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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

[Docket No. FV99–989–4 FR]

Raisins Produced From Grapes Grown in California; Use of Estimated Trade Demand to Compute Volume Regulation Percentages

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule authorizes using an estimated trade demand figure to compute volume regulation percentages for 1999–2000 crop Natural (sun-dried) Seedless (NS) raisins covered under the Federal marketing order for California raisins (order). The order regulates the handling of raisins produced from grapes grown in California and is administered locally by the Raisin Administrative Committee (Committee). This rule provides parameters for implementing volume regulation for 1999–2000 crop NS raisins if supplies are short for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market.

EFFECTIVE DATE: This final rule becomes effective August 13, 1999.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Marketing Specialist, California Marketing Field Office, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, or Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: Small businesses may request information on complying with this regulation, or obtain a guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov. You may view the marketing agreement and order small business compliance guide at the following web site: http://www.ams.usda.gov/fv/moab.html.

This rule is issued under Marketing Agreement and Order No. 989 (7 CFR part 989), both as amended, regulating the handling of raisins produced from grapes grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This rule authorizes using an estimated trade demand figure to compute volume regulation percentages for 1999–2000 crop NS raisins covered under the order. This rule provides parameters for implementing volume regulation for 1999–2000 crop NS raisins if supplies are short for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market. This action was recommended by the Committee at a meeting on April 13, 1999.

Volume Regulation Authority

The order provides authority for volume regulation designed to promote orderly marketing conditions, stabilize prices and supplies, and improve producer returns. When volume regulation is in effect, a certain percentage of the California raisin crop may be sold by handlers to any market (free tonnage) while the remaining percentage must be held by handlers in a reserve pool (reserve) for the account of the Committee. Reserve raisins are disposed of through certain programs authorized under the order. For instance, reserve raisins may be sold by the Committee to handlers for free use or to replace part of the free tonnage raisins they exported; used in diversion programs; carried over as a hedge against a short crop the following year; or disposed of in other outlets not competitive with those for free tonnage raisins, such as government purchase, distilleries, or animal feed. Net proceeds from sales of reserve raisins are distributed to the reserve pool's equity holders, primarily producers.

Section 989.54 of the order prescribes procedures and time frames to be followed in establishing volume regulation for each crop year, which runs from August 1 through July 31. The Committee must meet by August 15 to review data regarding raisin supplies. At that time, the Committee computes a trade demand for each varietal type for which a free tonnage percentage might be recommended. Trade demand is equal to 90 percent of the prior year's domestic and export shipments, adjusted by subtracting carryin inventory from the prior year, and adding a desirable carryout inventory for the end of the current year.

By October 5, the Committee must announce preliminary crop estimates

and determine whether volume regulation is warranted for the varietal types for which it computed trade demands. Preliminary volume regulation percentages are then computed to release 85 percent of the computed trade demand if a field price has been established, or 65 percent of the trade demand if no field price has been established. Field price is the price that handlers pay for raisins from producers. By February 15, the Committee must recommend final free and reserve percentages which release the full trade demand.

The order also requires that, when volume regulation is in effect, two offers of reserve raisins must be made available to handlers for free use. These offers are known as the ''10 plus 10'' offers. Each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. The order also specifies that ''10 plus 10'' raisins must be sold to handlers at the current field price plus a 3 percent surcharge and Committee costs.

Development of Export Markets

With the exception of 10 crop years, volume regulation has been utilized for NS raisins since the order's inception in 1949. The procedures for determining volume regulation percentages have been modified over the years to address the industry's needs. In the past, volume regulation has been utilized primarily to help the industry manage an oversupply of raisins. Through the use of various marketing programs operated through reserve pools and other industry promotional activities, the industry has also developed its export markets which now account for almost 40 percent of the industry's shipments.

Between 1980–85, exports of California NS raisins averaged about 26 percent (53,700 packed tons, or raisins which have been processed) of the industry's total NS raisin shipments (207,600 packed tons, excluding government purchases) per year. Between 1993–97, NS raisin exports increased to average about 37 percent (112,000 packed tons) of the industry's total NS raisin shipments (300,000 packed tons, excluding government purchases) per year.

Export Replacement Offer

One market development program operated through reserve pools, the Export Replacement Offer (ERO), has helped California raisins to be price competitive in export markets. Prices in export markets are generally lower than the domestic market. The ERO began in the early 1980's as a ''raisin-back'' program whereby handlers who exported California raisins could purchase, at a reduced price, reserve raisins for free use. This effectively blended down the cost of the raisins which were exported. The NS raisin ERO was changed to a ''cash-back'' program in 1996 whereby handlers could receive cash from the reserve pool for export shipments.

Over the past 5 years, an average of 43,000 natural condition tons (unprocessed raisins) of reserve raisins have been utilized per year to fund the ERO. Financing for the cash-back ERO program has been generated primarily from the Committee's ''10 plus 10'' sales of reserve raisins to handlers for free use. Under the 1996 and 1997 cash-back ERO programs, an average of $57 million of reserve pool funds were utilized to support the export of about 113,000 packed tons of NS raisins.

Current Industry Situation—Potential of Two, Consecutive Short Crops

The Committee is concerned with maintaining the ERO program through potentially two, consecutive short crop years. The 1998–99 California raisin crop was much smaller than average due to the combined effect of adverse crop conditions created by the weather phenomenon known as El Nino, scattered rain during the fall harvest, and a shortage of labor once the grapes were ready for harvest. The 1998–99 NS raisin crop totaled about 235,000 natural condition tons, about 35 percent lower than the 10-year average of 360,183 natural condition tons. Volume regulation was not implemented for 1998–99 NS raisins, the major varietal type of California raisin, for the first time in 16 years. However, about 60,000 natural condition tons of 1997–98 reserve raisins were available to maintain the industry's ERO program.

The Committee is concerned that the 1999–2000 California raisin crop may also be short due to an April 1999 frost and anticipated high demand for raisin-variety grapes from wineries this fall. If no 1999–2000 reserve is established, the industry will not be able to continue the ERO program. Without a program to support its export sales, the Committee is concerned that the industry could lose a significant portion, perhaps 50 percent, of those markets. Further, handlers who could not sell their raisins in export may sell their raisins domestically. Annual domestic shipments of NS raisins for the past 5 years have averaged about 188,000 packed tons. The Committee is concerned that additional raisins sold into the domestic market could create instability.

Thus, the Committee formed a working group to review this issue and consider options to continue to support its export sales while maintaining stability in the domestic market. After several meetings, the working group presented its recommendation to a subcommittee, and then in turn to the Committee. At a meeting on April 13, 1999, the Committee recommended adding a new paragraph to § 989.154 of the order's administrative rules and regulations that provides parameters for implementing volume regulation for 1999–2000 crop NS raisins if supplies are short. Section 989.154 is divided into two paragraphs, (a) and (b). Paragraph (a) pertains to an existing regulation regarding desirable carryout levels, and paragraph (b) pertains to estimated trade demand.

Implementing Volume Regulation if Supplies are Short to Maintain the ERO

Section 989.54(e) contains a list of factors that the Committee must consider when computing volume regulation percentages. Factor (4) states that the Committee must consider, if different than the computed trade demand, the estimated trade demand for raisins in free tonnage outlets. The Committee recommended using an estimated trade demand figure for 1999–2000 crop NS raisins, or a figure different than the computed trade demand, to compute volume regulation percentages to create a reserve if supplies are short. This will allow the Committee to continue its ERO program thereby maintaining a portion of its export sales and stabilizing the domestic market.

Specifically, the Committee recommended that an estimated trade demand be utilized to compute preliminary, interim, and final free and reserve percentages for 1999–2000 crop NS raisins if the crop estimate is equal to, less than, or no more than 10 percent greater than the trade demand as computed according to the formula specified in § 989.54(a) of the order. If an estimated trade demand figure is utilized, the final reserve percentage will be no more than 10 percent. Finally, volume regulation will not be implemented if the 1999–2000 crop estimate is below 235,000 natural condition tons.

To illustrate how this will work, the Committee will compute a trade demand for NS raisins by August 15 (as an example, 260,000 natural condition tons). At that time, the Committee will also announce its intention to use an estimated trade demand of 235,000 natural condition tons to compute

volume regulation percentages for the 1999–2000 crop.

Crop Estimate Below 235,000 Tons—No Regulation

The Committee will meet by October 5 to announce a NS crop estimate and determine whether volume regulation is warranted. If the 1999–2000 crop estimate is under 235,000 natural condition tons, volume regulation will not be recommended. With a crop of 235,000 natural condition tons, and about 82,000 natural condition tons of NS raisins carried forward from the 1998–99 crop year, a supply of about 317,000 natural condition tons of raisins would be available for the 1999–2000 crop year. As previously mentioned, annual NS raisin shipments average about 300,000 packed tons (about 320,000 natural condition tons), excluding government purchases.

With an available supply of only 317,000 natural condition tons of NS raisins, the Committee believes that the industry's first priority would be to satisfy the needs of the domestic market, which absorbs annually an average of about 188,000 packed tons (200,000 natural condition tons). Assuming that 200,000 natural condition tons were shipped domestically, the Committee estimates that, with no ERO program to help California raisins be price competitive in export markets, the industry would export about half of its usual tonnage, or about 60,000 natural condition tons. The remaining 57,000 natural condition tons would likely be held in inventory for the following 2000–2001 crop year. Annual carryout inventory for NS raisins for the past 5 years has averaged about 100,000 natural condition tons.

Crop Estimate Between 235,000 Tons and 10 Percent Above the Computed Trade Demand—Volume Regulation

If the October 1999–2000 crop estimate for NS raisins falls between 235,000 natural condition tons and 10 percent above the computed trade demand, the Committee will use an estimated trade demand figure to compute preliminary free and reserve percentages for the 1999–2000 crop. Thus, using the 260,000 natural condition ton computed trade demand figure, an estimated trade demand will be used to compute volume regulation percentages if the crop estimate falls between 235,000 and 286,000 natural condition tons.

The order specifies that preliminary percentages compute to release 85 percent of the computed trade demand as free tonnage once a field price is established. Producers are paid the field price for their free tonnage. Normally, when preliminary percentages are computed, producers receive an initial payment from handlers for 85 percent of the computed trade demand (or 65 percent of the trade demand if no field price has been established). Using the 260,000 natural condition ton computed trade demand figure, this would equate to 238,000 natural condition tons. However, if the lower, 235,000 natural condition ton estimated trade demand figure were utilized to compute preliminary percentages, producers would receive an initial payment from handlers for only 199,750 natural condition tons, or 71 percent of the computed trade demand.

The Committee is concerned with the preliminary percentage computation using an estimated trade demand and its impact on producer returns. The Committee wants to ensure that producers receive the field price for as much of their crop as possible early in the season while still establishing a small pool of reserve raisins to maintain the ERO. Thus, the Committee recommended that, if an estimated trade demand figure is utilized, preliminary percentages be computed to release 85 percent of the crop estimate. However, the order specifies that preliminary percentages be computed to release 85 percent of the trade demand, not the crop estimate, once a field price is established.

To achieve the same objective but remain within the order's parameters, the Committee could compute interim percentages to equal 85 percent free and 15 percent reserve. Pursuant to § 989.54(c), interim percentages may be computed prior to February 15 to release less than the trade demand. As an example, with a crop estimate of 265,000 natural condition tons and an estimated trade demand of 238,500 natural condition tons, a free percentage of 85 percent of the crop estimate would release 225,250 natural condition tons of raisins, or 94 percent of the estimated trade demand. This action will mollify the impact of implementing volume regulation when supplies are short on producers by allowing them to be paid for as much of their free tonnage raisins as possible early in the season.

Finally, the Committee will meet by February 15 to compute final free and reserve percentages. The Committee recommended that if an estimated trade demand figure is used to compute percentages, the final reserve percentage be computed to equal no more than 10 percent. Producers would ultimately be paid the field price for 90 percent of their crop, or their free tonnage.

The remaining 10 percent of the crop would be held in reserve and offered for sale to handlers in the ''10 plus 10'' offers. As previously described, the ''10 plus 10'' offers are two offers of reserve raisins that are made available to handlers for free use. The order specifies that each offer consists of a quantity of reserve raisins equal to 10 percent of the prior year's shipments. This requirement would not be met if volume regulation were implemented when raisin supplies were short. However, all of the raisins held in reserve would be made available to handlers for free use. Handlers would pay the Committee for the ''10 plus 10'' raisins and that money would be utilized to fund a 1999–2000 ERO program. Any unused 1999–2000 reserve pool funds could be loaned forward to initiate a 2000–2001 ERO program. However, the Committee recommended that such funds be paid back to the 1999–2000 reserve pool and ultimately be returned to 1999–2000 equity holders.

Crop Estimate More Than 10 Percent Above the Computed Trade Demand

Finally, the Committee recommended that, if the 1999–2000 crop estimate is more than 10 percent greater than the computed trade demand (or above 286,000 natural condition tons in the earlier example), the computed trade demand (as an example, 260,000 natural condition tons) be utilized to compute volume regulation percentages. Under this scenario, enough raisins (over 28,000 natural condition tons) would be available in reserve to continue the ERO program.

It is anticipated that allowing the use of an estimated trade demand figure to compute volume regulation percentages for 1999–2000 crop NS raisins if supplies are short will assist the industry in maintaining a portion of its export markets and stabilize the domestic market. If the crop estimate is below 235,000 natural condition tons, no volume regulation will be implemented. If this occurs, it is anticipated that domestic market needs would be met, while export markets would likely not be satisfied.

However, if the crop falls between 235,000 natural condition tons and slightly higher than the computed trade demand, establishing a small reserve pool will allow the industry to not only satisfy the needs of the domestic market, but also maintain a portion of its export sales, which now account for almost 40 percent of the industry's annual shipments. By maintaining an ERO program, even at a reduced level, exporters could continue to be price

competitive and sell their raisins abroad. The domestic market would remain stable because it would not have to absorb any additional raisins that handlers could not afford to sell in export markets.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 20 handlers of California raisins who are subject to regulation under the order and approximately 4,500 raisin producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. No more than 7 handlers, and a majority of producers, of California raisins may be classified as small entities. Thirteen of the 20 handlers subject to regulation have annual sales estimated to be at least $5,000,000, and the remaining 7 handlers have sales less than $5,000,000, excluding receipts from any other sources.

This rule adds a new paragraph to § 989.154 of the order's administrative rules and regulations that provides parameters for using an estimated trade demand figure specified in § 989.54(e)(4) of the order to compute volume regulation percentages for 1999–2000 crop NS raisins. This rule provides guidelines for the use of volume regulation if 1999–2000 NS raisin supplies are short for the purposes of maintaining a portion of the industry's export markets and stabilizing the domestic market.

Regarding the impact of the action on producers and handlers, if an estimated trade demand figure is used to compute volume regulation percentages, the final reserve percentage would compute to no more than 10 percent. Producers would thus be paid the field price for at least 90 percent of their crop, but would lose being paid the field price for about 10 percent of their crop that would go into a reserve pool. The field price for NS raisins for the past 5 years has averaged $1,216 per ton. Handlers in turn would purchase 90 percent of their raisins directly from producers at the field price, but would have to buy remaining raisins out of the reserve pool at a higher price (field price plus 3 percent and Committee costs). The ''10 plus 10'' price of NS reserve raisins has averaged about $100 higher than the field price for the past 5 years, or $1,316 per ton. Proceeds from the ''10 plus 10'' sales would be used to support export sales.

While there may be some initial costs for both producers and handlers, the long term benefits of this action far outweigh the costs. The Committee believes that with no reserve pool and hence no ERO program, export sales would decline dramatically, perhaps up to 50 percent. Handlers would likely sell into the domestic market raisins that they were unable to sell into lower priced export markets. Additional NS raisins sold into the domestic market, which typically absorbs about 188,000 packed tons, could create instability. The industry would likely lose a substantial portion of its export markets, which now account for about 37 percent (112,000 packed tons) of the industry's annual shipments (300,000 packed tons, excluding government purchases). Committee members have also commented that, once export markets were lost, it would be difficult and costly for the industry to recover those sales.

Maintaining the industry's export markets will, in turn, help the industry maximize its 1999–2000 total shipments and prevent handlers from carrying forward large quantities of inventory into the 2000–2001 crop year. If the industry is unable to maximize its 1999–2000 shipments, carryin inventory could be high which would result in a lower computed trade demand figure for the 2000–2001 crop year. If the industry returns to its pattern of relatively large crops in 2000–2001, a low trade demand and large crop estimate would compute to a low free tonnage percentage. Since producers are paid significantly more for their free tonnage than for reserve tonnage, this would mean reduced returns to producers. Projected reduced 2000–2001 returns to raisin producers, coupled with the risks of rain and labor shortages during harvest, may influence producers to ''go green,'' or sell their raisin-variety grapes to the fresh-grape, wine, or juice concentrate markets. Additional supplies to those outlets could potentially reduce ''green'' returns as well.

A similar scenario occurred in the California raisin industry in the early 1980's where the industry experienced two consecutive, short crop years. The 1981–82 and 1982–83 crops were short followed by relatively large crops for the remainder of the 1980's. The producer field price for NS raisins was $1,275 per ton for 1981–82 crop raisins, and $1,300 per ton for 1982–83 crop raisins. No volume regulation was implemented in 1982–83. However, a large inventory of high-priced raisins was carried forward into the 1983–84 crop year. When coupled with the largest crop on record at the time, volume regulation was implemented for the 1983–84 crop with the free tonnage percentage at a historically low 37.5 percent. By 1984, the producer field price for free tonnage raisins fell to $700 per ton, causing producers to experience large financial losses. Thus, the industry wants to help avoid a repeat of what happened in the 1980's by utilizing the Federal order to maintain export sales and provide stability in the domestic market.

Several alternatives to this action were considered by the industry. As previously mentioned, the Committee formed a working group to address its concerns. The working group considered utilizing money remaining in the 1997–98 reserve pool to fund some portion of an ERO. About $22 million would be available. However, because there was no 1998–99 reserve, the 1997–98 pool will ultimately fund at least 16 months of an ERO program. Ideally, the Committee would like to see each reserve pool support one year of an ERO program. Unfortunately, because of variances in crop size, the spread in price between the domestic and export markets, and other factors, this goal is not always met. In any event, the Committee agreed that any remaining 1997–98 reserve pool funds could be loaned forward to initiate a 1999–2000 ERO program, but those funds would have to be paid back and ultimately returned to the 1997–98 equity holders.

A second alternative considered by the working group was to fund the ERO through an increased assessment rate. The current assessment rate is $8.50 per ton for raisins acquired by handlers. The Committee estimated that the rate would need to be increased to at least $60 per ton for acquired raisins. The Department had concerns with such an increase as well as whether the ERO could be funded through the order's assessment authority.

A third alternative considered by the working group was to change the order's desirable carryout formula. Desirable carryout is part of the order's trade demand formula and is the amount of

tonnage from the prior crop year needed during the first part of the next crop year to meet market needs, before new crop raisins are available for shipment. Desirable carryout is specified in the order's regulations and is equal to 2½ months of the prior year's shipments. Changing the desirable carryout changes the trade demand computation. The working group considered developing a sliding scale which would match crop estimates with levels of carryout inventory. However, after much discussion, the working group ultimately recommended to the Committee using an estimated trade demand to compute volume regulation percentages next year if NS raisin supplies are short.

There are some reporting, recordkeeping and other compliance requirements under the order. The reporting and recordkeeping burdens are necessary for compliance purposes and for developing statistical data for maintenance of the program. If volume regulation were implemented this year using an estimated trade demand figure, the requirements on handlers would be identical to those requirements imposed in past seasons when volume regulation was implemented. As previously stated, volume regulation has been utilized in all but 10 seasons for NS raisins since the inception of the order in 1949. Thus, handlers are familiar with the requirements.

Furthermore, this action imposes no additional reporting or recordkeeping burden on either small or large handlers. The forms require information which is readily available from handler records and which can be provided without data processing equipment or trained statistical staff. The information and recordkeeping requirements have been previously approved by the Office of Management and Budget (OMB) under OMB Control No. 0581–0178. As with other similar marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. Finally, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

In addition, the Committee's working group meetings held on February 24, March 10, March 18, April 6, 1999, and the subcommittee and Committee meetings on April 13, 1999, where this action was deliberated were all public meetings widely publicized throughout the raisin industry. The Committee held a follow-up meeting on June 10, 1999, to further educate the industry on its recommendation. All interested persons were invited to attend the meetings and participate in the industry's deliberations.

Further, two major industry organizations, Sun-Maid Growers of California (Sun-Maid) and the Raisin Bargaining Association (RBA), have held meetings to provide additional information to their members on the Committee's recommendation. Sun-Maid and the RBA represent about 70 percent of the California raisin industry.

A proposed rule concerning this action was published in the **Federal Register** on June 28, 1999 (64 FR 34571). A 20-day comment period, which ended on July 19, 1999, was provided to allow interested persons to respond to this proposal. Copies of the rule were mailed to all Committee members and alternates, handlers, and producers. The rule was also made available through the Internet by the Office of the Federal Register. Three comments were received.

All three commenters expressed concern with the impact of implementing volume regulation in short crop years on producers. One commenter stated that he supports maintaining the industry's export markets, but only if it is profitable for producers. The commenters also stated that the ERO program benefits handlers with producers assuming the burden of financing the program.

The evidence before the Committee indicates that the domestic market can currently only absorb a limited quantity of California raisins annually, or about 188,000 packed tons (200,000 natural condition tons). If the crop significantly exceeded this level and if no ERO program were established, handlers who could not sell their raisins in export might sell their raisins domestically. Additional NS raisins sold into the domestic market would create instability and reduce producer returns.

In addition, while the domestic market generates the highest return for producers (about $1,216 per ton), the export market generates the second highest level of return (about $800 per ton). Other outlets for raisins such as government purchase, diversion, and distilleries or animal feed provide much lower returns. Thus, since the domestic market can only absorb a limited amount of raisins, it is prudent to help ensure that as much of the remainder of the crop as possible be sold to the next profitable outlet—export.

Two of the commenters expressed concern with the relationship between the world supply of raisins and the proposal's concern with a potential loss of export markets. Early season forecasts predict relatively smaller crops in some other raisin-producing countries. The commenters contend that, if the world supply of raisins this year is short, along with a short California crop, the California raisin industry would not lose its export markets because other raisin-producing countries would not be able to supply those markets.

Even in light of a relatively short world supply of raisins, however, an ERO program would be necessary to continue to help California raisins attract buyers in export markets. Raisins are not a necessary product for consumers, and export markets would disappear if prices sharply advanced to free tonnage levels. It would be very difficult and costly for the industry to regain export markets once they were lost.

One of the commenters expressed concern with the composition of the Committee, and another commenter expressed concern with the composition of the working group which deliberated the issue. Specifically, one commenter contends that the Committee is suppose to be made up of an equal number of producers and handlers, and that many handlers who are also producers hold producer positions on the Committee. The commenter contends that this results in Committee discussions which usually favor the interests of handlers rather than producers.

Consistent with the terms of the order, the Committee is composed of 47 members—35 producers, 10 handlers, 1 representing the RBA, and 1 public member. Nothing under the current order prohibits a producer member from having a handler interest, or a handler member from having a producer interest. In addition, the Committee can change its composition through formal rulemaking (public hearing and producer referendum) if desired.

As stated above, one commenter expressed concern with the make-up of the working group which held preliminary meetings to discuss this issue. The commenter contends that the working group was composed of five Committee members—one public member and four members affiliated with a handler. However, the working group was composed of 13 Committee members representing a cross-section of producers and handlers. Further, all of the working group meetings were open to any interested person who would have liked to attend.

The Department believes that the group to which the commenter is referring is the group of Committee members who responded to industry questions on this issue at the meeting on June 10, 1999. That group consisted of only a few members of the original

working group who visited the Department's headquarters' office in April 1999 to discuss the Committee's proposal.

Finally, regardless of the recommendation of the Committee or its working group, it is the Department of Agriculture that makes the decision to adopt this rule after a thorough consideration of all the evidence and views of the entire industry.

Accordingly, no changes have been made to the rule as proposed, based on the comments received.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee, the comments received in response to the proposed rule, and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because: (1) This action needs to be in effect by August 12, 1999, which is the date of the Committee's meeting where the 1999–2000 trade demand will be announced; (2) producers and handlers are aware of this action which was recommended at a public meeting; and (3) a 20-day comment period was provided in the proposed rule, and the comments received in response to that rule were addressed herein.

List of Subjects in 7 CFR Part 989

Grapes, Marketing agreements, Raisins, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 989 is amended as follows:

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 989 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. The undesignated center heading preceding § 989.154 is revised to read ''Marketing Policy.''

3. Section 989.154 is revised to read as follows:

§ 989.154 Marketing policy computations.

(a) *Desirable carryout levels.* The desirable carryout levels to be used in computing and announcing a crop year's marketing policy shall be equal to total shipments of free tonnage of the prior crop year during August, September, and one-half of October, for each varietal type, converted to a natural condition basis: *Provided,* That, should the prior year's shipments be limited because of crop conditions, the Committee may select the total shipments during the months of August, September, and one-half of October during one of the three crop years preceding the prior crop year.

(b) *Estimated trade demand.* Pursuant to § 989.54(e)(4), estimated trade demand is a figure different than the trade demand computed according to the formula in § 989.54(a). The Committee shall use an estimated trade demand to compute preliminary and interim free and reserve percentages, or determine such final percentages for recommendation to the Secretary for 1999–2000 crop Natural (sun-dried) Seedless (NS) raisins if the crop estimate is equal to, less than, or no more than 10 percent greater than the computed trade demand: Provided, That the final reserve percentage computed using such estimated trade demand shall be no more than 10 percent, and no reserve shall be established if the final 1999–2000 NS raisin crop estimate is less than 235,000 natural condition tons.

§ 989.157 [Amended]

4. A new undesignated center heading is added preceding § 989.157 to read ''Quality Control.''

Dated: August 9, 1999.

Kathleen A. Merrigan,

Administrator, Agricultural Marketing Service.

[FR Doc. 99–20877 Filed 8–9–99; 1:55 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 390

[Docket No. 99–034F]

Electronic Freedom of Information Act

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends the administrative procedures of the Food Safety and Inspection Service (FSIS) by implementing the provisions of the Department of Agriculture's (USDA) final rule entitled USDA Freedom of Information Act. Issued on May 4, 1999, the departmental rule authorizes substantive administrative changes to be made by agencies to conform to the requirements of the Electronic Freedom of Information Act (EFOIA) Amendments of 1996 and instructs agencies to promulgate regulations implementing certain of its requirements. Therefore, FSIS is amending its regulations to comply with the departmental regulations. The regulations establish a fourth category of ''reading room records'' in electronic format and require the Agency to make all records it has created on or after November 1, 1996 available electronically on a World Wide Web site by November 1, 1997. The electronic availability obligation applies not only to records in the new fourth reading room category but also to more traditional reading room records created by the Agency, such as staff manuals and other materials regularly requested by the public.

