(d) was adopted on March 16, 1976, and was last amended on November 18, 1982. Paragraph (d) of rule (i) requires that records produced pursuant to the fingerprinting requirements of Section 17(f)(2) of the Securities Exchange Act of 1934 (''Exchange Act'') be maintained, (ii) permits the designating examining authorities of broker-dealers or members of exchanges, under certain circumstances, to store and to maintain records required to be kept by this rule, and (iii) permits the required records to be maintained on microfilm.

The general purposes for Rule 17f-2 are: (i) To identify security risk personnel; (ii) to provide criminal record information so that employers can make fully informed employment decisions; and (iii) to deter persons with criminal records from seeking employment or association with covered entities.

Retention of fingerprint records, as required under paragraph (d) of the Rule, enables the Commission or other examining authority to ascertain whether all required persons are being fingerprinted and whether proper procedures regarding fingerprinting are being followed. Retention of these records for the term of employment of all personnel plus three years ensures that law enforcement officials will have easy access to fingerprint cards on a timely basis. This in turn acts as an effective deterrent to employee misconduct.

Approximately 9,614 respondents are subject to the recordkeeping requirements of the rule. Each respondent keeps approximately 32 new records per year, which takes approximately 2 minutes per record for the respondent to maintain, for an annual burden of 64 minutes per respondent. All records subject to the rule must be retained for the term of employment plus 3 years. The Commission estimates that the total annual cost to submitting entities is approximately $196,850. This figure reflects estimated costs of labor and storage of records.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th St., NW., Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: July 30, 1999.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20412 Filed 8–6–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Application To Withdraw From Listing and Registration; (Tektronix, Inc., Common Stock, No Par Value, and Attached Preferred Stock Purchase Rights) File No. 1–4837

August 2, 1999.

Tektronix, Inc. (''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 on the PCX and the New York Stock Exchange (''NYSE''). In making the decision to withdraw its Securities from listing and registration on the PCX, the Company has considered all the direct and indirect costs and expenses arising from maintaining dual listings. The Company has determined that there is no particular advantage to having its Securities listed simultaneously on two exchanges and has accordingly sought to withdraw them from listing on the PCX and maintain their listing on the NYSE.

The Company has complied 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' listing on the PCX and shall have no effect upon the continued listing of such Securities on 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 under Section 13 of the Act with the Commission and the NYSE.

Any interested person may, on or before August 23, 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. 99–20413 Filed 8–6–99; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41682; File No. SR–AMEX–99–13]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 to the Proposed Rule Change by the American Stock Exchange LLC Relating to Specialist Capital Requirements

August 2, 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 April 2, 1999, the American Stock Exchange LLC (''Amex'' 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 Amex. On June 11, 1999, and July 16, 1999, the Amex filed with the Commission Amendment Nos. 1 and 2 to the proposal.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b-4.

[3] Amendment No. 1 revised the proposal to: (1) provide an example comparing the financial requirements for options specialists under the rules of the Amex, the Pacific Exchange (''PCX''), and the Chicago Board Options Exchange (''CBOE''); and 92) provide examples demonstrating the calculation of the capital requirements for joint equity/options specialists. *See* letter from Scott G. Van Hatten, Legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Division of Market Regulation (''Division''), Commission, dated June 10, 1999 (''Amendment No. 1''). Amendment No. 2 to the proposal provides two charts setting forth specialist financial requirements as of two dates in May 1999. *See* letter from Scott G. Van Hatten, legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Division, Commission, dated July 23, 1999 (''Amendment No. 2'').

In addition, the Amex filed a letter describing financial safeguards applicable to specialists, including the clearing firm guarantee of specialists' transactions (for specialists who are not self-clearing), the Amex's daily review of each specialist's financial condition, and the procedures the Amex follows when the Exchange determines that a specialist is approaching the early warning financial requirements level (120% of the minimum specialist financial requirement). *See* letter form Scott G. Van Hatten, Legal Counsel, Derivatives and Securities, Amex, to Richard Strasser, Assistant Director, Division, Commission, dated June 10, 1999(''June 10 Letter'').

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to amend Amex Rule 950(h) to revise the financial requirements for options specialists. Specifically, the Amex proposes to amend Amex Rule 950(h) to provide that the minimum financial requirement for an options specialist will be $600,000 plus $25,000 for each option issue in excess of the initial ten issues in which the specialist is registered. In addition, the Amex proposes to revise Amex Rule 950(h), Commentary .01 to specify that for an option specialist that is also an equity specialist, the minimum financial requirement of $600,000 specified in Amex Rule 171 [4] will apply to the entirety of the specialist's business, in both equities and options. Under Amex Rule 950(h), Commentary .01, as amended, the minimum financial requirement for an options specialist also serving as an equity specialist will be $600,000, provided that the financial requirement for either the equity allocation or the options allocation does not exceed $600,000. If the financial requirement for either the equity allocation or the options allocation exceeds $600,000, then the specialist's financial requirement will be calculated by combining the financial requirement for equity specialists under Amex Rule 171 and the financial requirement for options specialists under Amex rule 950(h).