DATES: This final rule is effective August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Ms. Cheryl Hicks, Director, Executive Management and Coordination Staff, FSIS, at (202) 690–3881 or by FAX at (202) 205–0158.

SUPPLEMENTARY INFORMATION:

Background

The Freedom of Information Act (FOIA) evolved from the 1958 Administrative Procedure Act disclosure requirement. FOIA was enacted in 1966. In 1967, it was codified as section 552 of Title 5 of the United States Code (U.S.C.). FOIA establishes a presumptive right for any member of the public to obtain identifiable, existing records of Federal departments and agencies without indicating a reason or need for seeking the information. Any member of the public may use the FOIA to gain access to Government information. However, agencies also may deny access to records, or portions of records, which fall under enumerated exemptions, such as information that is classified for national defense or business information involving trade secrets.

As is the case with all Federal agencies, FSIS is subject to the provisions of FOIA, which require agencies to make certain documents available for public inspection and duplication and to process requests from the public for documents. FOIA requests received by FSIS are often for documents produced daily by inspection personnel stationed in more than 6,000 meat, poultry, and egg processing plants throughout the country and in U.S. territories.

FSIS receives approximately 1,000 FOIA requests each year. About 40 percent of the requests processed by the

Agency involve documents of 200 pages or more. However, document length can range from a single page to 5,000 pages. Because Federal agencies are required to maintain copies of any information that is released to the public, FSIS now maintains voluminous paper files associated with its FOIA function.

In 1996, Congress enacted the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231; 110 Stat. 3048). These amendments acknowledge the widespread use of computers and other means of electronic telecommunications by Federal agencies and address the subject of electronic records for the first time in the history of the statute.

USDA issued its implementing regulation on May 4, 1999 (63 FR 24467). Specifically, the final rule requires FSIS and other departmental agencies to make available on-line, for public inspection and reproduction, copies of any records that, because of the nature of their subject matter, are likely to elicit additional requests. The regulation requires that agencies provide information in the form requested (for example, paper or computer diskette) if the information is readily reproducible in that form. The regulation also extends the time for responding to a FOIA request from 10 to 20 working days (excepting Saturdays, Sundays, and Federal holidays), modifies the requirements for reporting FOIA activities to Congress, and specifies cases in which agencies may extend the time in which it will respond to a FOIA request. The regulation also includes provisions regarding the availability of documents in electronic form, the treatment of electronic records, the establishment of electronic reading rooms, and the tracking and expedited processing of requested materials.

Other important features:

- Agencies may process requests according to the level of effort rather than on a strict first-in, first-out basis.
- When denying a request, an agency must try to estimate the volume of any denied material and provide that estimate to the requester, unless doing so would harm an interest protected by an exemption.
- Agencies redacting electronically transmitted materials must provide a record of the location and extent of any deletions made.
- Certain categories of requesters would receive priority treatment of their requests if failure to obtain information would pose an imminent threat to life or physical safety or if there is an urgency in informing the public about Federal activity.
- If the extra 10 working days is still insufficient time to respond to an unusually burdensome request, an agency must inform the requester that the request cannot be processed within the statutory time limits. The agency will provide the requester an opportunity to limit the scope of the request or arrange a negotiated deadline for processing the request. If the requester refuses and then seeks judicial review, that refusal will be considered as a factor in determining whether ''exceptional circumstances'' exist.
- ''Exceptional circumstances'' will not include a delay that results from a predictable agency workload of FOIA requests unless the agency demonstrates reasonable progress in reducing its backlog.

This final rule does not affect substantively any member of the public, but constitutes a modification in administrative procedures that requires FSIS to update its public information system by adding an electronic component. Therefore, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that public participation in this rulemaking procedure is impracticable and unnecessary, and good cause is found for making this final rule effective less than 30 days after publication in the **Federal Register**.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are in conflict with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule. Executive Order 12866 and Regulatory Flexibility Act.

FSIS has determined that this final rule is not a significant regulatory action for the following reasons. The rule does not have an annual effect on the economy of $100 million or more and does not adversely affect the economy or any segment of the economy. Therefore, FSIS has determined that this final rule is not a significant rule under Executive Order 12866, and it has not undergone review by the Office of Management and Budget (OMB).

Executive Order 12898

Pursuant to Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' FSIS has considered the potential impact of this final rule on environmental and health conditions on low-income and minority communities and determined that there will be no impact. This rule represents a modification in administrative procedures.

Paperwork Reduction Act

The paperwork requirements for this final rule have been approved by OMB under control number 0583–0092.

This rulemaking is part of the Reinventing Government effort. The intent of this action is to reduce the number of future requests for identical information and to lessen the paperwork burden and duplication costs by encouraging the Agency to use newer technology to increase public access to Government information.

List of Subjects in 9 CFR Part 390

Freedom of information.

For the reasons discussed in the preamble to this rule, FSIS is amending 9 CFR part 390 of the Federal meat and poultry products inspection regulations as follows:

PART 390—FREEDOM OF INFORMATION

1. The authority citation for part 390 continues to read as follows:

Authority: 5 U.S.C. 301, 552; 7 CFR 1.3, 2.7.

2. Section 390.1 is revised to read as follows:

§ 390.1 Scope and purpose.

This part is issued pursuant to the Freedom of Information Act (FOIA) as amended (5 U.S.C. 552), and in accordance with the directives of the Department of Agriculture regulations in part 1, subpart A, of Title 7. The availability of records, including electronic records created on or after November 1, 1996, of the Food Safety and Inspection Service (FSIS), and the procedures by which the public may request such information, will be governed by the FOIA and by the Department regulations as implemented and supplemented by the regulations in this part.

3. Section 390.2 is revised to read as follows:

§ 390.2 Published materials.

FSIS rules and regulations relating to its regulatory responsibilities and administrative procedures are published and made available to the public in the **Federal Register** and codified in chapter III, title 9, of the Code of Federal Regulations. FSIS also issues numerous publications relating to Agency programs, which implement the laws listed in the Delegation of Authority, 7 CFR 2.15(a). Most of these publications

are available free from the USDA Publications Division, Office of Governmental and Public Affairs, or at established rates from the Superintendent of Documents, U.S. Government Printing Office, Washington, 20402–9328.

4. Section 390.3 is revised to read as follows:

§ 390.3 Indexes, reference guide, and handbook.

(a) Pursuant to the regulations in 7 CFR 1.4(c), FSIS will maintain and make available for public inspection and copying an index providing identifying information regarding the materials required to be published or made available under the Freedom of Information Act (5 U.S.C. 552(a)(2)). The Agency will make the index available by computer telecommunications by December 31, 1999. Quarterly publication of the index is unnecessary and impractical, since the material is voluminous and does not change often enough to justify the expense of quarterly publication. The Agency will provide copies of any index, upon request, at a cost not to exceed direct cost of duplication.

(b) FSIS is responsible for preparing reference material or a guide for requesting records or information from the Agency. This guide also will include an index of all major information systems and a description of major information and record locator systems.

(c) FSIS will prepare a handbook for obtaining information from the Agency. The handbook will be available on paper and through electronic means, and will discuss how the public can use it to access Agency FOIA annual reports. Similarly, the annual reports will refer to the handbook and how to obtain it.

5. Section 390.4 is revised to read as follows:

§ 390.4 Facilities for inspection and copying.

Facilities for public inspection and copying of the material described in §§ 390.2 and 390.3 of this part will be provided by FSIS pursuant to 7 CFR 1.5(a) in a reading area, on business days between the hours of 8:30 a.m. and 4:30 p.m., upon request to the Freedom of Information Coordinator or designee at the following address:

Freedom of Information Act Coordinator (FOIA), Food Safety and Inspection Service, Department of Agriculture, Washington, DC 20250–3700

6. Section 390.5 is revised to read as follows:

§ 390.5 Request for records.

(a) The FOIA Coordinator of FSIS is authorized to receive requests and to exercise authority under 7 CFR 1.3(a) to—

(1) Make determinations to grant or deny such requests,

(2) Extend the 20-day deadline,

(3) Make discretionary releases of exempt records, except where disclosure is specifically prohibited by Executive Order, statute, and applicable regulations,

(4) Consider expedited processing when appropriate,

(5) Make determinations regarding the charging of fees pursuant to the established schedule, and

(6) Determine the applicability of 7 CFR 1.5 to requests for records.

(b) Requests for FSIS records or information will be made in writing in accordance with 7 CFR 1.5 and submitted to the FSIS Freedom of Information Act Coordinator at the following address:

Freedom of Information Act Coordinator (FOIA Request), Food Safety and Inspection Service, Department of Agriculture, Washington, DC 20250–3700

The submitter will identify each record with reasonable specificity as prescribed in 7 CFR 1.3. All requests to inspect or obtain copies of any record or to obtain a fee waiver must be submitted in writing.

(c) In exercising authority under 7 CFR 1.3(a)(3) to grant and deny requests, the Coordinator or designee will comply with subsection (b) of the Freedom of Information Act (5 U.S.C. 552(b)), as amended, which requires that any reasonably segregated portion of a document will be provided to a person requesting the document after deletion of any portions within the scope of the request for which an exemption is being claimed under the Act. Therefore, unless the disclosable and nondisclosable portions are so inextricably linked that it is not reasonably possible to separate them, the document will be released with the nondisclosable portions deleted. The Coordinator or designee may exercise discretion as limited by 7 CFR l.15 to release the entire document or make only a minimum number of deletions. If portions of a document in electronic format have been redacted, the Agency must indicate, on the released portion of the document, the amount of information that has been deleted from a record, unless that indication would harm an interest protected by an applicable exemption.

7. Section 390.6 is revised to read as follows:

§ 390.6 Fee schedule.

Department regulations provide for a schedule of reasonable standard charges for document search and duplication. See 7 CFR 1.17. Fees to be charged are in 7 CFR part 1, subpart A, appendix A.

8. Section 390.7 is revised to read as follows:

§ 390.7 Appeals.

(a) If the request for information or for a waiver of search or duplication is denied, in whole or in part, the FOIA Coordinator or designee will explain in the letter of response the grounds for any denial of access and offer the requester an opportunity to file an administrative appeal, pursuant to 7 CFR 1.3(a)(4). The appeal should be filed in writing within 45 days of the date of denial (departmental regulations, 7 CFR 1.14) and addressed as follows:

Administrator, Food Safety and Inspection Service (FOIA Appeals), Department of Agriculture, Washington, DC 20250–3700

(b) The FSIS Administrator is authorized under 7 CFR 1.3(a)(4) to extend the 20-day deadline, make discretionary releases, and make determinations regarding the charging of fees.

9. Section 390.8 is revised to read as follows:

§ 390.8 Agency response to requests.

(a) The response to Freedom of Information requests and appeals by officials named in §§ 390.5 and 390.7 of this part shall be governed by and made in accordance with 7 CFR 1.7 and the regulations in this part.

(b) If requests for records and information are received by field offices, the field office will immediately notify the FOIA Coordinator or designee by telephone and transmit the request to the FOIA office. In rare instances, the FOIA Coordinator or designee will authorize a release of the requested records to the field office receiving the request. The request will be considered as having been received on the date of arrival in the office of the Coordinator or designee. Any person whose request for records has been granted may inspect and copy the records (or copies) at the office listed in § 390.4 of this part in accordance with the provisions of that section and with § 390.6. Copies also may be obtained by mail.

Done in Washington, DC, on August 4, 1999.

Thomas J. Billy,

Administrator.

[FR Doc. 99–20821 Filed 8–11–99; 8:45 am]

BILLING CODE 3410–DM–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–SW–73–AD; Amendment 39–11252; AD 99–17–03]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron, Inc. Model 204B, 205A, and 205A–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Bell Helicopter Textron, Inc. (BHTI) Model 204B, 205A, and 205A–1 helicopters, that currently requires modifying and inspecting the vertical fin spar (fin spar) for cracks. This amendment requires modification and visual and dye-penetrant inspections of the fin spar for cracks, and if a crack is discovered, replacing the fin spar. A tapping test for disbonding and replacing certain fin spars within 12 calendar months is also required. This amendment is prompted by an accident involving a Model 205A–1 helicopter and four other accidents involving helicopters of similar type design. The actions specified by this AD are intended to prevent failure of the fin spar, loss of the tail rotor, and subsequent loss of control of the helicopter.

DATES: Effective September 16, 1999.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 16, 1999.

ADDRESSES: The service information referenced in this AD may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. This information may be examined 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.

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: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) by superseding AD 97–18–11, Amendment 39–10520 (63 FR 26429), applicable to BHTI Model 204B, 205A, and 205A–1 helicopters, was published in the **Federal Register** on May 26, 1999 (64 FR 28420). That action proposed to require initial and repetitive inspections of the fin spar for cracks. Also proposed was a requirement to replace the fin spar within 12 calendar months. Replacing the fin spar with a FAA-approved fin spar configuration that satisfies the structural fatigue requirement of repeated high torque events would constitute a terminating action for the requirements of the AD. That action was prompted by an accident involving a Model 205A–1 helicopter and four other accidents involving helicopters of similar type design.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 150 helicopters of U.S. registry will be affected by this AD, that it will take approximately 8 work hours per helicopter to accomplish the initial inspection and 0.5 work hour to accomplish each repetitive inspection. Replacing the fin spar will take approximately 150 work hours. The average labor rate is $60 per work hour. The manufacturer has stated that parts will be provided at no cost. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $76,500 for the initial inspection and one repetitive inspection, and $1,350,000 to replace the fin spars on the entire fleet.

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing Amendment 39–10520 (63 FR 26429, May 13, 1998), and by adding a new airworthiness directive (AD), Amendment 39–11252, to read as follows:

AD 99–17–03 Bell Helicopter Textron, Inc.: Amendment 39–11252. Docket No. 98–SW–73–AD. Supersedes AD 97–18–11, Amendment 39–10520, Docket No. 97–SW–32–AD.

Applicability: Model 204B helicopters with vertical fin spar (fin spar), part number (P/N) 205–030–899–001, –089, P/N 205–030–846–001, –003, –047, –049, or P/N 204–030–825–063, –065, installed, and Model 205A and 205A–1 helicopters, with fin spar, P/N 205–030–899–101, P/N 205–030–846–087, –089, or P/N 205–032–851–003, –007, –009, installed, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the fin spar, loss of the tail rotor, and subsequent loss of control of the helicopter, accomplish the following:

(a) For Model 204B helicopters:

(1) Within 8 hours time-in-service (TIS), modify the vertical fin and visually inspect the fin spar for cracks in accordance with Part I (A1), paragraphs 1 through 5 of Bell Helicopter Textron (BHTI) Alert Service Bulletin (ASB) 204B–98–50, dated October 22, 1998.

(i) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(ii) After inspection, apply MIL–PRF–81352 TYI clear lacquer or equivalent to the inside of the two lower rivet holes and on the surface where paint and primer were removed. Spray, brush, or wipe on a protective coat of MIL–C–16173, Grade 2, or equivalent, over the clear lacquer. To facilitate subsequent inspections, do not replace the two lower rivets. See Figure 2 of BHTI ASB 204B–98–50, dated October 22, 1998.

Note 2: BHTI–MED–SRM–1, pages 3–36 through 3–38, pertain to the installation of Hi-Loks.

(iii) Before drilling or reaming, inspect all holes in the spar cap where rivets were removed for short edge distance. An existing edge distance less than 1.5 times the diameter of the drill or reamed hole must have FAA approval of the reworked area before proceeding.

(iv) Fasten the forward left-hand fin skin to the spar assembly using Hi-Loks and blind rivets as specified in Figure 2 of BHTI ASB 204B–98–50, dated October 22, 1998.

(v) Refinish the reworked area.

(2) After initial modification and inspection of the fin, thereafter inspect the fin spar for cracks at intervals not to exceed 8 hours TIS as follows:

(i) Accomplish Part I (A2), paragraphs 1 through 3 of BHTI ASB 204B–98–50, dated October 22, 1998.

(ii) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(iii) After inspection, accomplish Part I (A2), paragraphs 5 and 6 of BHTI ASB 204B–98–50, dated October 22, 1998.

(3) Within 25 hours TIS, modify and inspect the vertical fin as follows:

(i) Accomplish Part I (C1), paragraph 1 of BHTI ASB 204B–98–50, dated October 22, 1998.

(ii) Remove sufficient rivets from the bottom row of the forward left-hand fin skin to allow trimming of the forward left-hand fin skin along the ''skin cutline'', approximately fin station 64.31 (see Figure 2 of BHTI ASB 204B–98–50, dated October 22, 1998).

(iii) Before drilling or reaming, inspect all holes in the spar cap where rivets were removed for short edge distance. An existing edge distance less than 1.5 times the diameter of the drill or reamed hole must have FAA approval of the reworked area before proceeding.

(iv) Accomplish Part I (C1), paragraphs 3, 4, and 6 of BHTI ASB 204B–98–50, dated October 22, 1998.

(v) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(vi) Accomplish Part I (C1), paragraphs 10 through 14 of BHTI ASB 204B–98–50, dated October 22, 1998.

(4) After the initial modification and dye-penetrant inspection of the fin spar, thereafter at intervals not to exceed 300 hours TIS, inspect the fin spar as follows:

(i) Accomplish Part I (C2), paragraphs 1, 2, 3, 4, 5, and 7 of BHTI ASB 204B–98–50, dated October 22, 1998.

(ii) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(iii) Accomplish Part I (C2), paragraphs 11 through 14 of BHTI ASB 204B–98–50, dated October 22, 1998.

(5) Within 25 hours TIS, and thereafter at intervals not to exceed 300 hours TIS, inspect the fin spar as follows:

(i) Accomplish Part I (B), paragraphs 1 through 13 of BHTI ASB 204B–98–50, dated October 22, 1998.

(ii) Repair any disbonding discovered during the inspection before further flight.

(6) Within 12 calendar months, remove fin spar P/N 205–030–899–001, or –089, or P/N 205–030–846–001, –003, –047, or –049, or P/N 204–030–825–063, or –065. Replace it with an airworthy fin spar configuration that has been demonstrated to the FAA to satisfy the structural fatigue requirements of repeated high torque events and is approved by the Manager, Rotorcraft Standards Staff.

(7) Installation of a replacement fin spar approved by the Manger, Rotorcraft Standards Staff, constitutes a terminating action for the requirements of this AD.

(b) For Model 205A and 205A–1 helicopters:

(1) Within 8 hours TIS, modify the vertical fin and visually inspect the fin spar for cracks in accordance with Part I (A1), paragraphs 1 through 5 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(i) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(ii) After inspection, apply MIL–PRF–81352 TYI clear lacquer or equivalent to the inside of the two lower rivet holes and on the surface where paint and primer were removed. Spray, brush, or wipe on a protective coat of MIL–C–16173, Grade 2, or equivalent, over the clear lacquer. To facilitate subsequent inspections do not replace the two lower rivets. See figure 2 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(iii) Before drilling or reaming, inspect all holes in the spar cap where rivets were removed for short edge distance. An existing edge distance less than 1.5 times the diameter of the drill or reamed hole must have FAA approval of the reworked area before proceeding.

(iv) Fasten the forward left-hand fin skin and the retainer, P/N 205–032–851–045, to the fin spar assembly using Hi-Loks and blind rivets as specified in Figure 2 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998. Reinstall clip and radius block (if existing) removed in paragraph 2 of Part 1 (A1) of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(v) Refinish the reworked area.

(2) After initial modification and inspection of the vertical fin, thereafter, inspect the fin spar for cracks at intervals not to exceed 8 hours TIS as follows:

(i) Accomplish Part I (A2), paragraphs 1 through 3 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(ii) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(iii) After inspection, accomplish Part I (A2), paragraphs 5 and 6, of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(3) Within 25 hours TIS, modify and inspect the vertical fin as follows:

(i) Accomplish Part I (C1), paragraph 1 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(ii) Remove the clip, P/N 212–030–099–091, and radius block, P/N 212–030–099–095, if present. Remove the retainer, P/N 205–032–851–045, and sufficient rivets from the bottom row of the forward left-hand fin skin to allow trimming of the forward left-hand fin skin along the ''skin cutline'', at approximately Fin Station 66.31 (see Figure 2 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998).

(iii) Before drilling or reaming, inspect all holes in the spar cap where rivets were removed for short edge distance. An existing edge distance less than 1.5 times the diameter of the drill or reamed hole must have FAA approval of the reworked area before proceeding.

(iv) Accomplish Part I (C1), paragraphs 3, 4, and 6 in BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(v) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding discovered during the inspection before further flight.

(vi) Accomplish Part I (C1) paragraphs 10 through 14 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(4) After the initial modification and dye-penetrant inspection of the fin spar, thereafter, at intervals not to exceed 300 hours TIS, inspect the fin spar as follows:

(i) Accomplish Part I (C2), paragraphs 1, 2, 3, 4, 5, and 7 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(ii) If a crack is discovered on the spar, replace the fin spar assembly with an airworthy fin spar assembly before further flight. Repair any corrosion or disbonding

discovered during the inspection before further flight.

(iii) Accomplish Part I (C2), paragraphs 11 through 14 of ASB 205–98–71, Revision A, dated September 21, 1998.

(5) Within 25 hours TIS, and thereafter at intervals not to exceed 300 hours TIS inspect the fin spar as follows:

(i) Accomplish Part I (B), paragraphs 1 through 13 of BHTI ASB 205–98–71, Revision A, dated September 21, 1998.

(ii) Repair any disbonding discovered during the inspection before further flight.

(6) Within 12 calendar months, remove fin spar, P/N 205–030–899–001, or –089, or P/N 205–030–846–087, or –089, or P/N 205–032–851–003, –007, or –009. Replace it with an airworthy fin spar configuration that has been demonstrated to the FAA to satisfy the structural fatigue requirements of repeated high torque events and is approved by the Manager, Rotorcraft Standards Staff, or replace it with fin spar assembly, P/N 205–530–514–103, as specified in BHTI ASB 205–98–73, dated September 25, 1998.

(7) Installing fin spar, P/N 205–530–514–103, or a fin spar that has been approved by the Manager, Rotorcraft Standards Staff, constitutes terminating action for the requirements of this AD.

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

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

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

(e) The inspections and modifications shall be done in accordance with Bell Helicopter Textron, Inc. Alert Service Bulletin 204B–98–50, dated October 22, 1998; 205–98–71, Revision A, dated September 21, 1998; or 205–98–73, dated September 25, 1998, as applicable. 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, Inc., P.O. Box 482, Fort Worth, Texas 76101, telephone (817) 280–3391, fax (817) 280–6466. 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.

(f) This amendment becomes effective on September 16, 1999.

Issued in Fort Worth, Texas, on August 4, 1999.

Henry A. Armstrong,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 99–20754 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 99–A–AWP–11]

Airport Name Change and Revision of Legal Description of Class D, Class E2, and Class E4 Airspace Areas; Barbers Point, NAS, HI

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This action changes the name of Barbers Point NAS, HI, and it's associated airspace areas to Kalaeola Airport and revises the legal descriptions of the related Class D, Class E2, and Class E4 airspace areas by changing the geographical reference point from the Barbers Point Tactical Air Navigation (TACAN) to a new point of origin. The U.S. Navy has decommissioned the Barbers Point TACAN. The current airspace areas associated with Barbers Point NAS are described in FAA Order 7400.9F, Airspace Designations and Reporting Points, using the Barbers Point TACAN. The airport name change and decommissioning of the TACAN have made this action necessary.

EFFECTIVE DATE: 0901 UTC, September 13, 1999.

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

SUPPLEMENTARY INFORMATION:

History

Under federal mandates of the Base Realignment and Closure (BRAC) Act, the United States Navy vacated Barbers Point NAS on July 1, 1999. Effective at 2200 Coordinated Universal Time on July 2, 1999, ownership of the airport was transferred to the State of Hawaii and the name changed to Kalaeloa Airport. In conjunction with the Navy's departure, the existing military TACAN and Instrument Approach Procedures to Barbers Point NAS were decommissioned. The current airspace areas associated with Barbers Point NAS are described in FAA Order 7400.9F, Airspace Designations and Reporting Points, using the Barbers Point TACAN. The intent of this action is to change the name of Barbers Point NAS and it's associated airspace areas to Kalaeloa Airport and revise the legal description of the related Class D, Class E2, and Class E4 airspace areas by changing the geographical reference point from the Barbers Point Tactical Air Navigation (TACAN) to a new point of origin without changing the dimensions of operating requirements of the existing airspace. The transfer of ownership of the airport does not coincide with a scheduled publication date for the appropriate aeronautical charts. The next Hawaiian Islands Visual Flight Rules (VFR) Sectional Aeronautical Chart will be published on November 4, 1999 and will reflect these changes.

Class D, Class E2, and Class E4 airspace areas are published respectively in Paragraphs 5000, 6002, and 6004 of FAA Order 7400.9F, Airspace Designations and Reporting Points, dated September 20, 1998, and effective September 16, 1998, through September 15, 1999, which is incorporated by reference in 14 CFR 71.1. The airspace designations listed in this document would be published subsequently in this Order.

The Rule

This amendment to 14 CFR part 71 of the Federal Aviation Regulations changes the name of Barbers Point NAS and it's associated airspace areas to Kalaeloa Airport and revises the legal description of the related Class D, Class E2, and Class E4 airspace areas by changing the geographical reference point from the Barbers Point Tactical Air Navigation (TACAN) to a new point of origin without changing the dimensions or operating requirements of the existing airspace.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, 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 mater that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; 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 5000 Class D Airspace

* * * * *

AWP HI D Barbers Point NAS, HI [Removed]

* * * * *

AWP HI D Kalaeloa Airport, Kapeloi, HI—[New]

Kalaeloa Airport, HI
(Lat 21°18′21″ N, long. 158°04′20″ W)

That airspace extending upward from the surface up to and including 2,500 feet MSL within a 4.3 mile radius of Kalaeloa Airport, excluding the airspace within the Honolulu, HI, Class B airspace area. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory, Pacific Chart Supplement.