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 Amex 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 Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[4] Amex Rule 171, ''Specialist Financial Requirements,'' requires every registered specialist to maintain a cash or liquid asset position in the amount of $600,000 or an amount sufficient to assume a position of 60 trading units of each security in which the specialist is registered, whichever is greater.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Amex proposes to amend Amex Rule 950(h), which governs options specialist financial requirements. Currently, Amex Rule 950(h), which incorporates by reference the specialist financial requirements set forth in Amex Rule 171, requires that every registered options specialist maintain cash or liquid assets equal to the greater of $600,000 or an amount sufficient to assume a position of 60 units of the highest priced puts and calls for each option in which the specialist is registered.[5] Because the financial requirement is in some cases based on current market prices of puts and calls, it generally fluctuates from day to day. The Amex maintains that, with the recent increases in premiums for certain stock options, specialist financial requirements have increased dramatically beyond the level of risk associated with a specialist's market making activities. This situation occurs because the financial requirements for specialists do not take into consideration the extent to which specialists maintain hedged positions in their registered option issues.

The following charts provided in Amendment No. 2 illustrate the fluctuations in the capital requirement for an options specialist as calculated under current Amex Rule 950(h). Both charts are based on actual capital requirements for options traded on the Amex. The calculations in the first chart are based on premiums for six options as of the close of business on May 6, 1999, while the calculations in the second chart show the premiums for the same options as of the close of business on May 13, 1999. The charts demonstrate the effect that premium appreciation has on a specialist's minimum financial requirements. Specifically, because of the rise in premiums, the specialist's minimum capital requirement increased from $882,750 in Week 1 to $993,000 in Week 2.

[5] The ''cost to carry'' 60 option contracts is determined pursuant to rule 15c3–1a(b)(2)(iii)(C) under the Act, 17 CFR 15c3–1a(b)(2)(iii)(C), which provides that a broker or dealer that is long puts or calls must deduct 50 percent of the market value of the net long put and call positions in the same options series.

WEEK 1

Option	CALL		PUT		Total
	Premium	Requirement	Premium	Requirement	
1	56⅞	$5,687.50 × 60 / 2	67¼	$6,725.00 × 60 / 2	$372,375
2	14½	1,450.00 × 60 / 2	7⅝	762.30 × 60 / 2	66,375
3	4⅛	412.50 × 60 / 2	17	1,700 × 60 / 2	63,375
4	9	900.00 × 60 / 2	5¼	525.00 × 60 / 2	42,750
5	15¼	1,525.00 × 60 / 2	5¼	525.00 × 60 / 2	61,500
6	58½	5,850.00 × 60 / 2	33⅝	3,362.50 × 60 / 2	276,375
Total					882,750

WEEK 2

Option	CALL		PUT		Total
	Premium	Requirement	Premium	Requirement	
1	75⅜	$7,537.50 × 60 / 2	55¾	$5,575.00 × 60 / 2	$393,375
2	13⅞	1,387.50 × 60 / 2	16⅛	1,612.50 × 60 / 2	90,000
3	5¼	525.00 × 60 / 2	22¼	2,225.00 × 60 / 2	82,500
4	9⅛	912.50 × 60 / 2	8⅜	837.50 × 60 / 2	52,500
5	14⅞	1,487.50 × 60 / 2	8⅜	837.50 × 60 / 2	69,750
6	61¾	6,175.00 × 60 / 2	39⅞	3,987.50 × 60 / 2	304,875
Total					993,000

Before the Amex's current specialist financial requirements took effect in June 1988, Amex rules required specialists to maintain cash or net liquid assets equal to the grater of $100,000 or an amount sufficient to assume a position of 20 trading units of each speciality issue. As noted above, the Amex proposes to amend Amex Rule 950(h) to require every registered options specialist to maintain cash or liquid assets in the amount of $600,000 plus $25,000 for each option issue in excess of ten option issues in which such specialist is registered. Under the proposal, a specialist's financial requirement would not fluctuate with the premiums of the highest priced option series, but would change only when the specialist unit voluntarily changes the number of option issues it trades. The equity specialist financial requirements will remain at their current levels as set forth in Amex Rule 171.

The Exchange notes the existence of additional safeguards, such as circuit breakers, which became operative since the Exchange's last revision to Amex Rule 171.[6] In addition, the Exchange's daily review of specialist capital reserves and the Exchange's early warning signals, which trigger a more intense level of surveillance of exchange specialists during volatile market situations, continue to remain in place. Further, the proposal will permit options specialists to maintain relative control over their level of financial requirements by determining their respective number of options allocations.

As noted above, under the Amex's current rules, financial requirements for options specialists do not take into consideration the extent to which the specialists maintain hedged positions in their registered option issues. The Amex recently compared its financial requirements for options specialists to similar capital requirements maintained by other exchanges. In contrast to the Amex's capital requirements, the Exchange notes that a Lead Market Maker (''LMM'') on the Pacific Exchange (''PCX'') that performs the function of an Order Book Official (''OBO'') must maintain minimum net capital of $500,000 plus $25,000 for each issue over five issues for which the LMM performs the function of an OBO.[7] An LMM that does not perform the function of an OBO must maintain minimum net capital of $350,000 plus $25,000 for each issue over eight issues that has been allocated to the LMM.[8] Accordingly, to carry the same options book noted in the Amex's example above, an LMM that functions as an OBO in each of his options allocations would be required to maintain minimum net capital of $525,000, while an LMM that does not function as an OBO would be required to maintain minimum net capital of $350,000. The Exchange has also compared its current financial requirements for option specialists with those of the Chicago Board Options Exchange and the Philadelphia Stock Exchange. These comparisons have led the Amex to conclude that revisions to Amex Rule 950(h) are necessary.

In the Exchange's view, the cost for options specialists to maintain financial reserves sufficient to satisfy the Exchange's financial requirements has been increasing for Amex options specialists relative to competing options specialists or market makers at other exchanges. These financial requirements effectively reduce the number of option

[6] The Amex's June 10 Letter describes additional safeguards relating to specialists' financial requirements. Among other things, the June 10 Letter notes that a specialist unit that is not self-clearing maintains an agreement with a clearing firm that guarantees the specialist's transactions. A specialist that is self-clearing guarantees the transactions effected by its specialists on the Amex floor. In addition, the June 10 Letter states that the Amex reviews all specialist financial requirements each day and contacts the specialist's principal(s) to request the deposit of additional funds on any day when the specialist approaches the early warning financial requirement level (120% of the minimum specialist financial requirement). If the specialist is unable to deposit additional capital, the Amex obtains a written guarantee from the specialist's clearing firm stating that the clearing firm will guarantee the specialist's transactions. The process of obtaining a written guarantee serves to notify the clearing firm of the specialist's current financial condition. Finally, the Amex notes that the Exchange may reallocate the specialist's allocation to another specialist unit if the specialist fails to satisfy the Amex's financial requirements. *See* June 10 Letter, *supra* note 3.

[7] *See* PCX Rule 6.82(h), Commentary .04.

[8] *See* PCX Rule 6.82(c)(11).

issues that may be allocated to an Amex options specialist and provide an incentive for Amex members to consider moving their business operations to exchanges with less restrictive financial requirements. The Exchange believes that the proposed change is necessary to address any potential and significant increase in the number of option issues traded on the Exchange that may occur as a result of competitive marketplace conditions. The Exchange believes that the proposed change in the specialist financial requirements will help to ensure that Amex options specialists continue to maintain adequate capital reserves while remaining competitive with their counterparts at other exchanges.

The Amex also proposes to amend Amex Rule 950(h), Commentary .01, to specify the minimum capital requirement for a specialist that maintains a book in both equity securities and options (''an equity/option book''). Specifically, Amex Rule 950(h), Commentary .01, as amended, will provide that, for an options specialist also serving as an equity specialist, the minimum $600,000 requirement specified in Amex Rule 171 will apply to the entirety of the specialist's business in both equities and options. The minimum financial requirement for a specialist with an equity/option book will be $600,000, provided that the financial requirement for neither the equity allocation nor the option allocation exceeds $600,000. Thus, under Commentary .01, the minimum financial requirement for a specialist who is allocated one equity issue and one option issue would be $600,000, provided that the financial requirement for neither the equity allocation nor the options allocation exceeds $600,000.[9]

For an equity/option book where the financial requirement of either the equity allocation or the options allocation exceeds $600,000, the minimum financial requirement will be calculated by combining the equity and optional financial requirement (*i.e.*, the financial requirements for equity specialists under Amex Rule 171 and the financial requirements for options specialists under Amex Rule 950(h)). For example, a specialist with three equity allocations and two options allocations, where the financial requirement for the three equity allocations exceeds $600,000, would be required to maintain capital sufficient to assume a position of 60 trading units of each equity allocation plus $50,000 for the two options allocations. Similarly, a specialist allocated 11 options and one equity security would be required to maintain capital of $625,000 for the 11 option allocations plus the amount required to assume a position of 60 trading units of the equity security.[10] The Amex indicated that Commentary .01 is designed to encourage new specialist books.