* * * * *

Paragraph 6002 Class E airspace areas designated as a surface area for an airport

* * * * *

AWP HI E2 Barbers Point NAS, HI [Removed]

* * * * *

AWP HI E2 Kalaeloa Airport, Kapeloi, HI [New]

Kalaeloa Airport, HI
(Lat 21°18′21″ N, long. 158°04′20″ W)

That airspace extending upward from the surface within a 4.3 mile radius of Kalaeloa Airport, excluding the airspace within the Honolulu, HI, Class B airspace area. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D surface area.

* * * * *

AWP HI E4 Barbers Point NAS, HI [Removed]

* * * * *

AWP HI E4 Kalaeloa Airport, Kapeloi, HI [New]

Kalaeloa Airport, HI
(Lat. 21°18′21″ N, long. 158°04′20″ W)
Point of Origin
(Lat. 21°18′21″ N, long. 158°03′54″ W)

That airspace extending upward from the surface within 3 miles each side of the 242° bearing from the Point of Origin, extending from the 4.3 mile radius of Kalaeloa Airport to 8.5 miles west of the Point of Origin and within 1.8 miles each side of the 289° bearing from the Point of Origin, extending from the 4.3 miles radius of the airport to 6.6 miles west of the Point of Origin, excluding the airspace within the Honolulu, HI, Class B airspace area.

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

John Clancy,

Manager, Air Traffic Division, Western-Pacific Region.

[FR Doc. 99–20524 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 172

[Docket No. 99F–0001]

Food Additives Permitted for Direct Addition to Food for Human Consumption; Sucralose

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of sucralose as a general purpose sweetener for food. This action is in response to a petition filed by McNeil Specialty Products Co.

DATES: This regulation is effective August 12, 1999; written objections and requests for a hearing by September 13, 1999.

ADDRESSES: Written objections may be sent to the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

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.

SUPPLEMENTARY INFORMATION:

I. Introduction

In a notice published in the **Federal Register** on January 11, 1999 (64 FR 1634), FDA announced that a food additive petition (FAP 8A4624) had been filed by McNeil Specialty Products, Co., 501 George St., New Brunswick, NJ 08903–2400. The petition proposed that the food additive regulations be amended at § 172.831 (21 CFR 172.831) to expand the permitted uses of sucralose to allow for use as a general purpose sweetener in food. FDA previously approved sucralose for use in 15 food categories under § 172.831 (64 FR 16417, April 3, 1998).

II. Identity

Sucralose is a disaccharide that is made from sucrose in a five-step process that selectively substitutes three atoms of chlorine for three hydroxyl groups in the sugar molecule. It is a free-flowing, white crystalline solid, product at an approximate purity of 98 percent, that is soluble in water and stable both in crystalline form and in most aqueous solutions. The sweetness intensity for sucralose in 320 to 1,000 times that of sucrose, depending on the food application.

Hydrolysis of sucralose may occur under conditions of prolonged storage at elevated temperatures in highly acidic aqueous food products. The hydrolysis products are the monosaccharides, 4-chloro-4-deoxy-galactose (4-CG) and 1,6-dichloro-1,6-dideoxyfructose (1,6-DCF).

III. Evaluation of Safety

In support of safety for the proposed expanded uses of sucralose, the petitioner referenced the toxicological safety data base submitted in food additive petition (FAP) 9A3987 that established the safety of the currently approved uses. Also referenced were the identity, manufacturing process, and specifications for the sweetener. In the new petition (FAP 8A4624), the petitioner submitted data concerning: (1) Use and typical use levels; (2) self-limiting levels; (3) proof of technical effect; (4) exposure; (5) stability; and (6) analysis in foods for both sucralose and its potential hydrolysis products.

In order to determine whether sucralose can be safety used as a general

purpose sweetener, the agency reevaluated the currently established acceptable daily intake (ADI) for sucralose, 5 milligrams per kilogram body weight per day (mg/kg bw/d) (Ref. 1) and determined that this ADI is still appropriate (Ref. 2). FDA also estimated new daily intakes (EDI) for the 90th percentile consumer of sucralose to include the expanded uses. The new EDI was derived from projections based on the amount of sucralose that may be used in the currently regulated food categories, the proposed food categories, and on data regarding the consumption levels of these particular foods. Based upon the data in the petition and other information, the agency established a no effect level (NOEL) for the hydrolysis products of sucralose at 30 mg/kg bw/d (Ref. 2).

To aid in the establishment of new exposure estimates for sucralose and its hydrolysis products, the petitioner submitted a Market Research Corporation of America (MRCA) report that addresses foods in which sucralose may be used and an updated report on the potential exposure for the hydrolysis products. From this information, the agency has determined that based on the expanded uses, the cumulative exposure to sucralose could increase to 2.4 mg/kg bw/d and the cumulative exposure to its hydrolysis products to 0.007 mg/kg bw/d (Ref. 3). The agency concludes: Exposure to sucralose will remain below the previously established ADI of 5.0 mg/kg bw/d for sucralose, and exposure to the hydrolysis products will remain far below the no effect level of 30 mg/kg bw/d (Refs. 2 and 3).

IV. Conclusions

From the review of all the information available on sucralose and its hydrolysis products, the agency concludes that sucralose may be safely used as a sweetener in food generally (Refs. 2 and 3).

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition by appointment with the information contact person listed above. As provided in § 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

V. Environmental

The agency has carefully considered the potential environmental effects of this action. FDA has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding, contained in an environmental assessment, may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. Paperwork Reduction Act 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

VII. Objections

Any person who will be adversely affected by this regulation may at any time on or before September 13, 1999, file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularly the provisions of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

VIII. References

The following references have been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Addendum memorandum from Whiteside, Scientific Support Branch, FDA, to Anderson, Novel Ingredients Branch, FDA, November 13, 1997.

2. Memorandum from Whiteside, Division of Health Effects Evaluation, FDA, to Anderson, Regulatory Policy Branch, February 25, 1999.

3. Memorandum from DiNovi, Division Product Manufacture and Use, FDA, to Anderson, Division of Product Policy, FDA, October 22, 1998.

List of Subjects in 21 CFR Part 172

Food additives, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 172 is amended as follows:

PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

1. The authority citation for 21 CFR part 172 continues to read as follows:

Authority: 21 U.S.C. 321, 341, 342, 348, 371, 379e.

2. Section 172.831 is amended by removing the introductory paragraph and by revising paragraph (c) to read as follows:

§ 172.831 Sucralose.

* * * * *

(c)The additive may be used as a sweetener in foods generally, in accordance with current good manufacturing practice in an amount not to exceed that reasonably required to accomplish the intended effect.

* * * * *

Dated: August 5, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

[FR Doc. 99–20888 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Sulfadimethoxine, Ormetoprim

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the new animal drug regulations to reflect approval of a supplemental new animal drug application (NADA) filed by Roche Vitamins, Inc. The supplemental NADA provides for a change in the name of a duck pathogen. Infections of the pathogen are controlled by use of

sulfadimethoxine/ormetoprim Type C medicated feed.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Naba K. Das, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–7569.

SUPPLEMENTARY INFORMATION: Roche Vitamins, Inc., 45 Waterview Blvd., Parsippany, NJ 07054–1298, filed a supplement to NADA 40–209 that provides for use of Rofenaid® 40 (113.5 grams per pound (g/lb) sulfadimethoxine with 68 g/lb ormetoprim) to make Type C medicated duck feeds containing 454 g per ton (/t) sulfadimethoxine with 272.4 g/t ormetoprim. The Type C medicated feeds are used as an aid in the control of bacterial infections in ducks. The supplement provides for a change of nomenclature of one pathogen from *Pasteurella anatipestifer* to *Riemerella anatipestifer* based on the results of studies obtained from DNA-rRNA hybridization analyses and determinations of DNA ratios and from analyses of protein and fatty acids. According to the published report (Ref. 1), the causative agent of the disease known as ''septicemia anserum exsudativa'' constitutes a separate taxon within the *Flavobacterium-Cytophaga* rRNA homology cluster and is named *R. anatipestifer*. This organism is distributed world wide and causes septicemia in ducks, geese, and turkeys. The supplemental NADA was approved as of June 15, 1999, and the regulations are amended in 21 CFR 558.575 (d)(4)(ii)(a) to reflect the change in nomenclature.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a copy of the information submitted to support approval of this supplemental application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852, between 9 a.m. and 4 p.m., Monday through Friday.

FDA has determined under 21 CFR 25.33(a)(1) 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.

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

Reference

The following reference has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. *International Journal of Systematic Bacteriology*, p. 768–776, October, 1993.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under the authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

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

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

§ 558.575 [Amended]

2. Section 558.575 is amended in paragraph (d)(4)(ii)(*a*) by removing the first ''*P.*'' and adding in its place ''*Riemerella*''.

Dated: August 2, 1999

Clair M. Lathers,

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

[FR Doc. 99–20844 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TS 8835]

RIN 1545–AX27

Furnishing Identifying Number of Income Tax Return Preparer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary and final regulations.

SUMMARY: This document contains temporary and final regulations that allow income tax return preparers to elect an alternative to their social security number (SSN) for purposes of identifying themselves on returns they prepare. The regulations are needed to implement changes made to the applicable law by the Internal Revenue Service Restructuring and Reform Act of 1998. The regulations affect individual preparers who elect to identify themselves using a number other than their SSN. The text of the temporary regulations also serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section in this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective August 12, 1999.

Applicability Date: For dates of applicability of these regulation, see §§ 1.6109–2(d) and 1.609–2T(d).

FOR FURTHER INFORMATION CONTACT: Andrew J. Keyso, (202) 622–4910 (not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

Section 6109(a)(4) of the Internal Revenue Code provides that any return or claim for refund prepared by an income tax return preparer must bear the identifying number of the preparer as required by regulations prescribed by the Secretary. Prior to its amendment by the Internal Revenue Service Restructuring and Reform Act of 1998 (Public Law 105–206, 112 Stat. 685 (RRA '98)), section 6109(a) provided that the identifying number of an individual preparer was that preparer's social security number (SSN).

Section 3710 of RRA '98 amended section 6109(a) by removing the requirement that an individual preparer's identifying number be the preparer's SSN. Instead, the Secretary may prescribe alternatives to the SSN for purposes of identifying individual preparers.

Explanation of Provisions

On December 21, 1998, the IRS published Notice 98–63, 1998–51 IRB 15, to inform preparers of the IRS's intention to develop a system of alternative identifying numbers. This document contains amendments to the Income Tax Regulations (26 CFR part 1) to allow individual preparers to either use their SSN or elect an alternative identifying number for purposes of identifying themselves on returns they prepare. The IRS will develop a form on which preparers may apply for an alternative identifying number.

Special Analyses

It has been determined that this Treasury decision is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the

Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. For the applicability of the Regulatory flexibility Act (5 U.S.C. chapter 6) refer to the Special Analyses section of the preamble of the cross-reference notice of proposed rulemaking published in the Proposed Rules section in this issue of the **Federal Register**. Pursuant to section 7805(f) of the Internal Revenue Code, these regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these regulations is Andrew J. Keyso, Office of Assistant Chief Counsel (Income Tax & Accounting). 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.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is 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 1,6109–2 is amended by:

1. Revising the first sentence of paragraph (a) introductory text;
2. Adding paragraph (d).

The revision and addition read as follows:

§ 1.6109–2 Furnishing identifying number of income tax return preparer.

(a) *Furnishing identifying number.* For returns or claims for refund filed prior to January 1, 2000, each return of tax under subtitle A of the Internal Revenue Code or claim for refund of tax under subtitle A of the Internal Revenue Code prepared by one or more income tax return preparers must bear the identifying number of the preparer required by § 1.6695–1(b) to sign the return or claim for refund. * * *

* * * * *

(d) *Effective date.* Paragraph (a) of this section and this paragraph (d) apply to returns or claims for refund filed prior to January 1, 2000. For returns or claims for refund filed after December 31, 1999, see § 1.6109–2T(a).

Par. 3. Section 1.6109–2T is added to read as follows:

§ 1.6109–2T Furnishing identifying number of income tax return preparer (temporary).

(a) *Furnishing identifying number.* (1) Each return of tax, or claim for refund of tax, under subtitle A of the Internal Revenue Code prepared by one or more income tax return preparers must include the identifying number of the preparer required by § 1.6695–1(b) to sign the return or claim for refund. In addition, if there is a partnership or employment arrangement between two or more preparers, the identifying number of the partnership or employer must also appear on the return or claim for refund. For the definition of the term income tax return preparer (or preparer) see section 7701(a)(36) and § 301.7701–15 of this chapter.

(2) The identifying number of a preparer who is an individual (not described in paragraph (a)(3) of this section) is that individual's social security account number, or such alternative number as may be prescribed by the Internal Revenue Service in forms, instructions, or other appropriate guidance.

(3) The identifying number of a preparer (whether an individual, corporation, or partnership) who employs or engages one or more persons to prepare the return or claim for refund (other than for the preparer) is that preparer's employer identification number.

(b) and (c) [Reserved]. For further guidance, see § 1.6109–2(b) and (c).

(d) *Effective date.* Paragraph (a) of this section and this paragraph (d) apply to returns or claims for refund filed after December 31, 1999. For returns or claims for refund filed prior to January 1, 2000, see § 1.6109–2(a).

Approved: August 3, 1999.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

Donald C. Lubick,

Assistant Secretary of the Treasury.

[FR Doc. 99–20485 Filed 8–11–99; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 914

[SPATS No. IN–129–FOR; State Program Amendment No. 98–2]

Indiana Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Indiana regulatory program (Indiana program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Indiana Department of Natural Resources (IDNR) proposed revisions to the Indiana program rules pertaining to permitting, collateral bonds, performance bond release, and citizen's request for state inspection. The revisions mainly relate to the public participation and administrative requirements of these rules. Indiana intends to revise its program to be consistent with the corresponding Federal regulations.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Andrew R. Gilmore, Director, Indianapolis Field Office, Office of Surface Mining, Minton-Capehart Federal Building, 575 North Pennsylvania Street, Room 301, Indianapolis, Indiana 46204–1521. Telephone (317) 226–6700. Internet: INFOMAIL@indgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Indiana Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Indiana Program

On July 29, 1982, the Secretary of the Interior conditionally approved the Indiana program. You can find background information on the Indiana program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the July 26, 1982, **Federal Register** (47 FR 32107). You can find later actions on the Indiana program at 30 CFR 914.10, 914.15, 914.16, and 914.17.

II. Submission of the Proposed Amendment

By letter dated May 7, 1999 (Administrative Record No. IND–1647), the IDNR sent us an amendment to the Indiana program under SMCRA. The IDNR sent the amendment at its own initiative. The IDNR proposed to amend the Indiana Administrative Code (IAC) at 310 IAC 12–3, 12–4, and 12–6 regarding permit applications, collateral bonds, performance bond release, and citizen's request for state inspection.

We announced receipt of the amendment in the May 20, 1999, **Federal Register** (64 FR 27484). In the same document, we opened the public comment period and provided an opportunity for a public hearing or

meeting on the adequacy of the amendment. The public comment period closed on June 21, 1999. Because no one requested a public hearing or meeting, we did not hold one.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

1. Revisions to Indiana's Rules That Are Minor

The IDNR proposed minor wording, editorial, punctuation, grammatical, and recodification changes to the previously-approved State rules listed in the table below:

Topic	State rule	Federal regulation
Permit Approval or Denial Actions	310 IAC 12–3–114(b)	30 CFR 773.15(a).
Permit Approval or Denial Actions	310 IAC 12–3–114(f)	30 CFR 773.19(b)(2).
Collateral Bonds	310 IAC 12–4–12(b)(4), (b)(6)(A)(ii)	30 CFR 800.21(b).
Performance Bond Release	310 IAC 12–4–16(a), (c)	30 CFR 800.40(a), (c).
Citizen's Request for State Inspections	310 IAC 12–6–2(a), (b), (c)	30 CFR 842.12(a), (c).

Because the proposed changes to the State rules listed above are minor, we find that they will not make the Indiana rules less effective than the counterpart Federal regulations.

2. Revisions to Indiana's Rules That Have the Same Meaning as the Corresponding Provisions of the Federal Regulations.

The State rules listed in the table below contain language that is the same as or similar to the corresponding sections of the Federal regulations. Differences between the State rules and the Federal regulations are minor.

Topic	State rule	Federal regulation
Permit Applications; Informal Conferences	310 IAC 12–3–109(a)	30 CFR 773.13(c)(1).
Permit Applications; Informal Conferences	310 IAC 12–3–109(b)	30 CFR 773.13(c)(2).
Permit Applications; Informal Conferences	310 IAC 12–3–109(c)	30 CFR 773.13(c)(3).
Permit Applications; Informal Conferences	310 IAC 12–3–109(d)	30 CFR 773.13(c)(4).
Permit Terms	310 IAC 12–3–115(b)	30 CFR 773.19(e).
Collateral Bonds	310 IAC 12–4–12(c)	30 CFR 800.21(f).
Performance Bond Release	310 IAC 12–4–16(d)	30 CFR 800.40(d).
Citizen's Request for State Inspections	310 IAC 12–6–2(e)	30 CFR 842.12(b).

Because the above State rules have the same meaning as the corresponding Federal regulations, we find that they are no less effective than the Federal regulations.

3. 310 IAC 12–3–114(e) Notification of Permit Approval or Denial Actions

The IDNR revised 310 IAC 12–3–114(e)(1) to require the director of IDNR to give a copy of the permit application decision to the local OSM office. This is consistent with the Federal regulation at 30 CFR 773.19(b)(3) that requires a State regulatory authority to issue written notification of the permit application decision to the local OSM office. With this revision, the Indiana rules at 310 IAC 12–3–114(c) through (f) are no less effective than the Federal regulation at 30 CFR 773.19(b).

IV. Summary and Disposition of Comments

Public Comments

OSM requested public comments on the proposed amendment, but did not receive any.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Indiana program (Administrative Record No. IND–1648). By letter dated June 8, 1999, the Mine Safety and Health Administration (MSHA) commented that the proposed rules do not conflict with MSHA regulations (Administrative Record No. IND–1655).

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards issued under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). However, none of the revisions that Indiana proposed to make in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. IND–1648). By letter dated May 21, 1999, the EPA commented that it had reviewed the proposed program amendment and had no comments to offer (Administrative Record No. IND–1651).

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 13, 1999, we requested comments on Indiana's amendment (Administrative Record No. IND–1648), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Indiana on May 7, 1999. We approve the rules that Indiana proposed with the provision that they be promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 914, which codify decisions concerning the Indiana program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Indiana to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 914

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 28, 1999.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 914 is amended as set forth below:

PART 914—INDIANA

1. The authority citation for Part 914 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 914.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 914.15 Approval of Indiana regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
May 7, 1999	August 12, 1999	310 IAC 12–3–109(a) through (d); 12–3–114(b), (e), and (f); 12–3–115(b); 12–4–12(b)(4), (b)(6)(A)(ii), and (c); 12–4–16(a), (c), and (d); 12–6–2(a), (b), (c), and (e).

[FR Doc. 99–20839 Filed 8–11–99; 8:45 am]
BILLING CODE 4310–05–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

[SPATS No. TX–041–FOR]

Texas Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is approving an amendment to the Texas regulatory program (Texas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment concerns revegetation success and normal husbandry practice guidelines. Texas is adding these guidelines to ensure consistency with the corresponding Federal regulations; to ensure that adequate data collection methods are used for determining revegetation success for purposes of releasing reclamation performance bonds; and to ensure that the husbandry practices used by the permittee during the period of responsibility for revegetation success and bond liability are normal husbandry practices within the region for unmined lands.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Michael C. Wolfrom, Director, Tulsa Field Office, Office of Surface Mining, 5100 East Skelly Drive, Suite 470, Tulsa, Oklahoma 74135–6548. Telephone: (918) 581–6430. Internet: mwolfrom@tokgw.osmre.gov.

SUPPLEMENTARY INFORMATION:

I. Background on the Texas Program
II. Submission of the Proposed Amendment
III. Director's Findings
IV. Summary and Disposition of Comments
V. Director's Decision
VI. Procedural Determinations

I. Background on the Texas Program

On February 16, 1980, the Secretary of the Interior conditionally approved the Texas program. You can find background information on the Texas program, including the Secretary's findings, the disposition of comments, and the conditions of approval in the February 27, 1980, **Federal Register** (45

FR 12998). You can find later actions concerning the Texas program at 30 CFR 943.10, 943.15, and 943.16.

II. Submission of the Proposed Amendment

By letter dated May 13, 1999 (Administrative Record No. TX–649), Texas sent us an amendment to its program under SMCRA. Texas sent the amendment in response to our letters dated May 20, 1985, and February 21, 1990 (Administrative Record Nos. TX–358 and TX–476), that we sent to Texas under 30 CFR 732.17(c). The amendment includes a guideline document entitled ''Procedures and Standards for Determining Revegetation Success on Surface-Mined Land in Texas'' that permittees are to use for sampling and analysis of vegetation data. It also includes a guideline document entitled ''Normal Husbandry Practices for Surface-Mined Lands in Texas'' that permittees are to use for identifying agricultural and management practices that will not extend the period of responsibility for revegetation success and bond liability (extended responsibility period).

We announced receipt of the amendment in the June 1, 1999, **Federal Register** (64 FR 29249). In the same document, we opened the public comment period and provided an opportunity for a public hearing or meeting on the adequacy of the amendment. The public comment period closed on July 1, 1999. Because no one requested a public hearing or meeting, we did not hold one.

During our review of the amendment, we identified a concern with Texas' revegetation success guideline document relating to productivity of non-prime farmland soils. We were concerned that Texas' guidelines at Section V.B.2 were not clear on the requirement that in areas receiving 26 inches or less of precipitation, the production standards for cropland must be met in at least the last 2 consecutive years of the responsibility period. We notified Texas of this concern by telefax dated June 24, 1999 (Administrative Record No. TX–649.07). By letter dated June 30, 1999 (Administrative Record No. TX–649.09), Texas sent us revisions to Section V.B.2 and Appendix B that clarify its requirements for non-prime farmland cropland receiving 26 inches or less of precipitation.

Because the revisions merely clarified certain provisions of Texas' amendment, we did not reopen the public comment period.

III. Director's Findings

Following, under SMCRA and the Federal regulations at 30 CFR 732.15 and 732.17, are our findings concerning the amendment.

A. Procedures and Standards for Determining Revegetation Success on Surface-Mined Lands in Texas

Texas submitted a guideline document that describes the procedures and standards for determining revegetation success on reclaimed surface mined lands in Texas. The Texas Coal Mining Regulations at 16 Texas Administrative Code (TAC) 12.395(a)(1) requires the Railroad Commission of Texas (Commission) to select standards for success and statistically valid sampling techniques for measuring success. The Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) require that each regulatory authority select revegetation success standards and statistically valid sampling techniques for measuring success and include them in its approved regulatory program. The Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) require that standards for success include criteria representative of unmined lands in the area being reclaimed to evaluate the appropriate vegetation parameters of ground cover, production, or stocking. Ground cover, production, or stocking must be considered equal to the approved success standard when they are not less than 90 percent of the success standard. The sampling techniques for measuring success shall use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error). The Federal regulations at 30 CFR 816.116(b) and 817.116(b) require that standards for success be applied in accordance with the approved postmining land use and specified minimum conditions for each type of land use. Texas developed its revegetation success guideline document to satisfy these requirements.

In some cases, the guidelines reference the performance standards for revegetation success contained in the Texas program at 16 TAC 12.390 through 12.395; but they do not replace or change any existing State regulations. As discussed in the findings below, we find that the revegetation success standards and statistically valid sampling techniques contained in Texas' revegetation success guideline document meet the requirements of 30 CFR 816.116(a)(1) and 817.116(a)(1) and are no less effective than the Federal requirements for revegetation success at 30 CFR 816.116 and 817.116.

1. *Section I. Introduction.* The introductory section provides the scope, purpose, and applicability of the revegetation success guideline document. Permittees must demonstrate revegetation success using the revegetation standards and statistically valid sampling techniques for measuring success contained in the guidance document. Use of the methods contained in this document will provide assurance that adequate data collection methods have been used for determining revegetation success for purposes of releasing reclamation performance bond funds. Permittees may propose alternative procedures for sampling and analysis of vegetation data. However, the Commission must approve the use of alternative methods, and the alternative methods must be included in the approved regulatory program.

We find that Section I is not inconsistent with the requirements of the Federal regulations at 30 CFR 816.116 and 817.116, and we are approving it.

2. *Section II. Regulatory Requirements.* This section references the regulatory requirements for meeting revegetation success under the Texas Surface Coal Mining and Reclamation Act at sections 134.041, .092(a)(19) and (20), and .104. It also references the implementing performance standards for revegetation success in the Texas Coal Mining Regulations at 16 TAC 12.390 through 12.395 and 12.399. Texas discusses the applicable sections of 16 TAC 12.390 and 12.395 that define the standards by which revegetation success will be measured; the general requirements that must be met for the vegetative cover; the requirements for the methodologies used for evaluating when the standards have been met; and the minimum standards for each postmining land use. Texas also discusses the definitions at 16 TAC 12.3 that are applicable to the guidance document, including ''disturbed area''; ''land use''; ''cropland''; ''pastureland''; ''grazingland''; ''forestry''; ''residential''; ''industrial/commercial''; ''recreation''; ''fish and wildlife habitat''; ''undeveloped land''; and ''reference area.''

We previously approved the regulations referenced and described in Section II, and we agree that they are applicable to the proposed revegetation success guideline document. Therefore, we find that including these regulations in this section of the document is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(a)(1) and 817.116(a)(1).

3. *Section III. Vegetation Evaluation Procedures.* This section identifies specific concepts and requirements to be followed in developing revegetation evaluation plans.

Section III.A includes the general requirements for vegetation evaluation. Ground cover and productivity for herbaceous biomass measurements must be obtained during the growing season of the primary vegetation species comprising the land use. Herbaceous productivity is estimated from only the current season's growth. Woody-plant stocking can be measured at any time. Ground cover corresponds to the area of ground covered by the combined areal parts of standing permit-approved vegetation (dead or alive) and the litter that is produced naturally on site. The litter component cannot exceed 15 percent of the total ground cover. The species must be on either the planting list that contains approved species which support the land use or the list of approved desirable invader species. Both lists must be included in the approved permit. Rock fragments are considered ground surface cover during soil surveys, but only the vegetal component can be considered in ground cover measurements. Texas includes an example of hypothetical data from a vegetation survey and the resulting calculations from 100 observation points.

Section III.B covers the data collection characteristics of vegetation evaluation. The methods used for doing vegetation surveys must comply with statistical conventions. All methods used to assess revegetation success must contain the following criteria: (1) all sample points must be chosen independently and have an equal chance of being chosen; (2) the number of sample points should be independent of the size of the areas to be evaluated; and (3) sample units should include the same land use, similar vegetation growth forms, comparable management, and similar chemical and physical soil characteristics. The number of observation points needed to produce statistically-acceptable results depends on the vegetation parameter that is measured.