2. Statutory Basis

The Amex believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[11] in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule change and Timing for Commission Action

Within 35 days of the 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposal, as amended, is consistent with the act. Persons making written submission 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 form 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 Amex. All submissions should refer to File No. SR-Amex–99–13 and should be submitted by August 30, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[12]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20414 Filed 8–6–99; 8:45 am]

BILLING CODE 8010–01–M

[9] *See* Amendment No. 1, *surpa* note 3.

[10] *Id.*

[11] 15 U.S.C. 78f(b)(5).

[12] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed During the Week Ending July 30, 1999

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

Docket Number: OST–99–6027
Date Filed: July 27, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC12 USA–EUR 0080 dated 2 July 1999
PTC12 USA–EUR 0085 dated 27 July 1999
Mail Vote 020—TC12 North Atlantic USA–Austria, Belgium, Germany, Netherlands, Scandinavia, Switzerland
Minutes—PTC12 USA–EUR 0084 dated 9 July 1999
Tables—PTC12 USA–EUR Fares 0037 dated 27 July 1999
Intended for effective date: 1 November 1999.

Docket Number: OST–99–6037
Date Filed: July 30, 1999
Parties: Members of the International Air Transport Association
Subject:
PTC COMP 0486 dated 30 July 1999
Composite Expedited Resolution 017d

(Amending)

(Extract of Minutes and Summary included)

Intended effective date: 15 September 1999.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–20415 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ending July 30, 1999

The following Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 *et. seq.*). The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: OST–99–6026.

Date Filed: July 27, 1999.

Due Date for Answers, Conforming Applications, or Motions To Modify Scope: August 24, 1999.

Description: Application of Avialeasing Aviation Company pursuant to 49 U.S.C. 41302 and Subpart Q, applies for a foreign air carrier permit to engage in all-cargo charter service between the Republic of Uzbekistan and the United States.

Docket Number: OST–99–6033.

Date Filed: July 28, 1999.

Due Date for Answers, Conforming Applications, or Motions To Modify Scope: August 25, 1999.

Description: Application of MK Airlines Limited (''MK Ghana'') pursuant to 49 U.S.C. Section 41302 and Subpart Q, applies for a foreign air carrier permit authorizing it to engage in scheduled foreign air transportation of property and mail between a point or points in Ghana and a point or points in the United States. MK Ghana also requests authority to conduct Fifth Freedom cargo charter flights between the United States and points in third countries.

Dorothy W. Walker,

Federal Register Liaison.

[FR Doc. 99–20416 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Amtrak Reform Council; Meeting

AGENCY: Amtrak Reform Council.

ACTION: Notice of Business Meeting.

SUMMARY: As provided in section 203 of the Amtrak Reform and Accountability Act of 1997, the Amtrak Reform Council (ARC) gives notice of a business meeting of the Council. At its business meeting the Council will consider its FY2001 Budget Request, a review of recent OIG and GAO financial reports on Amtrak, and a briefing on Amtrak's Mail and Express Business Plan. The meeting will also consider matters raised by individual Council members. Portions of the meeting may be held in closed Executive Session if the Council is considering issues involving Proprietary Information.

DATES: The Council's business meeting is scheduled from 9 a.m. to 11:30 a.m. on Tuesday, August 31, 1999.

ADDRESSES: The meeting will held in the Port of Seattle Commission Chambers, 2711 Alaskan Way, Seattle, WA 98121. Persons in need of special arrangements should contact the person listed below.

FOR FURTHER INFORMATION CONTACT: Deirdre O'Sullivan, Amtrak Reform Council, Room 7105, JM–ARC, 400 Seventh Street, SW, Washington, DC 20590, or by telephone at (202) 366–0591; FAX: 202–493–2061.

SUPPLEMENTARY INFORMATION:

The ARC was created by the Amtrak Reform and Accountability Act of 1997 (ARAA), as an independent commission, to evaluate Amtrak's performance and to make recommendations to Amtrak for achieving further cost containment, productivity improvements, and financial reforms. In addition, the ARAA requires that the ARC monitor cost savings resulting from work rules established under new agreements between Amtrak and its labor unions; that the ARC provide an annual report to Congress that includes an assessment of Amtrak's progress on the resolution of productivity issues; and that after two years the ARC has the authority to determine whether Amtrak can meet certain financial goals specified under the ARAA and, if not, to notify the President and the Congress.

The ARAA provides that the ARC consist of eleven members, including the Secretary of Transportation and ten others nominated by the President and Congressional leaders. Each member is to serve a five year term.

Issued in Washington, DC, August 2, 1999.

Thomas A. Till,

Executive Director.

[FR Doc. 99–20374 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. This publication represents the quarter ending on June 30, 1999. This publication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590: telephone (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)(2). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 17, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and orders issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR Part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number.

The indexes are published on a quarterly basis (*i.e.*, January, April, July, and October). This publication represents the quarter ending on March 31, 1999.

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; 1/19/93.

The previous quarterly publications of these indexes have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register Publication
11/1/89–9/30/90	55 FR 45984; 10/31/90
10/1/90–12/31/90 ..	56 FR 44886; 2/6/91
1/1/91–3/31/91	56 FR 20250; 5/2/91
4/1/91–3/31/91	56 FR 31984; 7/12/91
7/1/91–9/30/91	56 FR 51735; 10/15/91
10/1/91–12/31/91 ..	57 FR 2299; 1/21/92
1/1/92–3/31/92	57 FR 12359; 4/9/92
4/1/92–6/30/92	57 FR 32825; 7/23/92
7/1/92–9/30/92	57 FR 48255; 10/22/92
10/1/92–12/31/92 ..	58 FR 5044; 1/19/93
1/1/93–3/31/93	58 FR 21199; 4/19/93
4/1/93–6/30/93	58 FR 42120; 8/6/93
7/1/93–9/30/93	58 FR 58218; 10/29/93
10/1/93–12/31/93 ..	58 FR 5466; 2/4/94
1/1/94–3/31/94	59 FR 22196; 4/29/94
4/1/94–6/30/94	59 FR 39618; 8/3/94
7/1/94–9/30/94	60 FR 4454; 1/23/95
1/1/95–3/31/95	60 FR 19318; 4/17/95
4/1/95–6/30/95	60 FR 36854; 7/17/95
7/1/95–9/30/95	60 FR 53228; 10/12/95
10/1/95–12/31/95 ..	61 FR 1972; 1/24/96
1/1/96–3/31/96	61 FR 16955; 4/18/96
4/1/96–6/30/96	61 FR 37526; 7/18/96
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7/1/97–9/30/97	62 FR 53856; 10/16/97
10/1/97–12/31/97 ..	63 FR 3373; 1/22/98
1/1/98–3/31/98	63 FR 19559; 4/20/98
4/1/98–6/30/98	63 FR 37914; 7/14/98
7/1/98–9/30/98	63 FR 57729; 10/28/98
10/1/98–12/31/98 ..	64 FR 1855; 1/12/99
1/1/99–3/31/99	64 FR 24690; 5/7/99

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callaghan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). (A list of the addresses of the FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases are provided at the end of this notice.)

Information regarding the accessibility of materials filed in recently initiated civil penalty cases in FAA civil penalty cases at the DOT Docket and over the Internet is also set forth at the end of this notice.

Civil Penalty Actions—Orders Issued by the Administrator

Order Number Index

(This index includes all decisions and orders issued by the Administrator from April 1, 1999, to June 30, 1999).

99–3—Clarence L. Justice

6/11/99—CP98WP0055, DMS No. FAA–1998–4751

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Civil Penalty Actions—Orders Issued by the Administrator

Digests

(Current as of June 30, 1999)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from April 1, 1999, to June 30, 1999. The FAA will publish the non-cumulative supplements to this compilation on a quarterly basis (e.g., April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Clarence L. Justice

Order No. 99–3 (6/11/99)

[DMS No. FAA–1998–4751]

Motion to Dismiss Denied. Good cause was found to excuse the respondent's late-filing (by 8 days) of a notice of appeal from the law judge's order assessing a $6,600 civil penalty. On February 4, the law judge ordered respondent to respond to a show cause order and to submit an answer to be received by February 16. On February 4, respondent was released from a residential treatment facility and then moved to another state. He did not receive his mail until after the law judge dismissed the case. Notice of appeal also was sufficiently detailed to constitute an appeal brief. Complainant was ordered to file a reply brief.

Commercial Reporting Services of the Administrator's Civil Penalty Decisions and Orders

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677;

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2. *CD–ROM.* The Administrator's orders and decisions are available on CD–ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available through the following on-line services:

- Westlaw (the Database ID is FTRAN–FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]
- Compuserve
- FedWorld

Docket

The FAA Hearing Docket is located at FAA Headquarters, 800 Independence Avenue, SW, Room 926A, Washington, DC 20591 (tel. No. 202–267–3641.) The clerk of the FAA Hearing Docket is Ms. Stephanie McClain. All documents required to be filed in civil penalty proceedings must be filed with the FAA Hearing Docket Clerk at the FAA Hearing Docket. (See 14 CFR 13.210.) Materials contained in the dockets of any case not containing sensitive security information (protected by 14 CFR Part 191) may be viewed at the FAA Heritage Docket.

In addition, materials filed in the FAA Hearing Docket in non-security cases in which the complaints were filed on or after December 1, 1997, are available for inspection at the Department of Transportation Docket, located at 400 7th Street, SW, Room PL–401, Washington, DC, 20590, (tel. No. 202–366–9329.) While the originals will be

retained in the FAA Hearing Docket, the DOT Docket will scan copies of documents in non-security cases in which the complaint was filed after December 1, 1997, into their computer database. Individuals who have access to the Internet can view the materials in these dockets using the following Internet address: http://dms.dot.gov.