Section III.C identifies the requirements for reporting vegetation survey data. When submitting revegetation data, permittees are to include a map or aerial photograph that identifies the location of the vegetation survey transects. This subsection specifies what information must be reported for measurements of ground cover; productivity measurements for forages obtained from plot harvesting; productivity measurements for forages obtained by weighing a portion of the bales harvested; productivity measurements for cropland that involve plot harvesting; productivity measurements involving whole-field harvest; and stem count measurements for woody-plants. All measurements, except productivity measurements for cropland plot harvesting and whole-field harvest, must include a one-sided 90 percent confidence interval (with a 0.10 alpha error) if the cover, biomass, yield, or stem estimates are below the lowest acceptable value (90% of the technical standard) or where the reclaimed area is compared to a reference area. Productivity measurements for cropland that involve plot harvesting must include a one-sided 90 percent confidence interval (with a 0.10 alpha error) for the standardized crop yield. All productivity measurements must include documentation from a calibrated scale. The permittee must document the scale manufacturer, model number, calibration date, date and time of productivity data collections, and individual performing the weighing.

We find that Section III meets the requirements of the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) that statistically valid sampling techniques for measuring success be selected by the regulatory authority and included in an approved regulatory program. We also find that this section is no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) that require sampling techniques for measuring success to use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

4. *Section IV. Revegetation Success Evaluation and Measurement Methods.* This section provides the approved methods for implementing the various evaluation methods for ground cover, productivity, and woody-plant stocking, including the proper selection of observation points. Measurement methods are presented for all vegetation parameters. Measurement results must be compared to either approved reference areas or technical success standards.

Section IV.A provides information and examples for two methods of selecting observation points for collecting vegetation data. The first method, random point sampling, involves the selection of random points within the area to be evaluated and plotting the points on a map or aerial photograph. The second method, baseline sampling with multiple random starts, involves the random placement of a baseline within the target evaluation area, along with five randomly-placed transverse transects along the baseline. Either observation location method is appropriate for all revegetation performance parameters. Ground cover measurements should ideally involve 100 observation points, with a minimum of 75 points. Herbaceous productivity and wood plant stocking estimates require at least 15 measurements. The maximum sample number for ground cover and productivity/stem count distributions is 150 and 30, respectively. Permittees must use the statistical equations for binomially-distributed revegetation data in Appendix A to estimate a statistical adequate sample size for ground cover. They must use the statistical equations for normally-distributed revegetation data in Appendix A to estimate a statistically adequate sample size for productivity and woody-plant stocking.

Section IV.B provides guidance on adjusting for field conditions when conducting vegetation surveys. Non-vegetated structures such as permanent roads and ponds, riprap areas, and rock and brush piles created for wildlife are not to be included as part of the revegetation analyses. Habitat features in grazingland and pastureland must be included in ground cover and productivity measurements. Slopes under 25 percent should not influence on-the-ground measurement intervals. Individual areas to be surveyed must be under the same land use and management and must contain the same vegetation type.

Section IV.C provides guidelines for ground cover measurements. Ground cover measurements are required for all land uses, except for cropland after row crops have been planted. The point intercept method is the recommended method for determining ground cover. This section discusses the use of the point intercept method with a crosswire sighting device.

Section IV.D contains guidance for measurement of productivity. The method of measurement of productivity is dependent on the land use and the established vegetation. Productivity can be evaluated by hand-harvesting or with mechanized agricultural implements. Productivity measurements must be obtained during the growing season of the primary vegetation species. Either plot harvesting or whole-field harvesting are to be used for evaluation of herbaceous species and food or fiber crops. Herbaceous species should be harvested at the times appropriate to the plant species. Sampling should be timed to coincide with seed ripeness or the mature stage of the target vegetative

species. The moisture content of harvested herbaceous biomass and other vegetative/grain components must be standardized to eliminate weight variations due to moisture content. Moisture content must be determined using a properly calibrated, standard agricultural grain moisture tester. A determination that a statistically adequate sample size was obtained is performed on standardized or corrected dry weights. This section contains the formula for correcting the measured grain/bean weights to appropriate moisture contents. For whole-field harvesting, the total production from a hayed or harvested area is obtained by weighing the entire yields of the agricultural commodity. The permittee must notify the Commission 15 to 30 days before the harvest. The Commission may require that an inspector be on site during the harvest activity. Forage crops must be harvested following sound agronomic practices, including field-drying cut forage and not bailing until the forage moisture content is 25 percent or less. Moisture content for grains/beans must be adjusted to the accepted values for each agricultural commodity. The foreign material content of the grain/beans must be determined by a licensed grain dealer and the weight shrunk to marketable condition weight with a foreign material allowance of one percent. There is no allowances for harvest and handling losses. The harvesting of plots instead of the whole area is an acceptable alternative, as long as the yields of the plots are representative of the overall production. Appropriate sampling procedures for plots are included in this section. Sampling procedures include information to collect; plot size; harvest procedures; sample number; determination of moisture content; and a double-sampling method. This section also describes the grazing method to estimate productivity. The conversion of animal units (AU) to a weight of vegetation biomass for a given area can be used to estimate productivity in grazingland and pasture land uses instead of whole-field or plot harvesting. The animal numbers must be maintained in a manner that allows grazing of the current year's forage production without damaging future forage growth and quality. Included in this section is a table showing the minimum plant residue levels and stubble heights to sustain production and a table that contains a guide to animal-unit equivalents. Stocking rates must be verified by a signed affidavit from the party managing the grazing of a given area and must identify the time period covered and the class of livestock involved.

Section IV.E provides guidelines for woody plant stocking. Randomly-selected measurement locations are required for conducting woody plant stocking evaluations. Observation points should not be located within 20 feet of the edge of the stocked area. Observation points for woody plant counts can also be used for measuring ground cover. Woody plants counted for success determination must be alive and healthy and in place for two growing seasons. Miniplots, usually circular in shape, are used to determine stocking rates. The number of plots needed to characterize the evaluation area will depend on the variability of the vegetation. Approximately 30 plots should be randomly-placed, regardless of the size of the area to be evaluated. The number of samples required is calculated following procedures listed in Appendix A. The permittee must continue the sampling procedure until the actual number of measurements produces a statistically adequate sample size.

Section IV.F contains guidance on selecting and management of reference areas. The permittee must work closely with the Commission staff to select and develop a suitable reference area. Reference areas are unmined land units that are maintained under appropriate management for the purpose of measuring vegetation ground cover, productivity, and plant species diversity that are produced naturally or by agricultural production methods approved by the Commission. Reference areas must be representative of geology, soil, slope, and vegetation in the permit area. This section contains criteria for comparing revegetated mined areas and reference areas. Although it is not essential that the reference area be immediately adjacent to the mined, revegetated area, the two areas should be close enough to each other to prevent differences in rainfall distribution patterns.

We find that the requirements of Section IV meet the requirements of the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) that statistically valid sampling techniques for measuring success be selected by the regulatory authority and included in an approved regulatory program. We also find that this section is no less effective than the Federal regulations at 30 CFR 816.116(a)(2) and 817.116(a)(2) that require sampling techniques for measuring success to use a 90-percent statistical confidence interval (i.e., one-sided test with a 0.10 alpha error).

5. *Section V. Revegetation Success Standards.* This section lists the revegetation success standards for each land use type and provides information on determining productivity of the reclaimed areas. Nine general types of land use are included: grazingland; pastureland; cropland; forestry; fish and wildlife habitat; undeveloped land; industrial/commercial; residential; and recreation. We find that Texas' revegetation success guidelines for each land use type in combination with its previously approved regulations at 16 TAC 12.395 meet the Federal requirements at 30 CFR 816.116(a)(1) and 817.116(a)(1) that success standards be selected by the regulatory authority and included in its approved regulatory program. We also find that Texas' success standards for each land use type are no less effective than the Federal regulations at 30 CFR 816.116(b) and 817.116(b) that require standards for success be applied in accordance with the approved postmining land use.

a. Section V.A provides guidelines relating to ground cover and productivity standards for grazingland and pastureland. The ground cover values and productivity of mined, revegetated areas are compared either to the ground cover or productivity of an approved reference area or to approved technical standards. The revegetation success standard when reference areas are used is that the ground cover and the productivity of the revegetated grazingland or pastureland must be 90 percent of the reference area with a 90 percent statistical confidence.

The approved technical standards for ground cover on grazingland and pastureland are dependent upon the moisture regime (5- or 10-year extended responsibility period area) and the dominant plant species. For areas with an average annual precipitation greater than 26 inches, the ground cover standard is 95 percent for sod-forming grasses and 90 percent for bunch grass mixtures. For areas with an average annual precipitation less than or equal to 26 inches, the ground cover standard is 90 percent for sod-forming grasses and 80 percent for bunch grass mixtures. Seventy-five percent of the ground cover must be permit-approved species which support the land use. The remaining 25 percent can be permit-approved, desirable invader species.

Whole-field harvesting is appropriate for grazingland or pastureland harvested for hay. The harvest of plots is appropriate for all grazingland and pastureland. When reference areas are used, the permittee must compare the productivity of the reference area to the reclamation area. The lowest acceptable

value for the productivity of the reference area is 90 percent of the reference area productivity value. The actual yield for the reclaimed area must be used when comparing the data. Site-specific technical standards for grazingland and pastureland production are currently developed by the USDA-NRCS and are included in the permit application for each mine. These standards are site-specific with respect to rainfall, species/cultivar produced, soil mapping unit, and fertilization. The permittee must compare the productivity of the reclaimed area, with a 90 percent confidence interval, to the appropriate technical standard.

The Federal regulations at 30 CFR 816.116(b)(1) and 817.116(b)(1) require that ground cover and production of living plants on the revegetated grazingland or pastureland areas be at least equal to that of a reference area or such other success standards approved by the regulatory authority. We find that Texas' success standards for grazingland and pastureland are no less effective than these Federal requirements.

b. Section V.B contains guidance on the ground cover and productivity standards for cropland with non-prime farmland soils and cropland with prime farmland soils. Adequate ground cover to control erosion is required until crop production begins for both soil types.

(1) The productivity of mined, revegetated areas where non-prime farmland soils were involved is compared either to the productivity of an approved reference area or to approved technical standards. For non-prime farmland soils, the permittee must determine the lowest acceptable value for the productivity of the reference area by calculating 90 percent of the yield obtained form the reference area. The permittee must then compare the actual yield for the reclaimed area productivity to the lowest acceptable value for the reference area. For non-prime farmland soils, technical success standards must be determined by the USDA–NRCS at the request of the mine operator or landowner. The technical standards will be permit-specific and will be developed by using data on the expected individual crop productivity for the particular county and soil mapping unit, as published in the USDA–NRCS Field Office Technical Guides. For bond release in areas receiving more than 26 inches of precipitation (5-year responsibility period), the total field harvest of the crop for any two years, except the first year, will be compared to the approved productivity standard specifically developed for the particular crop and a particular growing season. In areas receiving 26 inches of precipitation or less (10-year responsibility period), the production standards must be met in at least the last 2 consecutive years of the responsibility period. The permittee must compare the productivity of the reclaimed area to 90 percent of the appropriate technical standards.

We find that Texas' success standards for non-prime farmland cropland are no less effective than the Federal regulations at 30 CFR 816.116(b)(2) and 817.116(b)(2) that require crop production on the revegetated area to be at least equal to that of a reference area or such other success standards approved by the regulatory authority. We also find that Texas' success standards for non-prime farmland cropland for areas of more than 26 inches of annual average precipitation are no less effective than the Federal regulations at 30 CFR 816.116(c)(2)(i) and 817.116(c)(2)(i) that require cropland to equal or exceed the approved success standard during the growing season of any two years of the responsibility period, except the first year. Lastly, we find that Texas' success standards for non-prime farmland cropland in areas receiving 26 inches of precipitation or less are no less effective than the Federal regulations at 30 CFR 816.116(c)(3)(i) and 817.116(c)(3)(i) that require cropland to equal or exceed the approved success standard for at least the last two consecutive years of the responsibility period.

(2) Prime farmland productivity will be restored in accordance with provisions specified in 16 TAC 12.625 (Prime Farmland: Revegetation and Restoration of Soil Productivity). Productivity of restored prime farmlands will be returned to equivalent levels of crop yields as non-mined land of the same soil type in the surrounding area under equivalent levels of crop yields as non-mined land of the same soil type in the surrounding area under equivalent management practices. Measurement of crop productivity will be initiated within 10 years after completion of soil replacement. The measurement period for determining average annual crop production shall be a minimum of three crop years prior to bond release. For areas receiving more than 26 inches of precipitation, crop production may be measured in any of the extended responsibility period years except the first. For areas receiving 26 inches of precipitation or less, the crop production standards must be met in at least the last two consecutive years of the extended responsibility period. The reference crops on which restoration of soil productivity is proven shall be selected from the crops most commonly produced on the surrounding prime farmland. Only two of the three required crop years may involve forage crops. Where row crops are the dominant crop grown on prime farmland in the area, the row crop requiring the greatest rooting depth must be chosen as one of the reference crops. Permittees must select reference crops through consultation with the USDA–NRCS. Reference areas are not applicable where restored prime farmland soils are involved. Productivity of crops grown on reclaimed prime farmland soils will be measured by using the crop yield of a reference crop produced on all or a portion of the reclaimed area. Crop yields will be determined through whole-field or plot harvesting. The reference crop yields for a given crop season will be compared to average yields for specific prime farmland soil series. These average yields are obtained from the USDA–NRCS National Soil Information System database, which contains information linking soil series and slope phase, land capability, and crop yields. Restoration of soil productivity will be considered achieved when the average yield during the measurement period equals or exceeds the average yield of the reference crop established for the same period for non-mined soils of the same or similar texture or slope phase of the soil series in the surrounding area under equivalent management practices.

By letter dated April 13, 1999, the USDA–NRCS State Conservationist in Texas concurred with the guidelines contained in Section V.B.4 concerning evaluation of productivity for restored prime farmland soils (Administrative Record No. TX–649).

Based on the USDA–NRCS concurrence and our own technical evaluation, we find the Texas' guidelines for restoration of prime farmland cropland are consistent with and no less effective than the Federal regulation requirements at 30 CFR 823.15 pertaining to revegetation and restoration of prime farmland soil productivity. We also find that Texas' success standards for prime farmland cropland for areas of more than 26 inches of annual average precipitation are no less effective than the Federal requirements at 30 CFR 816.116(c)(2)(i) and 817.116(c)(2)(i) that require cropland to equal or exceed the approved success standard during the growing season of any of the years of the responsibility period, except the first year. We find further that Texas' success standards for prime farmland cropland for areas of 26 inches or less of annual average precipitation are consistent with the Federal regulations at 30 CFR

816.116(c)(3)(i) and 817.116(c)(3)(i) that require cropland to equal or exceed the approved success standard during the growing seam of at least the last two consecutive years of the responsibility period.

c. Section V.C provides guidelines on the ground cover standards and woody-plant stocking rates for the forestry land use category. The forestry land use category is land used or managed for the long-term production of wood, wood fiber, or wood-derived products. Ground cover of mined, revegetated forestry areas are compared either to the ground cover of an approved reference area or to approved technical standards.

The ground cover of the reclaimed forest must be within 90 percent of the ground cover of the reference area, with a 90 percent statistical confidence. Only permit-approved permanent species and additional species found in the reference area will count toward the ground cover. The permittee must measure and record the ground cover value for the reference area and the reclaimed area. The permittee must then compare the reclaimed area ground cover estimate to 90 percent of the reference area cover value. If technical standards are used, they must be equal to or greater than 78 percent ground cover. The permittee must compare the reclaimed area ground cover estimate to 90 percent of the ground cover standard. Ground cover measurements must be evaluated in conjunction with information on the species composition. Seventy-five percent of the ground cover must be comprised of permit-approved species which support the land use and the remaining 25 percent can be comprised of desirable invader species. Lists of both types of species must be included in the approved reclamation plan.

The success of woody-plant stocking is determined by comparing the reclaimed forest area to a technical standard. The stocking rate success standards for woody plant species will be permit-specific and site-specific. Success standards for stocking rates will be developed by the applicant through consultation with the Texas Forest Service in accordance with guidelines included in attachment 3 of Texas' revegetation success guideline document. Success standards will be subject to review and comment during the permit review and will be approved by the Texas Forest Service. The permittee must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. Woody-plant stocking measurements must be evaluated in conjunction with information on the species composition of the stands.

We find that Texas' guidelines for forestry are consistent with and no less effective than the Federal regulation requirements at 30 CFR 816.116(b)(3) and 817.116(b)(3). The Federal regulations require that minimum stocking and planting arrangements be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agency responsible for the administration of forestry. Consultation and approval may occur on either a programwide or a permit-specific basis. As noted above, Texas is requiring consultation and approval on a permit-specific basis.

d. Section V.D contains guidance on ground cover standards and woody-plant rates for fish and wildlife habitat. Fish and wildlife habitat is land that is dedicated wholly or partially to the production, protection, or management of species of fish or wildlife.

The ground cover values of mined, revegetated areas are compared to an approved technical standard. The ground cover of the reclaimed fish and wildlife habitat must be within 90 percent of a 78 percent ground cover success standard with a 90 percent statistical confidence. Ground cover measurements must be evaluated in conjunction with information on the species composition of the stands. Seventy-five percent of the ground cover must include permit-approved species which support the land use. Twenty-five percent can be comprised of desirable invader species as established and approved in the permit.

The success of woody-plant stocking is measured by comparing the reclaimed habitat to a technical standard. The stocking rates for woody plant species will be permit-specific and site-specific. Stocking rates must be developed by the applicant through consultation with the Texas Parks and Wildlife Department in accordance with guidelines included in attachment 2 of Texas' revegetation success guideline document. Success standards will be subject to review and comment during the permit review and will be approved by the Texas Parks and Wildlife Department. Permittees must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. Woody-plant stocking measurements must be evaluated in conjunction with information on the species composition of the stands.

We find that Texas' guidelines for fish and wildlife habitat are consistent with and no less effective than the Federal regulation requirements at 30 CFR 816.116(b)(3) and 817.116(b)(3). The Federal regulations require that minimum stocking and planting arrangements be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agency responsible for the administration of wildlife programs. Consultation and approval may occur on either a programwide or a permit-specific basis. As noted above, Texas is requiring consultation and approval on a permit-specific basis.

e. Section V.E provides guidelines on ground cover standards and woody-plant stocking rates for undeveloped land. Undeveloped land (no current use or land management) is land that is undeveloped or, if previously developed, land that has been allowed to return naturally to an undeveloped state or has been allowed to return to forest through natural succession.

The ground cover values of mined, revegetated areas are compared to approved technical standards. The choice of technical standards to employ depends on the dominant vegetation growth form found in the undeveloped land: grasses or woody species. If grasses are predominant and the areas have an average annual precipitation greater than 26 inches, the ground cover standard is 95 percent for sod-forming grasses and 90 percent for bunch grass mixtures. If grasses are predominant and the areas have an average annual precipitation less than or equal to 26 inches, the ground cover standard is 90 percent for sod-forming grasses and 80 percent for bunch grass mixtures. If woody species are predominant, the technical standard for ground cover is 78 percent. The permittee must compare the ground cover estimate to 90 percent of the appropriate ground cover standard. Ground cover measurements must be evaluated in conjunction with information on the species composition of the stands.

Woody-plant stocking is measured by comparing the reclaimed area to a technical standard. The stocking rates for woody plant species are permit-specific and site-specific. The permittee must develop stocking rates through consultation with the Texas Parks and Wildlife Department in accordance with guidelines included in attachment 2 of Texas' guideline document. Success standards will be subject to review and comment during the permit review and will be approved by the Texas Parks and Wildlife Department. The permittee must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. Woody-plant stem count measurements

must be evaluated in conjunction with information on the species composition of the stands.

The Federal regulations at 30 CFR 816.116(b) and 817.116(b) do not contain specific reclamation success standards for undeveloped land. However, we find that Texas' guidelines for undeveloped land are not inconsistent with the requirements of the Federal regulations at 30 CFR 816.116(b)(3) and 817.116(b)(3) for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products.

f. Section V.F contains guidelines relating to ground cover standards and woody-plant stocking rates for industrial/commercial land uses. These land uses involve either (1) extraction or transformation of materials for fabrication of products, wholesaling of products, or for long-term storage of products or (2) retail or trade of goods or services.

Ground cover must be adequate to control erosion. Woody-plant stocking, if it is implemented, is measured by comparing the reclaimed area to a technical standard. The stocking rates for woody plant species will be permit-specific and site-specific. Stocking rates must be developed by the applicant through consultation with the Texas Parks and Wildlife Department in accordance with guidelines included in attachment 2 of Texas' revegetation success guidelines. Woody-Plant stocking success standards will be subject to review and comment during the permit review and will be approved by the Texas Parks and Wildlife Department. Permittees must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. Woody-plant stem count measurements must be evaluated in conjunction with information on the species composition of the stands.

We find that Texas' ground cover guidelines are no less effective than the Federal regulation requirements at 30 CFR 816.116(b)(4) and 817.116(b)(4) for areas to be developed for industrial, commercial, or residential use. The Federal regulations do not contain a woody-plant stocking standard for these land uses. However, we find that Texas' woody-plant stocking guidelines are consistent with the minimum stocking and planting arrangement requirements of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products.

g. Section V.G provides guidance on ground cover standards and woody-plant stocking rates for a residential land use. This land use includes single- and multiple-family housing, mobile home parks, and other residential lodgings. Ground cover must be adequate to control erosion. Woody-plant stocking, if used, is measured by comparing the reclaimed area to a technical standard. The stocking rates for woody plant species will be permit-specific and site-specific. Stocking rates will be developed by the applicant through consultation with the Texas Parks and Wildlife Department, in accordance with guidelines included in attachment 2 of Texas' revegetation success guideline document. Success standards will be subject to review and comment during the permit review and will be approved by the Texas Parks and Wildlife Department. The permittee must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. Woody-plant stem count measurements must be evaluated in conjunction with information on the species composition of the stands.

We find that Texas' ground cover guidelines for residential land use are no less effective than the Federal regulation requirements at 30 CFR 816.116(b)(4) and 817.116(b)(4) for areas to be developed for industrial, commercial, or residential use. The Federal regulations do not contain a woody-plant stocking standard for this land use. However, we find that Texas' woody-plant stocking guidelines are consistent with the minimum stocking and planting arrangement requirements of the Federal regulations at 30 CFR 816.116(b)(3)(i) and 817.116(b)(3)(i) for areas to be developed for fish and wildlife habitat, recreation, shelter belts, or forest products.

h. Section V.H contains guidelines on ground cover standards and woody-plant stocking rates for recreation land uses. This land use involves public or private leisure-time use, including developed recreation facilities such as parks, camps, and amusement areas. It may also include less intensive uses such as hiking, canoeing, and other undeveloped recreational uses. Ground cover must be sufficient to control erosion. Woody-plant stocking is measured by comparing the reclaimed area to a technical standard. The stocking rates for woody plant species will be permit-specific and site-specific. Stocking rates will be developed by the applicant through consultation with the Texas Parks and Wildlife Department in accordance with guidelines included in attachment 2 of Texas' revegetation success guideline document. Success standards will be subject to review and comment during the permit review and will be approved by the Texas Parks and Wildlife Department. The permittee must compare the mean stem count of the reclaimed area to 90 percent of the appropriate stem count standard. The permittee must evaluate woody-plant stem count measurements in conjunction with information on the species composition of the stands.

We find that Texas' guidelines for recreation land use are consistent with and no less effective than the Federal regulation requirements at 30 CFR 816.116(b)(3) and 817.116(b)(3). The Federal regulations require that minimum stocking and planting arrangements be specified by the regulatory authority on the basis of local and regional conditions and after consultation with and approval by the State agency responsible for the administration of wildlife programs. Consultation and approval may occur on either a programwide or a permit-specific basis. As noted above, Texas is requiring consultation and approval on a permit-specific basis.

6. *Section VI. Literature Cited.* This section provides a listing of the literature used in developing the guideline document. We find that this section is not inconsistent with the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1).

7. *Appendices and Attachments.* Texas included the following appendices and attachments in its revegetation success guideline document.

a. Appendix A contains the statistical information, including equations and tables, to be used in the determination of revegetation success for ground cover, productivity, and woody-plant stocking. We conducted a technical review of the statistical operations contained in appendix A, and we found that they meet the requirements of the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1) that statistically valid sampling techniques for measuring success be selected by the regulatory authority and included in an approved regulatory program.

b. Appendix B provides a table summarizing the revegetation success standards for all land uses. The table in Appendix B includes the revegetation parameters, performance standards, and conditions for bond release relating to each land use. We find that the addition of this summary is not inconsistent with the Federal regulations at 30 CFR 816.116(a)(1) and 817.116(a)(1).

c. Appendix C contains examples of revegetation success determinations for ground cover and productivity involving herbaceous biomass and woody plant stem counts. The addition

of examples will aid the permittees in making revegetation success determinations when using the statistical sampling techniques in Texas' revegetation success guideline document. Therefore, we find that appendix C is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(a)(1) and 817.116(a)(1).

d. Attachment 1 is a document entitled ''The Development of the Forage Production Standards for Post Mine Soils'' by the United States Department of Agriculture—Natural Resources Conservation Service. It contains an example of the methodology used by the USDA–NRCS to develop site-specific productivity standards for mining companies in Texas to use in demonstrating grazingland and pastureland productivity success on reclaimed areas. We find that the addition of attachment 1 is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(a)(1) and 30 CFR 817.116(a)(1).

e. Attachment 2 is a document entitled ''Texas Parks and Wildlife Department Recommendations for the Development of Success Standards for Woody-Plant Stocking Rates.'' Permit applicants must develop woody-plant stocking rates for various land uses through consultation with the Texas Parks and Wildlife Department in accordance with the guidelines included in this attachment. We find that the addition of attachment 2 is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(a)(1) and 30 CFR 817.116(a)(1).

f. Attachment 3 is a document entitled ''Texas Forest Service Recommendations for Reforestation of Pine and Hardwoods in Texas.'' Permit applicants must develop woody-plant stocking rates for forestry land uses through consultation with the Texas Forest Service in accordance with the guidelines included in this attachment. We find that the addition of attachment 3 is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(a)(1) and 30 CFR 817.116(a)(1).