FAA Offices

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue, SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Regional Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296.

Office of the Regional Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AL 99513; (907) 271–5269.

Office of the Regional Counsel for the Central Region (ACE–7), Central Regional Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446.

Office of the Regional Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285.

Office of the Regional Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108.

Office of the Regional Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050.

Office of the Regional Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue, SW, Renton, WA 98055–4056; (425) 227–2007.

Office of the Regional Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 20227; (404) 305–5200.

Office of the Regional Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Forth Worth, TX 76137–4298; (817) 222–5087.

Office of the Regional Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087.

Office of the Regional Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725–7100.

Issued in Washington, DC, on July 30, 1999.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 99–20422 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of Final Supplemental Environmental Impact Statement Including Executive Summary and Extension of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of final supplemental environmental impact statement including executive summary and extension of comment period.

SUMMARY: The Federal Aviation Administration(FAA) is issuing this notice to advise the public of the availability of the Final Supplemental Environmental Impact Statement (FSEIS) including the Executive Summary for Indianapolis International Airport. This Executive Summary is required by Council on Environmental Quality (CEQ) regulations, but was inadvertently omitted from the initial FSEIS. The comment period has been extended to September 7, 1999. The FSEIS concerns the environmental impact of implementing the Air Traffic Noise Abatement Measures described within the FSEIS and the federal funding associated with the land use measures.

POINT OF CONTACT: Mr. George M. Bebble, Environmental Specialist, AGL–520.E, FAA Great Lakes Region, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone (847) 294–7832.

SUPPLEMENTARY INFORMATION: A Final Supplemental Environmental Impact Statement (FSEIS) will be available for public review at the following locations:

(1) Federal Aviation Administration, Air Traffic Division Office, 2300 East Devon Avenue, Des Plaines, IL 60018,

(2) Indianapolis Airport Authority, South High School Road, Indianapolis International Airport, Indianapolis, IN,

(3) Decatur Township Branch Library, 5301 Kentucky Avenue, Indianapolis, IN 46241,

(4) Marion County Public Library, 40 East St. Clair, Indianapolis, IN 46204,

(5) Mooresville Public Library, 220 W. Harrison Street, Mooresville, IN 46158,

(6) Plainfield Public Library, 1120 Stafford Road, Plainfield, IN 46208,

(7) Wayne Township Branch Library, 198 South Girls School Road, Indianapolis, IN 46214.

Written comments may be addressed to Mr. George M. Bebble, Environmental Specialist, AGL–520.E, FAA Great Lakes Region, Air Traffic Division, 2300 East Devon Avenue, Des Plaines, IL 60018.

Issued in Des Plaines, Illinois at the above address on August 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–20424 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Availability of the Environmental Assessment (EA) and Finding of No Significant Impact (FONSI) for Noise Abatement Measures at the Rickenbacker International Airport

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of an environmental assessment (EA) and finding of no significant impact (FONSI).

SUMMARY: The Federal Aviation Administration (FAA) is issuing this notice to advise the public that the FAA Great Lakes Region has approved and signed the EA and FONSI for the permanent implementation of noise abatement measures at the Rickenbacker International Airport. These noise abatement measures decrease the noise of departing aircraft to approximately 100 homes east of the airport while increasing the noise to only one home northeast of the airport. The one impacted home is outside of the 65 DNL noise contour within the 60–65 DNL contour and should not be significantly impacted. However, the airport authority has elected to offer this one homeowner the same mitigation that is offered to homeowners within the 65 DNL contour.

POINT OF CONTACT: Mr. George M. Bebble, Environmental Specialist, AGL–520.E, FAA Great Lakes Region, Air

Traffic Division, 2300 East Devon Avenue, Des Plaines, IL 60018, Telephone (847) 294–7832.

SUPPLEMENTARY INFORMATION: The EA and FONSI are available for inspection at the following locations: .

(1) Federal Aviation Administration, Air Traffic Divisions, 2300 East Devon Avenue, Des Plaines, IL 60018,

(2) Rickenbacker Port Authority, 7400 Alum Creek Drive, Columbia, OH 43217,

(3) Columbus Metro Library, Biography, History, Travel Division, 96 S. Grant Avenue, Columbus, Ohio 43215,

(4) Groveport Municipal Building, 655 Blacklick Street, Groveport, Ohio 43215,

(5) Columbus Metro Library, Southeast Branch, 4575 Winchester Pike, Groveport, Ohio 43215,

(6) Hamilton Township Community Center, 6400 Lockbourne Road, Lockbourne, Ohio 43215,

(7) Harrison Township Fire Department, 3625 State Route 752, Ashville, Ohio 43103,

(8) Madison Township Community Center, 4575 Madison Lane, Grovesport, Ohio 43215,

(9) Madison Township Hall, Pickaway County, Ohio,

(10) Canal Winchester Municipal Building, 36 S. High Street, Canal Winchester, Ohio 43110,

(11) Scioto Township Hall, Front Street, Commercial Point, Ohio 43116,

(12) Pickaway County Engineer's Office, 207 S. Court Street, Circleville, Ohio 43103,

(13) Pickaway County Library, Main Street, Circleville, Ohio 43113.