B. Normal Husbandry Practices for Surface-Mined Lands in Texas

Texas submitted a guideline document that describes the husbandry practices that may be used by the permittee during the period of responsibility for revegetation success and bond liability without restarting the extended responsibility period. The Texas Coal Mining Regulations at 16 TAC 12.395(c)(4) allow the Commission to approve selective husbandry practices provided it obtains prior approval from OSM that the practices are normal husbandry practices. The Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4) allow each regulatory authority to approve selective husbandry practices as normal husbandry practices, excluding augmented seeding, fertilization, or irrigation, provided it obtains prior approval for the practices from OSM in accordance with 30 CFR 732.17. These normal husbandry practices may be implemented without extending the period of responsibility for revegetation success and bond liability if such practices can be expected to continue as part of the postmining land use or if discontinuance of the practices after the liability period expires will not reduce the probability of permanent revegetation success. Approved practices must be normal husbandry practices within the region for unmined lands having land uses similar to the approved postmining land use of the disturbed area, including such practices as disease, pest, and vermin control. It also includes any pruning, reseeding, and transplanting needed because of these practices. Texas developed a normal husbandry practices guideline document to implement these requirements.

As discussed in the findings below, we find that the normal husbandry practices contained in the guideline document satisfy the requirements of 30 CFR 816.116(c)(4) and 817.116(c)(4).

1. *Section I. Introduction.* The introductory section provides the scope, purpose, and applicability of the normal husbandry practices guideline document. The guideline document includes the normal husbandry practices that permittees must use for disease and pest control, application of fertilizers, application and incorporation of other soil amendments, and any other necessary soil vegetation management activities on surface-mined lands in Texas during the extended responsibility period. Husbandry practices not included in this document may be considered augmentative in nature and, if performed on land that is currently in the extended responsibility period, may restart that period. The decision whether a particular activity can be classified as a normal husbandry practice will depend both on the regulatory requirements of the Texas Coal Mining Regulations and the postmining land use.

We find that this introductory section is not inconsistent with the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4), and we are approving it.

2. *Section II. Regulatory Requirements.*

a. This section references the regulatory requirements for meeting revegetation success under the Texas Surface Coal Mining and Reclamation Act at sections 134.041, .092(a)(19) and (20), and .104. It also references the implementing performance standards for revegetation success in the Texas Coal Mining Regulations at 16 TAC 12.390 through 12.395, and 12.399. Texas discusses the applicability of section of 16 TAC 12.395(c)(4), which recognizes that the Commission may determine that certain management practices will not extend the responsibility period for revegetation success and bond liability.

We previously approved the regulations referenced and described in this section, and we agree that they are applicable to the proposed normal husbandry practices guideline document. Therefore, we find that the reference to and discussion of these regulations in this section of the document is not inconsistent with the Federal regulation requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4).

b. Texas noted that the Commission intends that the terms ''husbandry'' and ''augment'' both have their ordinary meanings as follows:

> Husbandry—the control or judicious use of resources: conservation; the cultivation or production of plants and animals: agriculture; the scientific control and management of a branch of farming and especially of domestic animals.
>
> Augment—to make (something well or adequately developed) greater, more numerous, larger, or intense.

We find that Texas' definitions for the terms ''husbandry'' and ''augment'' are not inconsistent with the Federal regulation requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4).

3. *Section III. Conventions for Normal Husbandry Practices.* Texas lists the following three conventions regarding normal husbandry practices for surface-mined lands in Texas:

> (1.) Normal husbandry practices are region-specific and include activities performed by landowners managing lands not disturbed by mining activities. For example, limestone application and incorporation is not practiced anywhere in the South Texas Plains vegetational area; therefore, liming would not be a normal husbandry practice for mines situated in this region. Practices required to address problems that arise from mining-related activities are not considered normal husbandry practices.
>
> (2.) Normal husbandry practices are those activities that can expected to continue as part of the postmining land use.
>
> (3.) Discontinuance of the husbandry practices will not reduce the probability of revegetation success. For example, the discontinuance of maintenance fertilization

on grazingland would not result in loss of vegetative cover (it might lead to an alteration of the species composition, however).

We find that Texas' conventions for normal husbandry practices at Section III are consistent with the requirements of the Federal regulations at 30 CFR 816.116(c)(4) and 817.117(c)(4).

4. *Section IV. Normal Husbandry Practices, as Influenced by Land Uses.* In Section IV, Texas proposes normal husbandry practices for six vegetative community postmining land uses defined in the Texas program: grazingland; pastureland; cropland; forestry; fish and wildlife habitat; and undeveloped land. The normal husbandry practices listed for grazingland, pastureland, cropland, forestry, and fish and wildlife habitat are divided into three general categories: (1) general management of soil and vegetation; (2) addition of plant nutrients and other soil amendments; and (3) pest management. Documents defining the normal husbandry practices for each category are referenced. Texas submitted copies of these documents to support its proposed practices for disease and pest control; application of fertilizers; application and incorporation of other soil amendments; and other necessary soil vegetation management activities on surface-mined lands. Because the definition of undeveloped land excludes any type of management inputs during the extended responsibility period, Texas is only allowing limited erosion repair for this land use.

We determined that the documents submitted by Texas and referenced in Section IV represent normal husbandry practices in Texas, and we find that Section IV is no less effective than the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(4).

5. *Section V. Repair of Damaged Reclaimed Areas and Removal of Structures.* In Section V, Texas provides guidelines for erosion repair, other damage repair, reseeding areas, overseeding, and restocking of woody species. Texas also included a provision for regrading and revegetation of areas where temporary structures have been removed. By letter dated May 4, 1999, the USDA–NRCS State Conservationist in Texas concurred with Texas' proposed guidelines for repair of damaged areas and removal of structures in Section V.

a. Because reclaimed sites may experience some type of damage to established vegetation at some point during the period of extended responsibility, Texas may consider repair of erosion or other types of damage as a normal husbandry practice, provided that the damage is not caused by a lack of planning, design, or implementation of the mining and reclamation plan. Examples of such damage includes small slips, channel erosion, and unauthorized access. The total acreage of repaired areas cannot exceed three contiguous acres or ten percent of the total land of the extended responsibility area. In cases of erosion, repairs may be considered nonaugmentative if rill and gully damage was caused by precipitation exceeding a 10-year/24-hour event or damage occurred before the first two years of a 5-year extended responsibility period or four years of a 10-year extended responsibility period. After the first two or four years, whichever is applicable, total acreage for erosion repair cannot exceed one contiguous acre or two percent of the total land of that extended responsibility area. Texas will require that areas undergoing damage repair be fully revegetated with permanent, permit-approved species for at least one year before final bond release and meet all vegetation cover and productivity success standards. Documents defining the normal husbandry practices relating to general management, addition of plant nutrients and other soil amendments, and pest management for erosion repair areas are referenced in this section. Texas submitted copies of these documents and the USDA–NRCS concurrence letter, discussed above, to support its proposed normal husbandry practice guidelines for repair of erosion or other types of damage.

We determined that the documents submitted by Texas and referenced in Section V represent normal husbandry practices in Texas for repair of erosion or other types of damage. We believe that by limiting the size of areas that may be repaired without restarting the extended responsibility period and by demonstrating that such practices are supported as normal husbandry practices, Texas has ensured that the probability of revegetation success will not be reduced. Therefore, we find that Texas' proposed guidelines for repair of erosion or other types of damage are consistent with and no less effective than the Federal regulation requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4).

b. Texas will determine whether or not regrading and revegetation of areas where temporary structures such as sediment ponds, roads, and small diversions have been removed are nonaugmentative on a case-by-case basis. Areas that may pose significant potential for reclamation problems will require a separate extended responsibility period. Texas will require that areas undergoing removal of structures be fully revegetated with permanent, permit-approved species for at least one year before final bond release and meet all vegetation cover and productivity success standards.

Texas' provision that areas will be fully revegetated for at least one year before final bond release and meet all vegetation cover and productivity success standards will ensure that the vegetation of these areas will be subject to Texas' counterparts to the Federal regulations at 30 CFR 816.116 and 817.116 relating to the attainment of revegetation success. It will also discourage the removal of ponds, roads, or diversions toward the end of the liability period for the surrounding area because these areas would not qualify for final bond release until vegetative cover is fully established and meets Texas' revegetation standards. Texas' reference to temporary roads in its policy is interpreted by OSM to mean those roads necessary for maintenance of sediment ponds, diversions, and reclamation areas. Ancillary roads used for maintenance do not include haul roads or other primary roads which should have been removed upon completion of mining. It is also noted that in its letter dated May 4, 1999, the USDA–NRCS State Conservationist concurred with Texas' guideline for removal of structures.

Although Texas' guideline is primarily concerned with defining normal husbandry practices, the term ''nonaugmentative'' is used with reference to the removal and reclamation of structures used in support of reclamation. Texas specifically states in its guideline that the removal and reseeding of the structures is not a normal husbandry practice. We agree that reclamation of these areas, while being nonaugmentative, is not a normal husbandry practice.

As outlined in the May 29, 1996, **Federal Register** (61 FR 26792), OSM has adopted the policy published for comment in the September 15, 1993, **Federal Register** (58 FR 48333). Section 515(b)(20) of SMCRA provides that the revegetation responsibility period shall commence ''after the last year of augmented seeding, fertilizing, irrigation, or other work'' needed to assure revegetation success. In the absence of any indication of Congressional intent in the legislative history, OSM interprets this requirement as applying to the increment or permit area as a whole, not individually to those lands within the

permit area upon which revegetation is delayed solely because of their use in support of the reclamation effort on the planted area. As implied in the preamble discussion of 30 CFR 816.46(b)(5), which prohibits the removal of ponds or other siltation structures until two years after the last augmented seeding, planting of the sites from which such structures are removed need not itself be considered an augmented seeding necessitating an extended or separate liability period (48 FR 44038–44039, September 26, 1983).

The purpose of the revegetation responsibility period is to ensure that the mined area has been reclaimed to a condition capable of supporting the desired permanent vegetation. Achievement of this purpose will not be adversely affected by this interpretation of section 515(b)(20) of SMCRA because the lands involved are relatively small in size and either widely dispersed or narrowly linear in distribution and the delay in establishing revegetation on these sites is due not to reclamation deficiencies or the facilitation of mining, but rather to the regulatory requirement that ponds and diversions be retained and maintained to control runoff from the planted area until the revegetation is sufficiently established to render such structures unnecessary for the protection of water quality.

In addition, the areas affected likely would be no larger than those which could be reseeded (without restarting the revegetation period) in the course of performing normal husbandry practices, as that term is defined in 30 CFR 816.116(c)(4) and explained in the preamble to that rule (53 FR 34636, 34641; September 7, 1988; 52 FR 28012, 28016; July 27, 1987). Areas this small would have a negligible impact on any evaluation of the permit area as a whole. Most importantly, this interpretation is unlikely to adversely affect the regulatory authority's ability to make a statistically valid determination as to whether a diverse, effective permanent vegetative cover has been successfully established in accordance with the appropriate revegetation success standards. From a practical standpoint, it is usually difficult to identify precisely where such areas are located in the field once revegetation is established in accordance with the approved reclamation plan.

Based on the above discussion, we find that Texas' guideline for regrading and revegetation of areas where temporary structures have been removed is consistent with and no less effective than the Federal regulations at 30 CFR 816.46(b)(5) and (6), 817.46(b)(5) and (6), 816.150(f)(6), 817.150(f)(6), and sections 515(b)(19) and (20) of SMCRA, as clarified by OSM in the September 15, 1993, **Federal Register** (58 FR 48333).

c. Overseeding of winter cover crops and/or summer annuals, into existing vegetation, is considered a normal husbandry practice. Texas will require reseeding activities to be included in the mining company's reclamation plan. Texas referenced documents defining the normal husbandry practices relating to general management, addition of plant nutrients and other soil amendments, and pest management for reseeded areas. Texas submitted copies of these documents to support reseeding areas. We determined that the documents submitted by Texas and referenced in Section V represent normal husbandry practices in Texas for overseeding of winter cover crops and/or summer annuals, into existing vegetation. Therefore, we find that Texas' proposed guidelines for overseeding are consistent with and no less effective than the Federal regulation requirements at 30 CFR 816.116(c)(4) and 817.116(c)(4).

d. Restocking of woody species is allowed, as long as the time and quantity of restocking is in compliance with Texas' regulations at 16 TAC 12.395(b)(3)(B). These regulations require that trees and shrubs counted in determining the success of stocking be in place for not less than two growing seasons. At the time of bond release, at least 80 percent of the trees and shrubs used to determine the success of stocking must have been in place for 60 percent of the applicable minimum period of responsibility. Texas' requirements for tree and shrub stocking are consistent with the Federal requirements at 30 CFR 816.116(b)(3)(ii) and 817.116(b)(3)(ii). We agree that restocking of woody species is allowed under both the State and Federal regulations, as long as the time and quantity of restocking is in compliance with the regulations. Therefore we are approving this guideline.

6. *Section VI. Non-Normal and Unacceptable Husbandry Practices or Augmentation.* In Section VI, Texas lists those activities that are considered unacceptable husbandry practices. The activities include: reseeding of areas devoid of vegetation due to acid mine soils; irrigation; supplemental watering of herbaceous vegetation and supplemental watering of large woody stock later than two years after planting; all application and incorporation of alkaline amendments, except for non-excessive application; and excessive application of plant nutrients. If any of the listed practices are performed, the extended responsibility period for the affected areas will restart. Texas does not consider practices required to address problems that arise from mining-related activities as normal husbandry practices. Texas will use information from field inspection reports and mine-soil chemical analysis data to evaluate unacceptable husbandry practices or augmentation. We agree that the activities listed in this section are not normal husbandry practices and that they should not be allowed without extending the period of responsibility for revegetation success and bond liability. Therefore, we find that Section VI is not inconsistent with the Federal regulations for normal husbandry practices at 30 CFR 816.116(c)(4) and 817.116(c)(4).

7. *Section VII. Literature Cited.* This section provides a listing of the literature used in developing the guideline document. We find that this section is not inconsistent with the Federal regulations at 30 CFR 816.116(c)(4) and 817.116(c)(r).

IV. Summary and Disposition of Comments

Public Comments

On June 1, 1999, we asked for public comments on the amendment (64 FR 19249). By letter dated June 9, 1999, the Texas Utilities Company System (TXU) Business Services provided comments on behalf of TXU Mining Company (TX–649.05). The TXU Business Services commented that TXU supports the proposed amendment, and the proposed procedures and standards provide adequate guidelines for determining revegetation success for the release of reclamation performance bonds. The TXU Business Services also stated that the amendment provides a clear description of the normal husbandry practices that may be used by permittees during the period of extended responsibility for revegetation success and bond liability. As shown in the findings above, we agree with the comments provided by the TXU Business Services.

Federal Agency Comments

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from various Federal agencies with an actual or potential interest in the Texas program (Administrative Record No. TX–649.03). By letter dated June 3, 1999 (Administrative Record No. TX–469.04), the USDA–NRCS State Conservationist in Temple, Texas, asked us to note that the amendment contained two letters from his office concurring on specific sections of the documents. He stated

that the USDA–NRCS was an active participant in the development of the documents, and he noted that the USDA–NRCS has worked with both the Texas Railroad Commission and individual mining companies in the State on reconstruction and reclamation of surface mined land. As indicated by the USDA–NRCS, the amendment contains letters dated April 13, 1999, and May 4, 1999, in which the USDA–NRCS concurs with Section V.B.4 of Texas' revegetation success guideline document and Section V of Texas' normal husbandry practices guideline document, respectively. As discussed in Finding A.5.b.(2), the USDA–NRCS concurred with Texas' guidelines for evaluation of productivity for restored prime farmland soils, and as discussed in Findings B.5. and B.5.b, the USDA–NRCS concurred with Texas' guidelines for repair of damaged reclaimed areas and removal of structures.

By letter dated June 18, 1999, the U.S. Army Corps of Engineers (Corps) commented on Texas' amendment (Administrative Record No. TX–649.08). The Corps recommended that the proposed amendment specify all measures in the International System of Units (SI), in lieu of the inch-pound (IP) system. The Federal regulations at 30 CFR 816.116 and 817.116 do not require States to use the International System of Units in their guidelines for determining revegetation success or normal husbandry practices. Also, the standards and specifications for revegetation developed by the USDA–NRCS, the Texas Agricultural Extension Services, major universities, and other recognized sources use the inch-pound system. However, we will give a copy of the comments to Texas for its consideration when developing future amendments.

Environmental Protection Agency (EPA)

Under 30 CFR 732.17(h)(11)(ii), we are required to get a written agreement from the EPA for those provisions of the program amendment that relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). None of the provisions in this amendment pertain to air or water quality standards. Therefore, we did not ask the EPA to agree on the amendment.

Under 30 CFR 732.17(h)(11)(i), we requested comments on the amendment from the EPA (Administrative Record No. TX–649.01). The EPA did not respond to our request.

State Historical Preservation Officer (SHPO) and the Advisory Council on Historic Preservation (ACHP)

Under 30 CFR 732.17(h)(4), we are required to request comments from the SHPO and ACHP on amendments that may have an effect on historic properties. On May 21, 1999, we requested comments on Texas' amendment (Administrative Record No. TX–649.02), but neither responded to our request.

V. Director's Decision

Based on the above findings, we approve the amendment as sent to us by Texas on May 13, 1999, and as revised on June 30, 1999.

To implement this decision, we are amending the Federal regulations at 30 CFR Part 943, which codify decisions concerning the Texas program. We are making this final rule effective immediately to expedite the State program amendment process and to encourage Texas to bring its program into conformity with the Federal standards. SMCRA requires consistency of State and Federal standards.

VI. Procedural Determinations

Executive Order 12866

The Office of Management and Budget (OMB) exempts this rule from review under Executive Order 12866 (Regulatory Planning and Review).

Executive Order 12988

The Department of the Interior has conducted the reviews required by section 3 of Executive Order 12988 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on State regulatory programs and program amendments must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR Parts 730, 731, and 732 have been met.

National Environmental Policy Act

This rule does not require an environmental impact statement since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon corresponding Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Therefore, this rule will ensure that existing requirements previously published by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the corresponding Federal regulations.

Unfunded Mandates

OSM has determined and certifies under the Unfunded Mandates Reform Act (2 U.S.C. 1502 *et seq.*) that this rule will not impose a cost of $100 million or more in any given year on local, state, or tribal governments or private entities.

List of Subjects in 30 CFR Part 943

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 28, 1999.

Charles E. Sandberg,

Acting Regional Director, Mid-Continent Regional Coordinating Center.

For the reasons set out in the preamble, 30 CFR Part 943 is amended as set forth below:

PART 943—TEXAS

1. The authority citation for Part 943 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 943.15 is amended in the table by adding a new entry in chronological order by ''Date of final publication'' to read as follows:

§ 943.15 Approval of Texas regulatory program amendments.

* * * * *

Original amendment submission date	Date of final publication	Citation/description
* *	* *	* * *
May 13, 1999	August 12, 1999	Procedures and Standards for Determining Revegetation Success on Surface-Mined Lands in Texas; Normal Husbandry Practices for Surface-Mined Lands in Texas.

[FR Doc. 99–20840 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–05–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 590

UNITA (Angola) Sanctions Regulations: Implementation of Executive Orders 13069 and 13098

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Final rule; amendments.

SUMMARY: The Office of Foreign Assets Control of the U.S. Department of the Treasury is amending the UNITA (Angola) Sanctions Regulations to implement Executive Order 13069 of December 12, 1997, and Executive Order 13098 of August 18, 1998, prohibiting certain transactions with respect to the National Union for the Total Independence of Angola (''UNITA'') and to make other technical and conforming changes.

EFFECTIVE DATE: AUGUST 12, 1999.

FOR FURTHER INFORMATION CONTACT: John T. Roth, Chief, Policy Planning and Program Management, tel.: 202/622–2500, or William B. Hoffman, Chief Counsel, tel.: 202/622–2410, Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220.

SUPPLEMENTARY INFORMATION:

Electronic Availability

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Background

On September 26, 1993, in view of United Nations Security Council Resolution No. 864 of September 15, 1993, President Clinton issued E.O. 12865, 58 FR 51005, 3 CFR, 1993 Comp., p.636, declaring a national emergency with respect to UNITA's actions in Angola and placing sanctions on UNITA. Executive Order 12865 prohibits the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of arms, arms–related materiel of all types, petroleum, and petroleum products, regardless of their origin, to the territory of Angola, other than through designated points of entry, or to UNITA. Executive Order 12865 also prohibits any activity by U.S. persons or in the United States that promotes or is calculated to promote such prohibited sale or supply. On December 10, 1993, the Office of Foreign Assets Control of the Department of the Treasury (''OFAC'') implemented Executive Order 12865 by promulgating the UNITA (Angola) Sanctions Regulations, 31 CFR Part 590 (the ''Regulations'').

On December 12, 1997, President Clinton issued Executive Order 13069, 62 FR 65989, 3 CFR, 1997 Comp., p.232, placing additional sanctions on UNITA, taking into account the provisions of United Nations Security Council Resolutions 1127 of August 28, 1997, and 1130 of September 29, 1997. Effective 12:01 a.m. EST on December 15, 1997, Executive Order 13069 closes all UNITA offices in the United States and prohibits various aircraft–related transactions. Specifically, section 2(a) of Executive Order 13069 prohibits the sale, supply, or making available in any form by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of aircraft or aircraft components, regardless of their origin, to the territory of Angola, other than through designated points of entry, or to UNITA. Section 2(b) prohibits the insurance, engineering, or servicing of UNITA aircraft by United States persons or from the United States. Section 2(c) prohibits the granting of takeoff, landing, or overflight permission to any aircraft on flights or continuations of flights to or from the territory of Angola other than to or from designated places in Angola. Section 2(d) prohibits the provision of engineering and maintenance servicing, the certification of airworthiness, the payment of new insurance claims against existing insurance contracts, and the provision, renewal, or making available of direct insurance by a United States person or from the United States with respect to any aircraft registered in Angola, except designated aircraft, and with respect to any aircraft that have entered the territory of Angola other than through designated points of entry.

On August 18, 1998, President Clinton issued Executive Order 13098, 63 FR 44771, 3 CFR, 1998 Comp., p.206, placing further sanctions on UNITA, taking into account the provisions of United Nations Security Council Resolutions 1173 of June 12, 1998, and 1176 of June 24, 1998. These additional sanctions went into effect at 12:01 a.m. EDT on August 19, 1998. Section 1 of Executive Order 13098 blocks all property and interests in property of UNITA, designated senior UNITA officials, and designated adult members of their immediate families if the property or property interests are in the United States, hereafter come within the United States, or are or hereafter come within the possession or control of United States persons. Section 2 prohibits the importation into the United States of all diamonds exported from Angola that are not controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation (the ''GURN''). Section 2 also prohibits the

sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of equipment used in mining and of motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft, regardless of their origin, to the territory of Angola other than through designated points of entry. Finally, section 2 prohibits the sale or supply by U.S. persons, or from the United States or using U.S.–registered vessels or aircraft, of mining services or ground or waterborne transportation services, regardless of their origin, to persons in designated areas of Angola to which the GURN's State administration has not been extended.

Accordingly, to implement Executive Orders 13069 and 13098, and to make technical and conforming changes, OFAC is amending the Regulations. Since the amendments are extensive, part 590 is being reissued in its entirety.

New prohibitions are added to the Regulations to reflect the new sanctions imposed in Executive Orders 13069 and 13098, and certain existing prohibitions are renumbered. The text of existing § 590.202 has been replaced by new language implementing section 1 of Executive Order 13069, requiring the closure of all UNITA offices located in the United States. The text of existing § 590.203 has been moved to new § 590.211 and replaced by new language implementing the aircraft–related prohibitions contained in section 2 of Executive Order 13069 that are within the Treasury Department's jurisdiction. Thus, § 590.203 now prohibits the sale, supply, or making available in any form by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of aircraft or aircraft components, regardless of origin, to the territory of Angola, other than through a point of entry designated in new appendix B to part 590, or to UNITA. Section 590.203 also prohibits the insuring, engineering, or servicing by United States persons or from the United States of any aircraft owned or controlled by UNITA. Finally, § 590.203 prohibits the provision or making available of engineering and maintenance servicing, the payment of new claims against insurance contracts in existence as of December 15, 1997, and the provision, renewal, or making available of direct insurance by United States persons or from the United States after December 14, 1997, with respect to aircraft registered in Angola, other than aircraft designated in new appendix C to part 590, or with respect to any aircraft that have entered the territory of Angola other than through a point of entry designated in new appendix B to part 590. (Provisions in section 2 of Executive Order 13069 relating to the granting of takeoff, landing, and overflight permission to certain aircraft and the certification of airworthiness for certain aircraft are not addressed by this final rule, but instead are implemented by the Department of Transportation.)

Section 590.204 of the Regulations, implementing section 2(b) of Executive Order 13098, prohibits the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of equipment used in mining, regardless of origin, to the territory of Angola other than through a point of entry designated in new appendix B to part 590. Section 590.205 of the Regulations, implementing section 2(c) of Executive Order 13098, imposes the same prohibition with respect to motorized vehicles, watercraft, and spare parts for motorized vehicles or watercraft. Section 590.206 of the Regulations, implementing section 2(d) of Executive Order 13098, prohibits the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of mining services or ground or waterborne transportation services, regardless of origin, to persons in areas of Angola to which the GURN's State administration has not been extended, as designated in new appendix D to part 590.

Section 590.207 of the Regulations, implementing section 1 of Executive Order 13098, blocks all property and interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of U.S. persons, including their overseas branches, of UNITA and those senior UNITA officials or adult members of their immediate families designated by the Secretary of the Treasury or the Secretary's delegate. As defined in § 590.314 of the Regulations, UNITA includes all persons owned or controlled by or acting for or on behalf of UNITA. Section 590.209 and 590.210 of the Regulations detail the effect of transfers of blocked property in violation of the Regulations and the required holding of blocked property in interest–bearing accounts.

Section 590.208 of the Regulations, implementing section 2(a) of Executive Order 13098, prohibits the direct or indirect importation into the United States of all diamonds exported from Angola after August 18, 1998, unless those diamonds are controlled through the Certificate of Origin regime of the GURN.