Issued in Des Plaines, Illinois on August 4, 1999.

Christopher R. Blum,

Manager, Air Traffic Division.

[FR Doc. 99–20423 Filed 8–6–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

July 29, 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 8, 1999 to be assured of consideration.

Internal Revenue Service (IRS)

OMB Number: 1545–0024.

Form Number: IRS Form 843.

Type of Review: Extension.

Title: Claim for Refund and Request for Abatement.

Description: Internal Revenue Code (IRC) sections 6402, 6404, and sections 301.6402–2, 301.6404–1, and 301.6404–3 of the regulations allow for refunds of taxes (except income taxes) or refund, abatement, or credit of interest, penalties, and additions to tax in the event of errors or certain actions by the IRS. Form 843 is used by taxpayers to claim these refunds, credits, or abatements.

Respondents: Individuals and households, business or other for-profit, not-for-profit institutions, Farms, State, Local or Tribal.

Estimated Number of Respondents/ Recordkeepers: 545,500.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—26 min.
Learning about the law or the form—11 min.
Preparing the form—35 min.
Copying, assembling, and sending the form to the IRS—20 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 845,525 hours.

OMB Number: 1545–0119.

Form Number: IRS Form 1099-R.

Type of Review: Extension.

Title: Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.

Description: Form 1099-R is used to report distributions from pensions, annuities, profit-sharing or retirement plans, IRAs, and the surrender of insurance contracts. This information is used by IRS to verify that income has been properly reported by the recipient.

Respondents: Business or other for-profit, not-for-profit institutions, Federal Government, State, Local or Tribal Government.

Estimated Number of Respondents: 350,000.

Estimated Burden Hours Per Respondent: 18 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 16,955,465 hours.

OMB Number: 1545–0235.

Form Number: IRS Form 730.

Type of Review: Revision.

Title: Tax on Wagering.

Description: Form 730 is used to identify taxable wagers and collect the tax monthly. The information is used to determine if persons accepting wagers are correctly reporting the amount of wagers and paying the required tax.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents/ Recordkeepers: 4,150.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—5 hr., 30 min.
Learning about the law or the form—53 min.
Preparing and sending the form to the IRS—1 hr., 1 min.

Frequency of Response: Monthly.

Estimated Total Reporting/ Recordkeeping Burden: 378,518 hours.

OMB Number: 1545–0415.

Form Number: IRS Form W–4–P.

Type of Review: Extension.

Title: Withholding Certificate for Pension or Annuity Payments.

Description: Form W–4P is used by the recipient of pension or annuity payments to designate the number of withholding allowances he or she is claiming, an additional amount to be withheld, or to elect that no tax be withheld, so that the payer can withhold the proper amount.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 12,000,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—40 min.
Learning about the law or the form—25 min.
Preparing and sending the form to the IRS—59 min.

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 24,720,000 hours.

OMB Number: 1545–0748.

Form Number: IRS Form 2678.

Type of Review: Extension.

Title: Employer Appointment of Agent.

Description: 26 U.S.C. 3504 authorizes an employer to designate a fiduciary, agent, etc., to perform the same acts as required of employers for purposes of employment taxes.

Respondents: Business or other for-profit, not-for-profit institutions, farms, Federal Government.

Estimated Number of Respondent: 95,200.

Estimated Burden Hours Per Respondent: 30 minutes.

Frequency of Response: Other (as necessary).

Estimated Total Reporting Burden: 47,600 hours.

OMB Number: 1545–0877.

Form Number: IRS Form 1099–A.

Type of Review: Extension.

Title: Acquisition or Abandonment of Secured Property.

Description: Form 1099–A is used by lenders to report foreclosures and abandonments of property that is security for a loan.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 12,916.

Estimated Burden Hours Per Respondent: 10 minutes.

Frequency of Response: Annually.

Estimated Total Reporting Burden: 61,817 hours.

OMB Number: 1545–0939.

Form Number: IRS Form 8404.

Type of Review: Extension.

Title: Interest Charge on DISC–Related Deferred Tax Liability.

Description: Shareholders of Interest Charge Domestic International Sales Corporations (IC–DISCs) use Form 8404 to figure and report an interest charge on their DISC-related deferred tax liability. The interest charge is required by Internal Revenue Code section 995(f). IRS uses Form 8404 to determine whether the shareholder has correctly figured and paid the interest charge on a timely basis.

Respondents: Business or other for-profit, individuals or households.