Various new definitions are added to the Regulations, several existing definitions are revised, and all of the definitions are placed in alphabetical order and renumbered accordingly. Due to the substantial increase in regulated commodities that are not normally controlled for export as dual–use items, OFAC has decided to discontinue use of the Commerce Control List as the primary reference for defining the broad categories of commodities now regulated by the Regulations and to reference instead the relevant chapters, headings, and subheadings of Harmonized Tariff Schedule of the United States (''HTS''). Thus, the term ''aircraft or aircraft components'' is defined in § 590.301 of the Regulations by reference to the relevant chapter of the HTS. Similarly, the terms ''diamonds,'' ''equipment used in mining,'' and ''motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft'' are defined in §§ 590.305, 590.308, and 590.313 respectively by reference to the relevant HTS subheadings. For consistency, the existing definitions for ''arms and related materiel'' and ''petroleum and petroleum products,'' now located at §§ 590.302 and 590.316 respectively, have been modified by replacing the references to the Commerce Control List with references to the relevant chapters of the HTS. (However, in appendix A to part 590, which lists various arms and related materiel, references to Commerce Control List categories have been retained and updated as an additional guide for exporters.) The terms ''controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation'' and ''mining services or ground or waterborne transportation services'' are defined in §§ 590.304 and 590.312 respectively, and numerous definitions are added to clarify the scope of the blocking ordered in § 590.207 of the Regulations. To implement the definition of ''UNITA'' in Executive Orders 13069 and 13098, the definition of the term ''National Union for the Total Independence of Angola,'' or ''UNITA,'' located at § 590.314, is expanded to include ''the Center for Democracy in Angola (CEDA),'' the successor to the Free Angola Information Services, Inc. Finally, the definition of ''effective date'' in § 590.306 is amended to include the effective dates of all new prohibitions contained in the Regulations.

Subpart D of the Regulations is amended to include interpretive sections relating to blocked property and interests in property and the new import and export restrictions. The existing interpretive sections concerning

transshipments through the United States and transshipments through third countries are revised to include the commodities and services covered by the new prohibitions.

Subpart E of the Regulations is amended to include several general licenses and to indicate that OFAC will consider granting specific licenses for transactions for medical and humanitarian purposes otherwise prohibited under §§ 590.203 through 590.208 of the Regulations. Subpart F of the Regulations is amended to reflect the relocation of sections relating to OFAC records and reports to subpart C of 31 CFR part 501. Technical and conforming changes are made to subpart G of the Regulations, relating to penalties. Subpart H of the Regulations is amended to reflect the relocation of sections containing license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a) to subpart D of 31 CFR part 501. Subpart I of the Regulations is amended to include a Paperwork Reduction Act notice.

Five new appendices are added to the Regulations. Appendix B to part 590 contains the list of points of entry in the territory of Angola designated for the purposes of the exceptions to certain prohibitions in §§ 590.201, 590.203, 590.204, and 590.205. The list of these points of entry currently contained in § 590.201(b) is removed and transferred to new appendix B to part 590. This amendment will allow both the existing and new sections to refer to the same list of designated points of entry without unneeded repetition. Appendix C to part 590 contains the list of designated aircraft to which certain prohibitions contained in § 590.203 do not apply. Appendix D to part 590 lists those areas to which the GURN's State administration has not been extended for purposes of the prohibition in § 590.206. Appendices E and F to part 590 are non–exhaustive lists of the items considered to be equipment used in mining, motorized vehicles, watercraft, and spare parts for motorized vehicles and watercraft, which are subject to the prohibitions in §§ 590.204 and 590.205.

Other technical amendments are also made.

Since the Regulations involve a foreign affairs function, the provisions of Executive Order 12866 and the Administrative Procedure Act (5 U.S.C. 553) (the ''APA'') requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

As authorized in the APA, the Regulations are being issued without prior notice and public comment. The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting and Procedures Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget (''OMB'') under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 590

Administrative practice and procedure, Aircraft, Aircraft services, Angola, Arms and munitions, Blocking of assets, Diamonds, Exports, Foreign trade, Imports, Insurance, Mining equipment, Mining services, Motorized vehicles, National Union for the Total Independence of Angola, Penalties, Petroleum, Reporting and recordkeeping requirements, Shipping, Transportation services, UNITA, Vessels.

For the reasons set forth in the preamble, 31 CFR part 590 is revised to read as follows:

PART 590—ANGOLA (UNITA) SANCTIONS REGULATIONS

Subpart A—Relation of This Part to Other Laws and Regulations

Sec.

590.101 Relation of this part to other laws and regulations.

Subpart B—Prohibitions

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590.202 Required closure of UNITA offices in the United States.
590.203 Prohibited aircraft–related transactions.
590.204 Prohibited sale or supply of equipment used in mining.
590.205 Prohibited sale or supply of motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft.
590.206 Prohibited sale or supply of mining services or ground or waterborne transportation services.
590.207 Prohibited transactions involving blocked property.
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590.209 Effect of transfers violating the provisions of this part.
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590.308 Equipment used in mining.
590.309 General license.
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590.311 License.
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590.315 Person.
590.316 Petroleum and petroleum products.
590.317 Property; property interest.
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Subpart D—Interpretations

590.401 Reference to amended sections.
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Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

590.501 General and specific licensing procedures.
590.502 Effect of license.
590.503 Exclusion from licenses.
590.504 Exemptions for medical and humanitarian purposes.
590.505 Payments and transfers to blocked accounts in U.S. financial institutions.
590.506 Entries in certain accounts for normal service charges authorized.
590.507 Provision of certain legal services authorized.
590.508 Investment and reinvestment of certain funds.

Subpart F—Reports

590.601 Records and reports.

Subpart G—Penalties

590.701 Penalties.
590.702 Prepenalty notice.
590.703 Response to prepenalty notice; informal settlement.
590.704 Penalty imposition or withdrawal.
590.705 Administrative collection; referral to United States Department of Justice.

Subpart H—Procedures

590.801 Procedures.
590.802 Delegation by the Secretary of the Treasury.

Subpart I—Paperwork Reduction Act

590.901 Paperwork Reduction Act notice.

Appendix A to Part 590—Arms and Related Materiel

Appendix B to Part 590—Designated Points of Entry in the Territory of Angola

Appendix C to Part 590—Designated Aircraft of Angolan Registry [Reserved]

Appendix D to Part 590—Designated Areas of Angola to Which State Administration Has Not Been Extended

Appendix E to Part 590—Equipment Used in Mining (Harmonized Tariff Schedule Subheadings)

Appendix F to Part 590—Motorized Vehicles, Watercraft, or Spare Parts for Motorized Vehicles or Watercraft (Harmonized Tariff Schedule Subheadings)

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note); E.O. 12865, 58 FR 51005, 3 CFR, 1993 Comp., p.636; E.O. 13069, 62 FR 65989, 3 CFR, 1997 Comp., p.232; E.O. 13098, 63 FR 44771, 3 CFR, 1998 Comp., p.206

Subpart A—Relation of This Part to Other Laws andRegulations

§ 590.101 Relation of this part to other laws and regulations.

(a) This part is separate from, and independent of, the other parts of this chapter, with the exception of part 501 of this chapter, the provisions of which apply to this part. Actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part. Differing foreign policy and national security contexts may result in differing interpretations of similar language among the parts of this chapter. No license or authorization contained in or issued pursuant to those other parts authorizes any transaction prohibited by this part. No license or authorization contained in or issued pursuant to any other provision of law or regulation authorizes any transaction prohibited by this part.

(b) No license contained in or issued pursuant to this part relieves the involved parties from complying with any other applicable laws or regulations.

Subpart B—Prohibitions

§ 590.201 Prohibited sale or supply of arms, arms materiel, petroleum, or petroleum products.

Except as otherwise authorized, the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, or any activity by United States persons or in the United States that promotes or is calculated to promote the sale or supply, of arms and related materiel of all types (as defined in § 590.302) or petroleum and petroleum products (as defined in § 590.316), regardless of origin, is prohibited if such sale or supply is to:

(a) UNITA; or

(b) The territory of Angola other than through a point of entry designated in appendix B to this part.

Note to § 590.201: The exportation of arms–related items to Angola may require separate authorization from the Bureau of Export Administration, U.S. Department of Commerce, under the Export Administration Regulations, 15 CFR subchapter C.

§ 590.202 Required closure of UNITA offices in the United States.

Except as otherwise authorized, all UNITA offices operating in the United States shall immediately and completely close.

§ 590.203 Prohibited aircraft–related transactions.

Except as otherwise authorized, the following are prohibited:

(a) The sale, supply, or making available in any form by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of any aircraft or aircraft components (as defined in § 590.301), regardless of origin, to:

(1) UNITA; or

(2) The territory of Angola other than through a point of entry designated in appendix B to this part;

Note to paragraph (a): The exportation of aircraft–related items to Angola may require separate authorization from the Bureau of Export Administration, U.S. Department of Commerce, under the Export Administration Regulations, 15 CFR subchapter C.

(b) The insurance, engineering, or servicing by United States persons or from the United States of any aircraft owned or controlled by UNITA;

(c) The provision or making available of engineering and maintenance servicing, the payment of new claims against existing insurance contracts, or the provision, renewal, or making available of direct insurance by United States persons or from the United States with respect to any aircraft that:

(1) Is registered in Angola other than aircraft designated in appendix C to this part; or

(2) Has entered the territory of Angola other than through a point of entry designated in appendix B to this part.

Note to § 590.203: Additional prohibitions exist on (1) the granting of takeoff, landing, and overflight permission for aircraft that are en route to or from a point in the territory of Angola other than a point of entry designated in appendix B to this part, and (2) the certification of airworthiness with respect to any aircraft registered in Angola, other than aircraft designated in appendix C to this part, or with respect to any aircraft that has entered Angola other than through a point of entry designated in appendix B to this part. These prohibitions are not included in this part because they fall within the jurisdiction of the U.S. Department of Transportation and the Federal Aviation Administration. Persons involved in these transactions are directed to review the rules of the Department of Transportation and the Federal Aviation Administration or to contact those agencies for assistance.

§ 590.204 Prohibited sale or supply of equipment used in mining.

Except as otherwise authorized, the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of equipment used in mining (as defined in § 590.308), regardless of origin, to the territory of Angola other than through a point of entry designated in appendix B to this part is prohibited.

Note to § 515.204: The export to Angola of equipment used in mining is also subject to the Export Administration Regulations, 15 CFR subchapter C, and may require separate authorization from the Bureau of Export Administration, U.S. Department of Commerce.

§ 590.205 Prohibited sale or supply of motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft.

Except as otherwise authorized, the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft (as defined in § 590.313), regardless of origin, to the territory of Angola other than through a point of entry designated in appendix B to this part is prohibited.

Note to § 515.204: The export to Angola of motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft is also subject to the Export Administration Regulations, 15 CFR subchapter C, and may require separate authorization from the Bureau of Export Administration, U.S. Department of Commerce.

§ 590.206 Prohibited sale or supply of mining services or ground or waterborne transportation services.

Except as otherwise authorized, the sale or supply by United States persons, or from the United States or using U.S.–registered vessels or aircraft, of mining services or ground or waterborne transportation services (as defined in § 590.312), regardless of origin, to persons in areas of Angola to which State administration has not been extended, as designated in appendix D to this part, is prohibited.

§ 590.207 Prohibited transactions involving blocked property.

(a) Except as otherwise authorized, no property or interests in property that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, of UNITA or of those senior officials of UNITA or adult members of their immediate families who are designated by the Secretary of the Treasury or the Secretary's delegate may be transferred, paid, exported, withdrawn, or otherwise dealt in.

Note to paragraph (a) of § 590.207: Please refer to the appendices at the end of this chapter V for listings of senior officials of UNITA and adult members of their immediate families designated pursuant to this section. Section 501.807 of this chapter V sets forth the procedures to be followed by persons seeking administrative reconsideration of their designation or who wish to assert that the circumstances resulting in designation no longer apply.

(b) Unless otherwise authorized by this part or by a specific license expressly referring to this section, any dealing in any security (or evidence thereof) held within the possession or control of a U.S. person and either registered or inscribed in the name of or known to be held for the benefit of any person whose property is blocked pursuant to this section is prohibited. This prohibition includes but is not limited to the transfer (including the transfer on the books of any issuer or agent thereof), disposition, transportation, importation, exportation, or withdrawal of any such security or the endorsement or guaranty of signatures on any such security. This prohibition applies irrespective of the fact that at any time (either prior to, on, or subsequent to the effective date) the registered or inscribed owner of any such security may have or appears to have assigned, transferred, or otherwise disposed of the security.

(c) When a transaction results in the blocking of funds at a financial institution pursuant to this section and a party to the transaction believes the funds have been blocked due to mistaken identity, that party may seek to have such funds unblocked pursuant to the administrative procedures set forth in § 501.806 of this chapter.

§ 590.208 Prohibited importation of diamonds.

Except as otherwise authorized, the direct or indirect importation into the United States on or after 12:01 a.m. EDT on August, 19, 1998, of all diamonds (as defined in § 590.305) exported from Angola that are not controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation (as defined in § 590.304) is prohibited.

§ 590.209 Effect of transfers violating the provisions of this part.

(a) Any transfer after the effective date that is in violation of any provision of this part or of any regulation, order, directive, ruling, instruction, or license issued pursuant to this part, and that involves any property or interest in property blocked pursuant to § 590.207(a) is null and void and shall not be the basis for the assertion or recognition of any interest in or right, remedy, power, or privilege with respect to such property or property interest.

(b) No transfer before the effective date shall be the basis for the assertion or recognition of any right, remedy, power, or privilege with respect to, or any interest in, any property or interest in property blocked pursuant to § 590.207(a), unless the person with whom such property is held or maintained, prior to that date, had written notice of the transfer or by any written evidence had recognized such transfer.

(c) Unless otherwise provided, an appropriate license or other authorization issued by or pursuant to the direction or authorization of the Director of the Office of Foreign Assets Control before, during, or after a transfer shall validate such transfer or make it enforceable to the same extent that it would be valid or enforceable but for the provisions of the International Emergency Economic Powers Act, the United Nations Participation Act, this part, and any regulation, order, directive, ruling, instruction, or license issued pursuant to this part.

(d) Property transfers that otherwise would be null and void or unenforceable by virtue of the provisions of this section shall not be deemed to be null and void or unenforceable as to any person with whom such property was held or maintained (and as to such person only) in cases in which such person is able to establish to the satisfaction of the Director of the Office of Foreign Assets Control each of the following:

(1) Such transfer did not represent a willful violation of the provisions of this part by the person with whom such property was held or maintained;

(2) The person with whom such property was held or maintained did not have reasonable cause to know or suspect, in view of all the facts and circumstances known or available to such person, that such transfer required a license issued pursuant to this part and was not so licensed, or if a license did purport to cover the transfer, that such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained; and

(3) The person with whom such property was held or maintained filed with the Office of Foreign Assets Control a report setting forth in full the circumstances relating to such transfer promptly upon discovery that:

(i) Such transfer was in violation of the provisions of this part or any regulation, ruling, instruction, direction, or license issued pursuant to this part;

(ii) Such transfer was not licensed or authorized by the Director of the Office of Foreign Assets Control; or

(iii) If a license did purport to cover the transfer, such license had been obtained by misrepresentation of a third party or withholding of material facts or was otherwise fraudulently obtained.

Note to paragraph (d) of § 590.209: The filing of a report in accordance with the provisions of paragraph (d)(3) of this section shall not be deemed evidence that the terms of paragraphs (d)(1) and (d)(2) of this section have been satisfied.

(e) Unless licensed pursuant to this part, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process is null and void with respect to any property in which on or since the effective date of § 590.207 there existed an interest of a person whose property is blocked pursuant to § 590.207(a).

§ 590.210 Holding of funds in interest–bearing accounts; investment and reinvestment.

(a) Except as provided in paragraph (c) or (d) of this section, or as otherwise directed by the Office of Foreign Assets Control, any U.S. person holding funds, such as currency, bank deposits, or liquidated financial obligations, subject to § 590.207(a) shall hold or place such funds in a blocked interest–bearing account located in the United States.

(b)(1) For purposes of this section, the term *blocked interest–bearing account* means a blocked account:

(i) In a federally–insured U.S. bank, thrift institution, or credit union, provided the funds are earning interest at rates that are commercially reasonable; or

(ii) With a broker or dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934, provided the funds are invested in a money market fund or in U.S. Treasury bills.

(2) For purposes of this section, a rate is commercially reasonable if it is the rate currently offered to other depositors on deposits or instruments of comparable size and maturity.

(3) Funds held or placed in a blocked account pursuant to this paragraph (b) may not be invested in instruments the maturity of which exceeds 180 days. If interest is credited to a separate blocked account or sub–account, the name of the account party on each account must be the same.

(c) Blocked funds held in instruments the maturity of which exceeds 180 days at the time the funds become subject to § 590.207(a) may continue to be held until maturity in the original instrument, provided any interest, earnings, or other proceeds derived therefrom are paid into a blocked interest–bearing account in accordance with paragraph (b) or (d) of this section.

(d) Blocked funds held in accounts or instruments outside the United States at the time the funds become subject to § 590.207(a) may continue to be held in the same type of accounts or instruments, provided the funds earn interest at rates that are commercially reasonable.

(e) This section does not create an affirmative obligation for the holder of blocked tangible property, such as chattels or real estate, or of other blocked property, such as debt or equity securities, to sell or liquidate such property at the time the property becomes subject to § 590.207(a). However, the Office of Foreign Assets Control may issue licenses permitting or directing such sales in appropriate cases.

(f) Funds subject to this section may not be held, invested, or reinvested in a manner that provides immediate financial or economic benefit or access to persons whose property is blocked pursuant to § 590.207(a), nor may their holder cooperate in or facilitate the pledging or other attempted use as collateral of blocked funds or other assets.

§ 590.211 Evasions; attempts; conspiracies.

Any transaction by any United States person or within the United States on or after the effective date that evades or avoids, has the purpose of evading or avoiding, or attempts to violate any of the prohibitions set forth in this part is prohibited. Any conspiracy formed for the purpose of engaging in a transaction prohibited by this part is prohibited.

Subpart C—General Definitions

§ 590.301 Aircraft or aircraft components.

The term *aircraft or aircraft components* means all aircraft, spacecraft, and parts thereof described in chapter 88 of the Harmonized Tariff Schedule of the United States and any other items that the supplier knows or has reason to know are intended to be used as a part or spare part of an aircraft or spacecraft.

§ 590.302 Arms and related materiel.

The term *arms and related materiel* means all items listed in appendix A to this part; all items described in chapter 93 of the Harmonized Tariff Schedule of the United States; any other items designed as or for use with a weapon; all items controlled under the International Traffic in Arms Regulations, 22 CFR parts 120 through 130; and any other items controlled for export as arms or related materiel by any office or agency of the United States.

§ 590.303 Blocked account; blocked property.

The terms *blocked account* and *blocked property* mean any account or property subject to the prohibition in § 590.207, held in the name of a person whose property is blocked pursuant to § 590.207(a) or in which such person has an interest, and with respect to which payments, transfers, exportations, withdrawals, or other dealings may not be made or effected except pursuant to a license from the Office of Foreign Assets Control authorizing such action.

§ 590.304 Controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation.

The term *controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation* means accompanied by any documentation that demonstrates to the satisfaction of the United States Customs Service (or analogous officials of a United States territory or possession with its own customs administration) that the diamonds were legally exported from Angola with the approval of the Angolan Government of Unity and National Reconciliation.

§ 590.305 Diamonds.

The term *diamonds* means all diamonds described in heading 7102 of the Harmonized Tariff Schedule of the United States; all diamond dust described in subheading 7105.10 of the Harmonized Tariff Schedule of the United States; all diamond jewelry described in subheadings 7116.20.05–.15 of the Harmonized Tariff Schedule of the United States; and any items described elsewhere in the Harmonized Tariff Schedule of the United States containing diamonds or diamond dust.

§ 590.306 Effective date.

The term *effective date* refers to each of the effective dates of the applicable prohibitions and directives of this part as follows:

(a) With respect to § 590.201 and any prohibitions under § 590.211 related to § 590.201, 4:35 p.m. EDT on September 26, 1993.

(b) With respect to §§ 590.202 and 590.203 and any prohibitions under § 590.211 related to §§ 590.202 or 590.203, 12:01 a.m. EST on December 15, 1997.

(c) With respect to §§ 590.204, 590.205, 590.206, 590.207, 590.208, 590.209, and 590.210 and any prohibitions under § 590.211 related to §§ 590.204, 590.205, 590.206, 590.207, 590.208, 590.209, or 590.210, 12:01 a.m. EDT on August, 19, 1998, or in the case of senior officials of UNITA or adult members of their immediate families who are designated after that date, the earlier of the date on which a person receives actual or constructive notice of such designation.

§ 590.307 Entity.

The term *entity* means a partnership, association, trust, joint venture, corporation, or other organization.

§ 590.308 Equipment used in mining.

The term *equipment used in mining* means all items described in any of the Harmonized Tariff Schedule subheadings listed in appendix E to this part and any other equipment that the supplier knows or has reason to know is intended for use in the activities of prospecting or mining.

§ 590.309 General license.

The term *general license* means any license the terms of which are set forth in this part.

§ 590.310 Interest.

Except as otherwise provided in this part, the term *interest* when used with respect to property (e.g., *an interest in property*) means an interest of any nature whatsoever, direct or indirect.

§ 590.311 License.

Except as otherwise specified, the term *license* means any license or authorization contained in or issued pursuant to this part.

§ 590.312 Mining services or ground or waterborne transportation services.

The term *mining services or ground or waterborne transportation services* means any services that are part of prospecting, mining, or carrying persons or cargo by land or water.

§ 590.313 Motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft.

The term *motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft* means all items described in any of the Harmonized Tariff Schedule subheadings listed in Appendix F to this part and any other items that the supplier knows or has reason to know are intended for use as motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft.

§ 590.314 National Union for the Total Independence of Angola; UNITA.

The term *National Union for the Total Independence of Angola,* or *UNITA,* includes:

(a) Any entity, political subdivision, agency, or instrumentality of UNITA, including without limitation:

(1) The União Nacional para a Independencia Total de Angola (UNITA), known in English as the ''National Union for the Total Independence of Angola'';

(2) The Forcas Armadas para a Liberação de Angola (FALA), known in English as the ''Armed Forces for the Liberation of Angola'';

(3) The Free Angola Information Service, Inc.; and

(4) The Center for Democracy in Angola (CEDA);

(b) Any person or entity substantially owned or controlled by any of the foregoing;

(c) Any person to the extent that such person is or has been, or to the extent that there is reasonable cause to believe that such person is or has been, since the effective date, acting or purporting to act directly or indirectly for or on behalf of any of the foregoing; and

(d) Any other person determined by the Director of the Office of Foreign Assets Control to be included within paragraphs (a) through (c) of this section.

§ 590.315 Person.

The term *person* means an individual or entity.

§ 590.316 Petroleum and petroleum products.

The term *petroleum and petroleum products* means all items described in chapter 27 of the Harmonized Tariff Schedule of the United States and any synthetic or part–synthetic replacement therefore.

§ 590.317 Property; property interest.

The terms *property* and *property interest* include but are not limited to money, checks, drafts, bullion, bank deposits, savings accounts, debts, indebtedness, obligations, notes, guarantees, debentures, stocks, bonds, coupons, any other financial instruments, bankers acceptances, mortgages, pledges, liens or other rights in the nature of security, warehouse receipts, bills of lading, trust receipts, bills of sale, any other evidences of title, ownership, or indebtedness, letters of credit and any documents relating to any rights or obligations thereunder, powers of attorney, goods, wares, merchandise, chattels, stocks on hand, ships, goods on ships, real estate mortgages, deeds of trust, vendors' sales agreements, land contracts, leaseholds, ground rents, real estate and any other interest therein, options, negotiable instruments, trade acceptances, royalties, book accounts, accounts payable, judgments, patents, trademarks or copyrights, insurance policies, safe deposit boxes and their contents, annuities, pooling agreements, services of any nature whatsoever, contracts of any nature whatsoever, and any other property, real, personal, or mixed, tangible or intangible, or interest or interests therein, whether present, future, or contingent.

§ 590.318 Specific license.

The term *specific license* means any license not set forth in this part but issued pursuant to this part.

§ 590.319 Transfer.

The term *transfer* means any actual or purported act or transaction, whether or not evidenced by writing, and whether or not done or performed within the United States, the purpose, intent, or effect of which is to create, surrender, release, convey, transfer, or alter, directly or indirectly, any right, remedy, power, privilege, or interest with respect to any property. Without limitation upon the foregoing, the term *transfer* includes the making, execution, or delivery of any assignment, power, conveyance, check, declaration, deed, deed of trust, power of attorney, power of appointment, bill of sale, mortgage, receipt, agreement, contract, certificate, gift, sale, affidavit, or statement; the making of any payment; the setting off of any obligation or credit; the appointment of any agent, trustee, or fiduciary; the creation or transfer of any lien; the issuance, docketing, filing, or levy of or under any judgment, decree, attachment, injunction, execution, or other judicial or administrative process or order; the service of any garnishment; the acquisition of any interest of any nature whatsoever by reason of a judgment or decree of any foreign country; the fulfillment of any condition; the exercise of any power of appointment, power of attorney, or other power; or the acquisition, disposition, transportation, importation, exportation, or withdrawal of any security.

§ 590.320 United States.

The term *United States* means the United States, its territories and possessions, and all areas under the jurisdiction or authority thereof.

§ 590.321 United States person; U.S. person.

The term *United States person* or *U.S. person* means any United States citizen, permanent resident alien, entity organized under the laws of the United States (including foreign branches), or any person in the United States.

§ 590.322 U.S. financial institution.

The term *U.S. financial institution* means any U.S. entity (including foreign branches) that is engaged in the business of accepting deposits, making, granting, transferring, holding, or brokering loans or credits, or purchasing or selling foreign exchange, securities, commodity futures or options, as principal or agent. This terms includes but is not limited to depository institutions, banks, savings banks, trust companies, securities brokers and dealers, commodity futures and options brokers and dealers, forward contract and foreign exchange merchants, securities and commodities exchanges, clearing corporations, investment companies, employee benefit plans, and U.S. holding companies, U.S. affiliates, or U.S. subsidiaries of any of the foregoing. This term includes those branches, offices, and agencies of foreign financial institutions which are located in the United States, but not such institutions' headquarters, branches, offices, or agencies.

Subpart D—Interpretations

§ 590.401 Reference to amended sections.

Except as otherwise specified, reference to any provision in or appendix to this part or chapter or to any regulation, ruling, order,

instruction, direction, or license issued pursuant to this part refers to the same as currently amended.

§ 590.402 Effect of amendment.

Unless otherwise specifically provided, any amendment, modification, or revocation of any provision in or appendix to this part or chapter or of any order, regulation, ruling, instruction, or license issued by or under the direction of the Director of the Office of Foreign Assets Control does not affect any act done or omitted, or any civil or criminal suit or proceeding commenced or pending prior to such amendment, modification, or revocation. All penalties, forfeitures, and liabilities under any such order, regulation, ruling, instruction, or license continue and may be enforced as if such amendment, modification, or revocation had not been made.

§ 590.403 Termination and acquisition of an interest in blocked property.

(a) Whenever a transaction licensed pursuant to this part results in the transfer of property (including any property interest) away from a person whose property is blocked pursuant to § 590.207(a), the transferred property will no longer be considered property in which that person has or has had an interest. Provided no other person whose property is blocked pursuant to § 590.207(a) has any interest in the transferred property following the transfer, the transferred property will no longer be considered property blocked pursuant to § 590.207(a).

(b) Unless otherwise specifically provided in a license issued pursuant to this part, if property (including any property interest) is transferred or attempted to be transferred to a person whose property is blocked pursuant to § 590.207(a), such property shall be deemed to be property in which that person has an interest, and such property is therefore blocked pursuant to § 590.207(a).

§ 590.404 Setoffs prohibited.

A setoff against blocked property (including a blocked account), whether by a U.S. bank or other U.S. person, is a prohibited transfer under § 590.207(a) if effected after the effective date.

§ 590.405 Transactions incidental to a licensed transaction.

Any transaction ordinarily incident to a licensed transaction and necessary to give effect to the licensed transaction is also authorized by the license. Except as specifically authorized by the terms of a license, prohibited transactions by persons whose property is blocked pursuant to § 590.207(a) and debits to accounts blocked pursuant to § 590.207(a) are not considered incidental to a licensed transaction and therefore remain prohibited.

§ 590.406 Offshore transactions.

(a) The prohibitions contained in § 590.207 apply to transactions by any U.S. person in a location outside the United States with respect to property in which the U.S. person knows, or has reason to know, that a person whose property is blocked pursuant to § 590.207(a) has or has had an interest since the effective date of § 590.207.

(b) Transactions by a U.S. person prohibited by § 590.207 include but are not limited to:

(1) Importation into or exportation from locations outside the United States of goods, technology, or services in which the U.S. person knows, or has reason to know, that a person whose property is blocked pursuant to § 590.207(a) has or has had an interest since the effective date of § 590.207.

(2) Purchasing, selling, financing, swapping, insuring, transporting, lifting, storing, incorporating, transforming, brokering, or otherwise dealing in, within locations outside the United States, goods, technology, or services in which the U.S. person knows, or has reason to know, that a person whose property is blocked pursuant to § 590.207(a) has or has had an interest since the effective date of § 590.207.

(c) *Examples.* (1) A U.S. person may not, within the United States or abroad, purchase, sell, finance, insure, transport, act as a broker for the sale or transport of, or otherwise deal in the personal possessions of any person whose property is blocked pursuant to § 590.207(a).

(2) A U.S. person may not, within the United States or abroad, enter into any contract for any goods or services with UNITA or with any other person whose property is blocked pursuant to § 590.207(a).

§ 590.407 Transshipments through the United States prohibited.

(a) The prohibitions in §§ 590.201, 590.203, 590.204, 590.205, and 590.206 apply to the importation into the United States, for transshipment or transit, of goods or services intended or destined to be sold, supplied, or provided in violation of §§ 590.201, 590.203, 590.204, 590.205, or 590.206.

(b) The prohibition in § 590.208 applies to the importation into the United States, for transshipment or transit, of diamonds intended or destined for third countries if the diamonds were exported from Angola on or after 12:01 a.m. EDT on August 19, 1998 and are not controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation. In the case of diamonds transported by vessel, the prohibition in § 590.208 applies to the unlading in the United States and the intent to unlade in the United States of diamonds intended or destined for third countries if the diamonds were exported from Angola on or after 12:01 a.m. EDT on August 19, 1998 and are not controlled through the Certificate of Origin regime of the Angolan Government of Unity and National Reconciliation.

(c) Goods imported into or transshipped through the United States are blocked pursuant to § 590.207(a) if those goods constitute property in which a person whose property is blocked pursuant to § 590.207(a) has or has had an interest since the effective date of § 590.207.

§ 590.408 Exports to third countries; transshipments.

(a) The prohibitions in §§ 590.201 and 590.203 include the exportation of arms and related materiel, petroleum and petroleum products, and aircraft or aircraft components to third countries if the exporter knows or has reason to know that the goods are intended for reexportation or transshipment to the territory of Angola, other than through a point of entry designated in appendix B to this part, or to UNITA, including passage through or storage in intermediate destinations.

(b) The prohibitions in §§ 590.204 and 590.205 include the exportation of equipment used in mining, motorized vehicles, watercraft, or spare parts for motorized vehicles or watercraft to third countries if the exporter knows or has reason to know that the goods are intended for reexportation or transshipment to the territory of Angola other than through a point of entry designated in appendix B to this part, including passage through or storage in intermediate destinations.

(c) The prohibitions in § 590.206 include the exportation of mining services or ground or waterborne transportation services to third countries if the exporter knows or has reason to know that the services are intended for persons in areas of Angola to which State administration has not been extended, as designated in appendix D to this part.

§ 590.409 Payments from blocked accounts to U.S. exporters and for other obligations prohibited.

No debits may be made to a blocked account to pay obligations to U.S.

persons or other persons, including payment for goods or services exported prior to the effective date of the blocking, except as authorized pursuant to this part.

§ 590.410 Provision of services.

(a) The prohibitions contained in § 590.207 apply to services performed by U.S. persons, wherever located:

(1) On behalf of or for the benefit of a person whose property is blocked pursuant to § 590.207(a); or

(2) With respect to property interests of a person whose property is blocked pursuant to § 590.207(a).

(b) *Example.* U.S. persons may not, without specific authorization from the Office of Foreign Assets Control, represent an individual or entity with respect to contract negotiations, contract performance, commercial arbitration, or other business dealings with persons whose property is blocked pursuant to § 590.207(a). See § 590.507 on licensing policy with regard to the provision of certain legal services.

§ 590.411 Importation of diamonds mined outside of Angola.

The importation prohibition in § 590.208 applies to diamonds exported from Angola whether or not those diamonds were mined in Angola.

§ 590.412 Importation into and release from a bonded warehouse or foreign trade zone.

The prohibition in § 590.208 applies to importation into and release from a bonded warehouse or a foreign trade zone of the United States. However, § 590.208 does not prohibit the release from a bonded warehouse or a foreign trade zone of diamonds exported from Angola and imported into that bonded warehouse or foreign trade zone prior to the effective date of § 590.208.

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

§ 590.501 General and specific licensing procedures.

For provisions relating to licensing procedures, see part 501, subpart D of this chapter. Licensing actions taken pursuant to part 501 of this chapter with respect to the prohibitions contained in this part are considered actions taken pursuant to this part.

§ 590.502 Effect of license.

(a) No license contained in this part, or otherwise issued by or under the direction of the Director of the Office of Foreign Assets Control pursuant to this part, authorizes or validates any transaction effected prior to the issuance of the license, unless the prior transaction is specifically authorized in such license.

(b) No regulation, ruling, instruction, or license authorizes any transaction prohibited by this part unless the regulation, ruling, instruction, or license is issued by the Office of Foreign Assets Control and specifically refers to this part. No regulation, ruling, instruction, or license referring to this part authorizes any transaction prohibited by any provision of this chapter unless the regulation, ruling, instruction, or license specifically refers to such provision.

(c) Any regulation, ruling, instruction, or license authorizing any transaction otherwise prohibited by this part has the effect of removing from the transaction a prohibition or prohibitions contained in this part, but only to the extent specifically stated by its terms. Unless the regulation, ruling, instruction, or license otherwise specifies, such an authorization does not create any right, duty, obligation, claim, or interest that would not otherwise exist under ordinary principles of law in or with respect to any property.

§ 590.503 Exclusion from licenses.

The Director of the Office of Foreign Assets Control reserves the right to exclude any person, property, or transaction from the operation of any license or from the privileges conferred by any license. The Director of the Office of Foreign Assets Control also reserves the right to restrict the applicability of any license to particular persons, property, transactions, or classes thereof. Such actions are binding upon all persons receiving actual or constructive notice of the exclusions or restrictions.

§ 590.504 Exemptions for medical and humanitarian purposes.

Specific licenses may be issued in appropriate cases for transactions otherwise prohibited by §§ 590.203, 590.204, 590.205, 590.206, 590.207, or 590.208, including aircraft–related transactions and ground and waterborne transportation transactions, for medical and humanitarian purposes.

§ 590.505 Payments and transfers to blocked accounts in U.S. financial institutions.

Any payment of funds or transfer of credit in which a person whose property is blocked pursuant to § 590.207(a) has any interest and that comes within the possession or control of a U.S. financial institution must be blocked in an account on the books of that financial institution. A transfer of funds or credit by a U.S. financial institution between blocked accounts in its branches or offices is authorized, provided that no transfer is made from an account within the United States to an account held outside the United States, and further provided that a transfer from a blocked account may only be made to another blocked account held in the same name.

Note to § 590.505: Please refer to part 501, subpart C of this chapter for mandatory reporting requirements regarding financial transfers. See also § 590.210 concerning the obligation to hold blocked funds in interest–bearing accounts.

§ 590.506 Entries in certain accounts for normal service charges authorized.

(a) U.S. financial institutions are hereby authorized to debit any blocked account with such U.S. financial institution in payment or reimbursement for normal service charges owed to such U.S. financial institution by the owner of such blocked account.

(b) As used in this section, the term *normal service charges* includes but is not limited to charges in payment or reimbursement for interest due; cable, telegraph, or telephone charges; postage costs; custody fees; small adjustment charges to correct bookkeeping errors; minimum balance charges; notary and protest fees; and charges for reference books, photocopies, credit reports, transcripts of statements, registered mail, insurance, stationery and supplies, and other similar items.

§ 590.507 Provision of certain legal services authorized.

(a) The provision to or on behalf of a person whose property is blocked pursuant to § 590.207(a) of the legal services set forth in paragraph (b) of this section is authorized, provided that all receipt of payment for such services must be specifically licensed.

(b) Specific licenses may be issued on a case–by–case basis authorizing receipt from unblocked sources of payment of professional fees and reimbursement of incurred expenses for the following legal services by U.S. persons to a person whose property is blocked pursuant to § 590.207(a):

(1) Provision of legal advice and counseling on the requirements of and compliance with the laws of any jurisdiction within the United States, provided that such advice and counseling is not provided to facilitate transactions that would violate any prohibition contained in this chapter;

(2) Representation of a person whose property is blocked pursuant to § 590.207(a) when named as a defendant in or otherwise made a party to domestic U.S. legal, arbitration, or administrative proceedings;

(3) Initiation and conduct of domestic U.S. legal, arbitration, or administrative

proceedings in defense of property interests subject to U.S. jurisdiction of a person whose property is blocked pursuant to § 590.207(a);

(4) Representation of a person whose property is blocked pursuant to § 590.207(a) before any federal or state agency with respect to the imposition, administration, or enforcement of U.S. sanctions against such person; and

(5) Provision of legal services in any other context in which prevailing U.S. law requires access to legal counsel at public expense.

(c) The provision of any other legal services to a person whose property is blocked pursuant to § 590.207(a), not otherwise authorized in this part, requires the issuance of a specific license.

(d) Entry into a settlement agreement affecting property or interests in property of a person whose property is blocked pursuant to § 590.207(a) or the enforcement of any lien, judgment, arbitral award, decree, or other order through execution, garnishment, or other judicial process purporting to transfer or otherwise alter or affect property or interests in property of a person whose property is blocked pursuant to § 590.207(a) is prohibited unless specifically licensed in accordance with § 590.209(e).

§ 590.508 Investment and reinvestment of certain funds.

U.S. financial institutions are authorized to invest and reinvest assets blocked pursuant to § 590.207(a), subject to the following conditions:

(a) The assets representing such investments and reinvestments are credited to a blocked account or subaccount that is held in the same name at the same U.S. financial institution, or within the possession or control of a U.S. person, but in no case may funds be transferred outside the United States for this purpose;

(b) The proceeds of such investments and reinvestments are not credited to a blocked account or subaccount under any name or designation that differs from the name or designation of the specific blocked account or subaccount in which such funds or securities were held; and

(c) No immediate financial or economic benefit accrues (e.g., through pledging or other use) to any person whose property is blocked pursuant to § 590.207(a).Subpart F—Reports

§ 590.601 Records and reports.

For provisions relating to required records and reports, see part 501, subpart C of this chapter. Recordkeeping and reporting requirements imposed by part 501 of this chapter with respect to the prohibitions contained in this part are considered requirements arising pursuant to this part.

Subpart G—Penalties

§ 590.701 Penalties.

(a) Attention is directed to section 206 of the International Emergency Economic Powers Act (the ''Act'') (50 U.S.C. 1705), which is applicable to violations of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the Act. Section 206 of the Act, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (Pub. L. 101–410, as amended, 28 U.S.C. 2461 note), provides that:

(1) A civil penalty not to exceed $11,000 per violation may be imposed on any person who violates or attempts to violate any license, order, or regulation issued under the Act;

(2) Whoever willfully violates or willfully attempts to violate any license, order, or regulation issued under the Act, upon conviction, shall be fined not more than $50,000, and if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such violation may be punished by a like fine, imprisonment, or both.

(b) The criminal penalties provided in the Act are subject to increase pursuant to 18 U.S.C. 3571.

(c) Attention is directed to section 5 of the United Nations Participation Act (22 U.S.C. 287c(b)), which provides that any person who willfully violates or evades or attempts to violate or evade any order, rule, or regulation issued by the President pursuant to the authority granted in that section, upon conviction, shall be fined not more than $10,000, or if a natural person, may also be imprisoned for not more than 10 years; and any officer, director, or agent of any corporation who knowingly participates in such a violation or evasion shall be punished by a similar fine, imprisonment, or both; and any property, funds, securities, papers, other articles or documents, vessels together with their tackle, apparel, furniture, equipment, vehicle, or aircraft concerned in such violation shall be forfeited to the United States. The penalties provided in the United Nations Participation Act are subject to increase pursuant to 18 U.S.C. 3571.

(d) Attention is also directed to 18 U.S.C. 1001, which provides that whoever, in any matter within the jurisdiction of any department or agency of the United States, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious, or fraudulent statement or representation, or makes or uses any false writing or document knowing the same to contain any false, fictitious, or fraudulent statement or entry shall be fined under title 18, United States Code, or imprisoned not more than five years, or both.

(e) Violations of this part may also be subject to relevant provisions of other applicable laws.

§ 590.702 Prepenalty notice.

(a) *When required*. If the Director of the Office of Foreign Assets Control has reasonable cause to believe that there has occurred a violation of any provision of this part or a violation of the provisions of any license, ruling, regulation, order, direction, or instruction issued by or pursuant to the direction or authorization of the Secretary of the Treasury pursuant to this part or otherwise under the International Emergency Economic Powers Act, and the Director determines that further proceedings are warranted, the Director shall issue to the person concerned a notice of intent to impose a monetary penalty. This prepenalty notice shall be issued whether or not another agency has taken any action with respect to this matter.

(b) *Contents*—(1) *Facts of violation*. The prepenalty notice shall describe the violation, specify the laws and regulations allegedly violated, and state the amount of the proposed monetary penalty.

(2) *Right to respond*. The prepenalty notice also shall inform the respondent of respondent's right to make a written presentation within 30 days of the date of mailing of the notice as to why a monetary penalty should not be imposed or why, if imposed, the monetary penalty should be in a lesser amount than proposed.

§ 537.703 Response to prepenalty notice; informal settlement.

(a) *Deadline for response*. The respondent shall have 30 days from the date of mailing of the prepenalty notice to make a written response to the Director of the Office of Foreign Assets Control.

(b) *Form and contents of response*. The written response need not be in any particular form, but must contain information sufficient to indicate that it is in response to the prepenalty notice. It should contain responses to the

allegations in the prepenalty notice and set forth the reasons why the respondent believes the penalty should not be imposed or why, if imposed, it should be in a lesser amount than proposed.

(c) *Informal settlement*. In addition or as an alternative to a written response to a prepenalty notice issued pursuant to this section, the respondent or respondent's representative may contact the Office of Foreign Assets Control as advised in the prepenalty notice to propose the settlement of allegations contained in the prepenalty notice and related matters. In the event of settlement at the prepenalty stage, the claim proposed in the prepenalty notice will be withdrawn, the respondent will not be required to take a written position on allegations contained in the prepenalty notice, and the Office of Foreign Assets Control will make no final determination as to whether a violation occurred. The amount accepted in settlement of allegations in a prepenalty notice may vary from the civil penalty that might finally be imposed in the event of a formal determination of violation. In the event no settlement is reached, the 30–day period specified in paragraph (a) of this section for written response to the prepenalty notice remains in effect unless additional time is granted by the Office of Foreign Assets Control.

§ 537.704 Penalty imposition or withdrawal.

(a) *No violation*. If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was no violation by the respondent named in the prepenalty notice, the Director promptly shall notify the respondent in writing of that determination and that no monetary penalty will be imposed.

(b) *Violation*. If, after considering any response to a prepenalty notice and any relevant facts, the Director of the Office of Foreign Assets Control determines that there was a violation by the respondent named in the prepenalty notice, the Director promptly shall issue a written notice of the imposition of the monetary penalty to the respondent.

(1) The penalty notice shall inform the respondent that payment of the assessed penalty must be made within 30 days of the date of mailing of the penalty notice.

(2) The penalty notice shall inform the respondent of the requirement to furnish the respondent's taxpayer identification number pursuant to 31 U.S.C. 7701 and that such number will be used for purposes of collecting and reporting on any delinquent penalty amount.

§ 537.705 Administrative collection; referral to United States Department of Justice.

In the event that the respondent does not pay a penalty imposed pursuant to this part or make payment arrangements acceptable to the Director of the Office of Foreign Assets Control within 30 days of the date of mailing of a penalty notice, the matter may be referred for administrative collection measures by the Department of the Treasury or to the United States Department of Justice for appropriate action to recover the penalty in a civil suit in a Federal district court.

Subpart H—Procedures

§ 590.801 Procedures.

For license application procedures and procedures relating to amendments, modifications, or revocations of licenses; administrative decisions; rulemaking; and requests for documents pursuant to the Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a), see part 501, subpart D of this chapter.

§ 590.802 Delegation by the Secretary of the Treasury.

Any action that the Secretary of the Treasury is authorized to take pursuant to Executive Orders 12865 (3 CFR, 1993 Comp., p. 636), 13069 (3 CFR, 1997 Comp., p. 232), and 13098 (63 FR 44771, Aug. 20, 1998), and any further Executive orders relating to the national emergency declared with respect to UNITA in Executive Order 12865 may be taken by the Director of the Office of Foreign Assets Control or by any other person to whom the Secretary of the Treasury has delegated authority so to act.

Subpart I—Paperwork Reduction Act

§ 590.901 Paperwork Reduction Act notice.

For approval by the Office of Management and Budget (''OMB'') under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507) of information collections relating to recordkeeping and reporting requirements, licensing procedures (including those pursuant to statements of licensing policy), and other procedures, see § 501.901 of this chapter. 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 OMB.

Appendix A to Part 590—Arms and Related Materiel

Note to Appendix A: Commerce Control List Export Control Commodity Numbers are provided in parenthesis at the end of each item as a convenience.

(a) Spindle assemblies, consisting of spindles and bearings as a minimal assembly, except those assemblies with axial and radial axis motion measured along the spindle axis in one revolution of the spindle equal to or greater (coarser) than the following:

(1) 0.0008 mm TIR (peak-to-peak) for lathes and turning machines; or

(2) D x 2 x 10(-5) mm TIR (peak-to-peak) where D is the spindle diameter in millimeters for milling machines, boring mills, jig grinders, and machining centers (ECCNs 2B001 and 2B290);

(b) Equipment for the production of military explosives and solid propellants, as follows:

(1) Complete installations; and

(2) Specialized components (for example, dehydration presses; extrusion presses for the extrusion of small arms, cannon and rocket propellants; cutting machines for the sizing of extruded propellants; sweetie barrels (tumblers) 6 feet and over in diameter and having over 500 pounds product capacity; and continuous mixers for solid propellants) (ECCN 1B018);

(c) Specialized machinery, equipment, gear, and specially designed parts and accessories therefor, specially designed for the examination, manufacture, testing, and checking of the arms, appliances, machines, and implements of war (ECCN 2B018), ammunition hand-loading equipment for both cartridges and shotgun shells, and equipment specially designed for manufacturing shotgun shells (ECCN 0B986);

(d) Construction equipment built to military specifications, specially signed for airborne transport (ECCN 0A018);

(e) Vehicles specially designed for military purposes, as follows:

(1) Specially designed military vehicles, excluding vehicles listed in the United States Munitions List, 22 CFR Part 121 (ECCN 9A018);

(2) Pneumatic tire casings (excluding tractor and farm implement types), of a kind specially constructed to be bulletproof or to run when deflated (ECCN 9A018);

(3) Engines for the propulsion of the vehicles enumerated above, specially designed or essentially modified for military use (ECCN 9A018); and

(4) Specially designed components and parts to the foregoing (ECCN 9A018);

(f) Pressure refuellers, pressure refueling equipment, and equipment specially designed to facilitate operations in confined areas and ground equipment, not elsewhere specified, developed specially for aircraft and helicopters, and specially designed parts and accessories, n.e.s. (ECCN 9A018);

(g) Specifically designed components and parts for ammunition, except cartridge cases, powder bags, bullets, jackets, cores, shells, projectiles, boosters, fuses and components, primers, and other detonating devices and ammunition belting and linking machines (ECCN 0A018);
(h) Nonmilitary shotguns, barrel length 18 inches or over; and nonmilitary arms, discharge type (for example, stun-guns, shock batons, etc.), except arms designed solely for signal, flare, or saluting use; and parts, n.e.s. (ECCNs 0A984 and 0A985);
(i) Shotgun shells, and parts (ECCN 0A986);
(j) Military parachutes (ECCN 9A018);
(k) Submarine and torpedo nets (ECCN 8A518);
(l) Bayonets and muzzle-loading (black powder) firearms (ECCN 0A018).

Appendix B to Part 590—Designated Points of Entry in the Territory of Angola

(a) Airports:
(1) Luanda
(2) Katumbela, Benguela Province
(b) Ports:
(1) Luanda
(2) Lobito, Benguela Province
(3) Namibe, Namibe Province
(c) Entry Points:
(1) Malongo, Cabinda Province
(2) [Reserved].

Appendix C to Part 590—Designated Aircraft of Angolan Registry

[Reserved]

Appendix D to Part 590—Designated Areas of Angola to Which State Administration Has Not Been Extended

(a) Bie Province:
(1) Municipalities:
(A) Andulo
(B) Cuemba
(C) Nharea
(2) Communities:
(A) Cassumbe
(B) Chivualo
(C) Umpulo
(D) Ringoma
(E) Luando
(F) Sachinemuna
(G) Gamba
(H) Dando
(I) Calussinga
(J) Munhango
(K) Lubia
(L) Caleie
(M) Balo Horizonte
(b) Cunene Province:
(1) Municipalities:
[Reserved]
(2) Communities:
(A) Cubati–Cachueca
(B) [Reserved]
(c) Huambo Province:
(1) Municipalities:
(A) Bailundo
(B) Mungo
(2) Communities:
(A) Bimbe
(B) Hungue–Calulo
(C) Lungue
(D) Luvemba
(E) Cambuengo
(F) Mundundo
(G) Cacoma
(d) K. Kubango Province:
(1) Municipalities:
[Reserved]
(2) Communities:
(A) Longa
(B) Lulana
(C) Luengue
(e) Malange Province:
(1) Municipalities:
(A) Luquembo
(B) Quirima
(C) Cambudi Catembo
(D) Massango
(2) Communities:
(A) Dumba–Kabango
(B) Quitapa
(C) Tala–Mungongo
(D) Bembo
(E) Caribo
(F) Culamagia
(G) Bange–Angola
(H) Milando
(I) Capunga
(J) Cunga–Palanga
(K) Dombo
(L) Quibango
(M) Rimba
(N) Bangala
(O) Moma
(P) Sautar
(Q) Cuale
(R) Caxinga
(S) Cateco–Cangola
(T) Qulhuhu
(U) Quinguengue
(f) Moxico Province:
(1) Municipalities:
(A) Cangamba
(B) Luau
(C) Luacano
(D) Cazombo
(2) Communities:
(A) Lovua
(B) Mussuma
(C) Sessa
(D) Cachipoque
(E) Cangombe
(F) Cassamba
(G) Muie
(H) Caianda
(I) Ninda
(J) Chiume
(K) Lutembo
(L) Giambe
(M) Tempue
(N) Luvuei
(O) Candundo
(P) Macondo
(Q) Sandando
(R) Muangai
(S) Lago–Dilolo
(g) Uige Province:
(1) Municipalities:
(A) Bembe
(B) [Reserved]
(2) Communities:
(A) Massau
(B) Macola
(C) Cuile–Camboso
(D) Alto–Zaza
(E) Cuango
(F) Icoca
(G) Lucunga
(H) Mabaia
(I) Beu
(J) Cuilo Futa
(K) Sacandica
(h) Benguela Province:
(1) Municipalities:
[Reserved]
(2) Communities:
(A) Chicuma
(B) Casseque
(i) Lunda–Norte Province:
(1) Municipalities:
(A) Cuilo
(B) [Reserved]
(2) Communities:
(A) Lovua
(B) Bote ''Cassange–Calucala''
(C) Capala
(D) Caluango
(j) Kuanza–Norte Province:
(1) Municipalities:
(A) Banga
(B) [Reserved]
(2) Communities:
(A) Samba–Lucala
(B) Caculo–Cabaca
(C) Carlamba
(D) Aldeia–Nova
(k) Lunda–Sul Province:
(1) Municipalities:
(A) Mucondo
(B) [Reserved]
(2) Communities:
(A) Xassengue
(B) Alto–Chicapa
(C) Chiluage
(D) Cazage
(E) Luma–Cassai
(F) Muriege
(G) Cassai–Sul
(l) Bengo Province:
(1) Municipalities:
[Reserved]
(2) Communities:
(A) Quiaje
(B) [Reserved]

Appendix E to Part 590—Equipment Used in Mining (Harmonized Tariff Schedule Subheadings)

8429.11.00, 8429.19.00, 8429.20.00, 8429.30.00, 8429.40.00, 8429.51.10, 8429.51.50, 8429.52.10, 8429.52.50, 8429.59.10, 8429.59.50