Estimated Number of Respondents/ Recordkeepers: 2,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping—4 hr., 4 min.

Learning about the law or the form—2 hr., 17 min.

Preparing and sending the form to the IRS—2 hr., 27 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 17,600 hours.

OMB Number: 1545–1410.

Form Number: IRS Form 8840.

Type of Review: Extension.

Title: Closer Connection Exception Statement for Aliens.

Description: Form 8840 is used by an alien individual, who otherwise meets the substantial presence test, to explain the basis of the individual's claim that he or she is able to satisfy the closer connection exception described in Regs. Section 301.7701(b)-2.

Respondents: Individuals or households.

Estimated Number of Respondents/ Recordkeepers: 350,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeeping—13 min.

Learning about the law or the form—10 min.

Preparing the form—1 hr., 27 min.

Copying, assembling, and sending the form to the IRS—35 min.

Frequency of Response: Annually.

Estimated Total Reporting/ Recordkeeping Burden: 843,500 hours.

Clearance Officer: Garrick Shear, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10202, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 99–20375 Filed 8–6–99; 8:45 am]

BILLING CODE 4830–01–P

Corrections

Federal Register

Vol. 64, No. 152

Monday, August 9, 1999

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 9

Alternative Methods of Compliance With Requirements for Disclosure of Exchange Disciplinary Information and Access Denial Actions

Correction

In rule document 99–18804 beginning on page 39915, in the issue of Friday, July 23, 1999, make the following correction(s):

1. On page 39916, in the first column, under the heading **I. Introduction**, in the first paragraph, in the last line, ''Regulation 9.112(a)'' should read ''Regulation 9.11(a)''.

2. On the same page, in the third column, under the heading **III. Alternative Methods of Compliance**, in the first paragraph, in line 18, ''exchange'' should read ''exchanges''.

3. On the same page, in the same column, under the same heading, in the second paragraph, in the first line, ''is'' should read ''in''; and in the eighth line, ''notice'' should read ''notices''.

4. On page 39917, in the first column, in footnote 11, in line 14, ''regulation'' should read ''Regulation''.

5. On the same page, in the second column, in footnote 13, in the second line, ''disciplinary'' should read ''Disciplinary''; and on the eighth line, ''sugar'' should read ''Sugar''.

6. On the same page, in the third column, under the heading *B. Verification and Timeliness of Electronic Notice*, in the first paragraph, in the sixth line, ''exchange'' should read ''exchanges''.

[FR Doc. C9–18804 Filed 8–6–99; 8:45 am]

BILLING CODE 1505–01–D

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 9

Performance of Certain Functions by the National Futures Association With Respect to Regulation 9.11

Correction

In rule document 99–18806 beginning on page 39913, in the issue of Friday, July 23, 1999, make the following correction(s):

1. On page 39914, in the second column, under the heading *A. Processing Regulation 9.11 Filings and Notice of Filing Deficiencies*, in the ninth line, ''regulation 9.11'' should read ''Regulation 9.11''.

2. On the same page, at the bottom of the third column, the first footnote designated as footnote 12 should be designated as footnote 11.

3. On the page 39915, in the third column, under the heading **IV. Conclusion and Order**, in the fourth full paragraph, in the eighth line, ''relating'' should read ''retaining''.

[FR Doc. C9–18806 Filed 8–6–99; 8:45 am]

BILLING CODE 1505–01–D

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 301–51, 301–52, 301–54, 301–70, 301–71 and 301–76

[FTR Interim Rule 8]

RIN 3090–AG92

Federal Travel Regulation; Mandatory Use of the Travel Charge Card

Correction

In rule document 99–18291 beginning on page 38528, in the issue of Friday, July 16, 1999, make the following correction:

On page 38528, in the first column, in the **DATES:** section, in the fourth and fifth lines, ''travel performed on or after December 31, 1999'' should read ''travel performed after December 31, 1999''.

[FR Doc. C9–18291 Filed 8–6–99; 8:45 am]

BILLING CODE 1505–01–D

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301-62a]

Implementation of WTO Recommendations Concerning EC-Measures Concerning Meat and Meat Products (Hormones)

Correction

In notice document 99–19174 beginning on page 40638 in the issue of Tuesday, July 27, 1999, make the following corrections:

1. On page 40638, in the second column, under **SUMMARY**, in the sixth line ''three'' should read ''the''.

2. On page 40639, in the first column:

a. In the third line ''Director'' should read ''Directive''.

b. In the eighth line ''because'' should read ''became''.

c. In second full paragraph, in the sixth line after ''contravention'' remove ''in''.

[FR Doc. C9–19174 Filed 8–6–99; 8:45 am]

BILLING CODE 1505–01–D

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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.

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S. 1260/P.L. 106–44

To make technical corrections in title 17, United States

Code, and other laws. (Aug. 5, 1999; 113 Stat. 221)

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[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.

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