8430.10.00, 8430.31.00, 8430.39.00, 8430.41.00, 8430.49.80, 8430.61.00, 8430.62.00, 8430.69.00

8431.41.00, 8431.42.00, 8431.43.80, 8431.49.90

Appendix F to Part 590—Motorized Vehicles, Watercraft, or Spare Parts for Motorized Vehicles or Watercraft (Harmonized Tariff Schedule Subheadings)

8407.10.00, 8407.21.00, 8427.29.00, 8407.31.00, 8407.32.10, 8407.32.20, 8407.32.90, 8407.33.10, 8407.33.30, 8407.33.60, 8407.33.90, 8407.34.05,

8407.34.14, 8407.34.18, 8407.34.25, 8407.34.35, 8407.34.44, 8407.34.48, 8407.34.55, 8407.90.10, 8407.90.90

8408.10.00, 8408.20.10, 8408.20.20, 8408.20.90, 8408.90.10, 8408.90.90

8409.10.00, 8409.91.10, 8409.90.30, 8409.91.50, 8409.91.92, 8409.91.99, 8409.99.10, 8409.99.91, 8409.99.92, 8409.99.99

8483.10.10, 8483.10.30, 8483.10.50

8601.10.00, 84601.20.00

8602.10.00, 8602.90.00

8603.10.00, 8603.90.00

8604.00.00

8605.00.00

8606.10.00, 8606.20.00, 8606.30.00, 8606.91.00, 8606.92.00, 8606.99.00

8607.11.00, 8607.12.00, 8607.19.03, 8607.19.06, 8607.19.12, 8607.19.15, 8607.19.30, 8607.19.90, 8607.21.10, 8607.21.50, 8607.29.10, 8607.29.50, 8607.30.10, 8607.30.50, 8607.91.00, 8607.99.10, 8607.99.50

8701.10.00, 8701.20.00, 8701.30.10, 8701.30.50, 8701.90.10, 8701.90.50

8702.10.30, 8702.10.60, 8702.90.30, 8702.90.60

8703.10.50, 8703.21.00, 8703.22.00, 8703.23.00, 8703.24.00, 8703.31.00, 8703.32.00, 8703.33.00, 8703.90.00

8704.10.10, 8704.10.50, 8704.21.00, 8704.22.10, 8704.22.50, 8704.23.00, 8704.31.00, 8704.32.00, 8704.90.00

8705.10.00, 8705.20.00, 8705.30.00, 8705.40.00, 8705.90.00

8706.00.03, 8706.00.05, 8706.00.15, 8706.00.25, 8706.00.30, 8706.00.50

8707.10.00, 8707.90.10, 8707.90.50

8708.10.30, 8708.10.60, 8708.21.00, 8708.29.10, 8708.29.15, 8708.29.20, 8708.29.50, 8708.31.10, 8708.31.50, 8708.39.10, 8708.39.50, 8708.40.10, 8708.40.20, 8708.40.30, 8708.40.50, 8708.50.10, 8708.50.30, 8708.50.50, 8708.50.80, 8708.60.10, 8708.60.30, 8708.60.50, 8708.60.80, 8708.70.05, 8708.70.15, 8708.70.25, 8708.70.35, 8708.70.45, 8708.70.60, 8708.80.15, 8708.80.25, 8708.80.30, 8708.80.45, 8708.91.10, 8708.91.50, 8708.92.10, 8708.92.50, 8708.93.15, 8708.93.30, 8708.93.60, 8708.93.75, 8708.94.10, 8708.94.50, 8708.99.03, 8708.99.06, 8708.99.09, 8708.99.12, 8708.99.15, 8708.99.18, 8708.99.21, 8708.99.24, 8708.99.27, 8708.99.31, 8708.99.34, 8708.99.37, 8708.99.40, 8708.99.43, 8708.99.46, 8708.99.49, 8708.99.52, 8708.99.55, 8708.99.58, 8708.99.61, 8708.99.64, 8708.99.67, 8708.99.70, 8708.99.73, 8708.99.80

8709.11.00, 8709.19.00

8710.00.00

8711.10.00, 8711.20.00, 8711.30.00, 8711.40.30, 8711.40.60, 8711.50.00, 8711.90.00

8714.11.00, 8714.19.00

8716.10.00, 8716.20.00, 8716.31.00, 8716.39.00, 8716.40.00, 8716.80.10, 8716.80.50, 8716.90.10, 8716.90.30, 8716.90.50

8901.10.00, 8901.20.00, 8901.30.00, 8901.90.00

8902.00.00

8903.10.00, 8903.91.00, 8903.92.00, 8903.99.20, 8903.99.90

8904.00.00

8905.10.00, 8905.90.50

8906.00.10, 8906.00.90

Dated: July 20, 1999.

R. Richard Newcomb,

Director, Office of Foreign Assets Control.

Approved: July 28, 1999.

Elisabeth A. Bresee,

Assistant Secretary (Enforcement), Department of the Treasury.

[FR Doc. 99–20831 Filed 8–9–99; 1:08 pm]

BILLING CODE 4810–25–F

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 9 and 86

[FRL–6409–2]

OMB Approvals Under the Paperwork Reduction Act Relating to the Federal Test Procedure for Emissions From Motor Vehicles; Technical Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this technical amendment amends the table that lists the Office of Management and Budget (OMB) control numbers issued under the PRA for Final Regulations for Revisions to the Federal Test Procedure for Emissions From Motor Vehicles. This document also announces the effective dates of certain sections in the Code of Federal Regulations which contained information collection requirements and which were originally published in the **Federal Register** on October 22, 1996.

EFFECTIVE DATES: The amendment to 40 CFR 9.1 is effective August 12, 1999. 40 CFR 86.000–7, 86.000–8, 86.000–9, 86.000–21, 86.000–23, 86.000–24, 86.000–25, 86.000–26, 86.000–28, 86.001–9, 86.001–21, 86.001–23, 86.001–24, 86.001–25, 86.001–26, 86.001–28, 86.004–9, 86.004–28, 86.108–00, 86.129–00, 86.159–00, 86.160–00, 86.161–00, 86.162–00 and 86.162–03 became effective on August 27, 1997 when the Office of Management and Budget (OMB) approved their information collection requirements.

FOR FURTHER INFORMATION CONTACT: Richard W. Nash, Vehicle Programs and Compliance Division, U. S. Environmental Protection Agency, 2565 Plymouth Rd, Ann Arbor MI 48105; (734) 214–4412; nash.dick@epa.gov.

SUPPLEMENTARY INFORMATION: EPA is amending the table of currently approved information collection request (ICR) control numbers issued by OMB for various regulations. The amendment updates the table to list those information collection requirements promulgated under the Final Regulations for Revisions to the Federal Test Procedure for Emissions From Motor Vehicles, which appeared in the **Federal Register** on October 22, 1996, 61 FR 54852; OMB approved the information collection requirements on August 27,1997 (ICR 0783.36, OMB 2060–0104). The affected regulations are codified at 40 CFR part 86. EPA will continue to present OMB control numbers in a consolidated table format to be codified in 40 CFR part 9 of the Agency's regulations, and in each CFR volume containing EPA regulations. The table lists CFR citations with reporting, recordkeeping, or other information collection requirements, and the current OMB control numbers. This listing of the OMB control numbers and their subsequent codification in the CFR satisfies the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and OMB's implementing regulations at 5 CFR part 1320. By this action, EPA is also announcing that these sections, which contain information collection requirements, became effective when approved by OMB on August 27, 1997.

This ICR was previously subject to public notice and comment prior to OMB approval. Due to the technical nature of the table, EPA finds that further notice and comment is unnecessary. As a result, EPA finds that there is ''good cause'' under section 553(b)(B) of the Administrative Procedure Act, 5 U.S.C. 553(b)(B), to amend this table without prior notice and comment.

I. Administrative Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. In addition, this action does not impose any enforceable duty, contain any unfunded mandate, or impose any significant or unique impact on small governments as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not require prior consultation with State, local, and tribal government officials as specified by Executive Order 12875 (58

FR 58093, October 28, 1993) or Executive Order 13084 (63 FR 27655 (May 10, 1998), or involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). Because this action is not subject to notice-and-comment requirements under the Administrative Procedure Act or any other statute, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997) because EPA interprets Executive Order 13045 as applying only to those regulatory actions that are based on health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045 because it does not establish an environmental standard intended to mitigate health or safety risks.

Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. This determination must be supported by a brief statement. 5 U.S.C. 808(2). As stated previously, EPA has made such a good cause finding, including the reasons therefor, and established an effective date of August 12, 1999 for the amendment to 40 CFR 9.1. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects

40 CFR Part 9

Environmental protection, Reporting and recordkeeping requirements.

40 CFR Part 86

Environmental protection, Administrative practice and procedure, Confidential business information, Labeling, Motor vehicle pollution, Reporting and recordkeeping requirements.

Dated: July 22, 1999.

Joseph Retzer,

Director, Regulatory Information Division, Office of Policy.

For the reasons set out in the preamble, 40 CFR part 9 is amended as follows:

PART 9—[AMENDED]

1. The authority citation for part 9 continues to read as follows:

Authority: 7 U.S.C. 135 *et seq.*, 136–136y; 15 U.S.C. 2001, 2003, 2005, 2006, 2601–2671; 21 U.S.C. 331j, 346a, 348; 31 U.S.C. 9701; 33 U.S.C. 1251 *et seq.*, 1311, 1313d, 1314, 1318, 1321, 1326, 1330, 1342, 1344, 1345 (d) and (e), 1361; E.O. 11735, 38 FR 21243, 3 CFR, 1971–1975 Comp. p. 973; 42 U.S.C. 241, 242b, 243, 246, 300f, 300g, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–1, 300j–2, 300j–3, 300j–4, 300j–9, 1857 *et seq.*, 6901–6992k, 7401–7671q, 7542, 9601–9657, 11023, 11048.

2. In § 9.1 the table is amended by adding new entries in numerical order under the following centerheading to read as follows:

§ 9.1 OMB approvals under the Paperwork Reduction Act.

* * * * *

40 CFR citation	OMB Control No.
* * * * * *	
Control of Air Pollution From New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures	
86.000–7	2060–0104
86.000–8	2060–0104
86.000–9	2060–0104
86.000–21	2060–0104
86.000–23	2060–0104
86.000–24	2060–0104
86.000–25	2060–0104
86.000–26	2060–0104
86.000–28	2060–0104
86.001–9	2060–0104
86.001–21	2060–0104
86.001–23	2060–0104
86.001–24	2060–0104
86.001–25	2060–0104
86.001–26	2060–0104
86.001–28	2060–0104
86.004–9	2060–0104
86.004–28	2060–0104
* * * * *	
86.108–00	2060–0104
* * * * *	
86.129–00	2060–0104
* * * * *	
86.159–00	2060–0104
86.160–00	2060–0104
86.161–00	2060–0104
86.162–00	2060–0104
86.162–03	2060–0104
86.163–00	2060–0104

* * * * *

[FR Doc. 99–19267 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 62

[CC Docket No. 98–195; FCC 99–163]

1998 Biennial Regulatory Review—Repeal of Part 62 of the Commission's Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document seeks as part of its 1998 biennial review of regulations whether its rules governing interlocking directorates should be repealed. After reviewing the comments, the Commission released a Report and Order (Order) repealing part 62 of the rules governing interlocking directorates, because it concluded that part 62 is no longer necessary in the public interest. The Commission concludes that it should forbear from applying those provisions in section 212 of the Act that prohibit any person from holding the position of officer or director of more than one carrier subject to the Act without obtaining prior Commission authorization.

DATES: Effective September 13, 1999.

ADDRESSES: Federal Communications Commission, 445 12th Street, S.W., Room TW–A325, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Jennifer Myers Kashatus, Formal Complaints and Investigations Branch, Enforcement Division, Common Carrier Bureau (202) 418–0960.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in CC Docket 98–195 [FCC 99–163], adopted on July 7, 1999, and released on July 16, 1999. The full text of the Report and Order is available for inspection and copying during normal business hours in the FCC Reference Center, Room CY–A257, 445 12th Street, S.W., Washington, D.C. 20554. The complete text of this decision also may be purchased from the Commission's duplicating contractor, International

Transcription Services, 445 12th Street, S.W., Room CY–B400, Washington, D.C. 20554.

1. The Commission initiated this proceeding by a Notice of Proposed Rulemaking (*Notice*) released on November 17, 1998. In the *Notice*, the Commission designated this proceeding as part of its 1998 biennial review of regulations pursuant to section 11 of the Act. Section 11 requires the Commission to conduct a biennial review, in every even-numbered year beginning in 1998, of ''all regulations * * * that apply to the operations or activities of any provider of telecommunications service'' and to ''determine whether any such regulation is no longer necessary in the public interest as the result of meaningful economic competition between providers of such service.'' [1] Section 11 further requires the Commission to repeal or to modify any regulation it determines is no longer necessary in the public interest.

2. In the *Notice*, the Commission tentatively concluded that part 62 of its rules governing interlocking directorates is no longer necessary to the public interest and therefore should be repealed. Specifically, the Commission proposed to eliminate the requirements that: (1) application be made to hold interlocking positions with more than one carrier subject to the Act where one carrier sought to be interlocked is either a dominant carrier, or a carrier not yet determined to be non-dominant; (2) applications for findings of common ownership be filed if dominant carriers are involved; (3) interlocking positions of more than one carrier subject to the Act involving non-dominant carriers, connecting carriers, cellular licensees operating in different geographic markets, and parents of carriers, among others, be reported to the Commission within 30 days after such interlock occurs; and (4) any change in status as reported under part 62 of the rules be reported to the Commission within 30 days of such change.

3. Additionally, in the *Notice*, the Commission tentatively concluded that it should forbear from enforcing those provisions of section 212 of the Act that address interlocking directorates. Section 10 of the Act requires the Commission to forbear from applying any provision of the Act, or any regulations, to a telecommunications carrier or telecommunications service, or class thereof, if the Commission makes certain specified findings with respect to such provisions or regulations. In the *Notice*, the Commission tentatively concluded that section 212 of the Act: (1) is not necessary to ensure that carriers' charges, practices, or classifications are just and reasonable, and are not unjustly or unreasonably discriminatory; and (2) is not necessary for the protection of consumers. The Commission also tentatively concluded that forbearance from applying interlocking directorate requirements is consistent with the public interest.

4. The Commission received eleven comments and one reply comment in this proceeding. All but one commenter support the Commission's tentative conclusions that the Commission should repeal part 62 of its rules and forbear from enforcing the interlocking directorate provisions of section 212 of the Act.

5. In the Report and Order, the Commission concludes that it should repeal part 62 of its rules, which implements section 212 of the Act. Specifically, the Commission concludes that it should delete its rules that require: (1) dominant carriers and those carriers not yet found to be non-dominant to seek Commission approval prior to accepting an interlocking directorate position; (2) non-dominant carriers, connecting carriers, parent companies, and other carriers as may be required under our rules, to file post interlocking directorate reports; (3) carriers desiring authorization to hold interlocking directorates based on a finding of common ownership to make specific filings with the Commission; and (4) carriers that undergo a change in status with respect to interlocking directorate status to file a change of status report. The Commission found that interlocking directorates rarely threaten to constrain competition. More precisely, the Commission finds it difficult to envision a proposed interlock that the Commission would conclude to be anticompetitive, *ab initio*, such that the Commission would deny approval for such interlock. To the extent that potentially anticompetitive interlocks may occur, the Commission further finds that other Title II provisions and antitrust laws adequately protect against the particular concerns its Part 62 rules seek to address. Therefore, the Commission found that its rules are no longer necessary in the public interest and should be repealed.

The Commission also concludes that, pursuant to section 10 of the Act, the Commission should forbear from enforcing the interlocking directorate provisions of section 212 of the Act. In the *Notice*, the Commission tentatively concluded that the Commission should forbear from enforcing the provisions of section 212 of the Act requiring any person seeking to hold the position of officer or director with more than one carrier subject to the Act to seek prior Commission approval. The Commission tentatively concluded that these provisions of section 212 of the Act: (1) Are not necessary to ensure that a carrier's charges, practices, or classifications are just and reasonable, and are not unjustly or unreasonably discriminatory; and (2) are not necessary for the protection of consumers. The Commission also tentatively concluded that forbearance from enforcing these requirements is consistent with the public interest. The Commission recognized in the *Notice* that section 212 of the Act applies to carriers in telecommunications markets that may not yet be fully competitive, and therefore, sought comment on whether the analysis undertaken to consider forbearance from enforcing section 212 of the Act should vary from market to market. No commenter opposes the Commission's tentative conclusion that the Commission should forbear from section 212 of the Act as applied to all carriers in all telecommunications markets. For all the reasons detailed previously in support of eliminating its part 62 rules, the Commission concludes that each of the statutory criteria for forbearance is satisfied, and therefore, that it should forbear from enforcing these provisions of section 212 of the Act in all markets.

V. Final Regulatory Flexibility Act Analysis

8. As required by the Regulatory Flexibility Act (RFA), the Commission incorporated an Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies and rules proposed in the *Notice*. The Commission sought written public comment on the proposals in the *Notice*, including comment on the IRFA. This present Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

9. *Need for, and Objectives of, this Action:* The Commission initiated its examination of its part 62 rules as part of its 1998 biennial review of regulations as required by section 11 of the Communications Act of 1934, as amended. The Commission also issued the *Notice* to review its regulatory regime for interlocking directorates, and to determine whether in light of section 10 of the Act, the Commission should forbear from applying such requirements. The purpose of the Report and Order is to delete part 62 of the Commission's rules, which the Commission finds are no longer

[1] 47 U.S.C. 161(a).

necessary in the public interest. The Commission also has determined that it should forbear from addressing those provisions in section 212 of the Act that address interlocking directorates.

10. *Summary of Significant Issues Raised by Public Comments in Response to the IRFA:* In the IRFA, the Commission sought comment on whether repealing part 62 of its rules and forbearing from section 212 would benefit small entities. The Commission received no comments in response to the IRFA. Several commenters, including one small entity, however, indicated that the proposals in the *Notice* would benefit small entities by reducing unnecessary regulatory burdens.

11. *Description, potential impact, and number of small entities affected:* In this order, the Commission has decided to repeal part 62 of its rules, which includes eliminating the post-interlock filing requirement for non-dominant carriers, many of whom may be small entities. The Commission also has decided to forbear from enforcing those provisions of section 212 of the Act addressing interlocking directorates. Forbearance from enforcing these rules will benefit small entities by reducing the regulatory burden to which small businesses would otherwise be subject.

12. To estimate the number of small entities that would benefit from this positive economic impact, we first consider the statutory definition of ''small entity'' under the RFA. The RFA generally defines ''small entity'' as having the same meaning as the term ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act, unless the Commission has developed one or more definitions that are appropriate to its activities. Under the Small Business Act, a ''small business concern'' is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA). The SBA has defined a small business for Standard Industrial Classification (SIC) categories 4812 (Radiotelephone Communications) and 4813 (Telephone Communications, Except Radiotelephone) to be small entities when they have no more than 1,500 employees. We first discuss the number of small telephone companies falling within these SIC categories, then attempt to refine further those estimates to correspond with the categories of telephone companies that are commonly used under our rules.

13. The most reliable source of information regarding the total numbers of certain common carrier and related providers nationwide, as well as the numbers of commercial wireless entities, appears to be data the Commission publishes annually in its *Telecommunications Industry Revenue* report, regarding the Telecommunications Relay Service (TRS). According to data in the most recent report, there are 3,459 interstate carriers. These carriers include, *inter alia,* local exchange carriers, wireline carriers and service providers, interexchange carriers, competitive access providers, operator service providers, pay telephone operators, providers of telephone toll service, providers of telephone exchange service, and resellers.

14. Although some affected incumbent local exchange carriers (ILECs) may have 1,500 or fewer employees, we do not believe that such entities should be considered small entities within the meaning of the RFA because they are either dominant in their field of operations or are not independently owned and operated, and therefore by definition not ''small entities'' or ''small business concerns'' under the RFA. Accordingly, our use of the terms ''small entities'' and ''small businesses'' does not encompass small ILECs. Out of an abundance of caution, however, for regulatory flexibility analysis purposes, we will separately consider small ILECs within this analysis and use the term ''small ILECs'' to refer to any ILECs that arguably might be defined by the SBA as ''small business concerns.''

15. *Total Number of Telephone Companies Affected.* The United States Bureau of the Census (''the Census Bureau'') reports that, at the end of 1992, there were 3,497 firms engaged in providing telephone services, as defined therein, for at least one year. This number contains a variety of different categories of carriers, including local exchange carriers, interexchange carriers, competitive access providers, cellular carriers, mobile service carriers, operator service providers, pay telephone operators, and resellers. It seems certain that some of those 3,497 telephone service firms may not qualify as small entities or small incumbent LECs because they are not ''independently owned and operated.'' Additionally, we note that the number of small entities affected by this rule change as set forth in this Order is less than the total number of telephone companies as stated herein, because as discussed, the Commission already has decided to forbear from applying section 212 of the Act with regard to CMRS providers. It seems reasonable to conclude, therefore, that fewer than 3,497 telephone service firms are small entity telephone service firms or small incumbent LECs that may be affected by this Order.

16. *Wireline Carriers and Service Providers.* SBA has developed a definition of small entities for telephone communications companies other than radiotelephone companies. The Census Bureau reports that, there were 2,321 such telephone companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business telephone company other than a radiotelephone company is one employing no more than 1,500 persons. All but 26 of the 2,321 non-radiotelephone companies listed by the Census Bureau were reported to have fewer than 1,000 employees. Thus, even if all 26 of those companies had more than 1,500 employees, there would still be 2,295 non-radiotelephone companies that might qualify as small entities or small incumbent LECs. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of wireline carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 2,295 small entity telephone communications companies other than radiotelephone companies that may be affected by the decisions in this Order.

17. *Local Exchange Carriers.* Neither the Commission nor SBA has developed a definition of small providers of local exchange services (LECs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone (wireless) companies. The most reliable source of information regarding the number of LECs nationwide of which we are aware appears to be the data that we collect annually in connection with the Telecommunications Relay Service (TRS). According to our most recent data, 1,371 companies reported that they were engaged in the provision of local exchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of LECs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,371 small

entity LECs or small incumbent LECs that may be affected by the decisions in this Order.

18. *Interexchange Carriers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of interexchange services (IXCs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of IXCs nationwide of which we are aware appears to be the data that we collect annually in connection with TRS. According to our most recent data, 143 companies reported that they were engaged in the provision of interexchange services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of IXCs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 143 small entity IXCs that may be affected by the decisions in this Order.

19. *Competitive Access Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of competitive access services (CAPs). The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of CAPs nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 109 companies reported that they were engaged in the provision of competitive access services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of CAPs that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 109 small entity CAPs that may be affected by the decisions in this Order.

20. *Pay Telephone Operators.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to pay telephone operators. The closest applicable definition under SBA rules is for telephone communications companies except radiotelephone (wireless) companies. The most reliable source of information regarding the number of pay telephone operators nationwide is the data that we collect annually in connection with the TRS Worksheet. According to our most recent data, 441 companies reported that they were engaged in the provision of pay telephone services. We do not have information on the number of carriers that are not independently owned and operated, nor have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of pay telephone operators that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 271 small pay telephone operators.

21. *Operator Service Providers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to providers of operator services. The closest applicable definition under SBA rules is for telephone communications companies other than radiotelephone companies. The most reliable source of information regarding the number of operator service providers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 27 companies reported that they were engaged in the provision of operator services. Although it seems certain that some of these companies are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of operator service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 27 small entity operator service providers that may be affected by the decisions in this Order.

22. *Resellers.* Neither the Commission nor SBA has developed a definition of small entities specifically applicable to resellers. The closest applicable definition under SBA rules is for all telephone communications companies. The most reliable source of information regarding the number of resellers nationwide of which we are aware appears to be the data that we collect annually in connection with the TRS. According to our most recent data, 339 companies reported that they were engaged in the resale of telephone services. Although it seems certain that some of these carriers are not independently owned and operated, or have more than 1,500 employees, we are unable at this time to estimate with greater precision the number of resellers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 339 small entity resellers that may be affected by the decisions adopted in this Order.

23. *Private Paging.* At present, there are approximately 24,000 Private Paging licenses. We do not have data specifying the number of these carriers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at this time to estimate with greater precision the number of paging carriers that would qualify as small business concerns under the SBA's definition. We estimate that the majority of private paging providers would qualify as small entities under the SBA definition. We note that private paging does not include common carrier paging, for which the Commission has adopted auction rules and has proposed to SBA a special small business size standard definition.

24. *Wireless (Radiotelephone) Carriers.* SBA has developed a definition of small entities for radiotelephone (wireless) companies. The Census Bureau reports that there were 1,176 such companies in operation for at least one year at the end of 1992. According to SBA's definition, a small business radiotelephone company is one employing no more than 1,500 persons. The Census Bureau also reported that 1,164 of those radiotelephone companies had fewer than 1,000 employees. Thus, even if all of the remaining 12 companies had more than 1,500 employees, there would still be 1,164 radiotelephone companies that might qualify as small entities if they are independently owned are operated. Although it seems certain that some of these carriers are not independently owned and operated, we are unable at this time to estimate with greater precision the number of radiotelephone carriers and service providers that would qualify as small business concerns under SBA's definition. Consequently, we estimate that there are fewer than 1,164 small entity radiotelephone companies that may be affected by the decisions adopted in this Order.

25. *Recording, record keeping, and other compliance requirements:* No additional paperwork will be required by the decisions adopted in this proceeding. This proceeding eliminates filing requirements set forth in part 62 of the Commission's rules.

26. *Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered:* The impact of this proceeding should be beneficial to small businesses, because eliminating the Commission's part 62 rules will reduce the reporting or recordkeeping

requirements on all communications common carriers.

27. *Report to Congress:* The Commission will send a copy of this Order, including this FRFA, in a report to be sent to Congress pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996, 5 U.S.C. 801(a)(1)(A). In addition, the Commission will send a copy of this Order, including FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of the Order and FRFA (or summaries thereof) will also be published in the Federal Register.

VI. Conclusion and Ordering Clauses

28. Accordingly, *It is ordered* that pursuant to sections 1, 4, 10, 11, and 212, of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 160, 161, and 212, the policies, rules, and requirements set forth herein ARE ADOPTED.

29. *It is further ordered* That pursuant to section 11 of the Communications Act of 1934, as amended, 47 U.S.C. 161, that part 62 of the Commission's rules, 47 CFR part 62, is no longer in the public interest, and therefore is REMOVED, effective 30 days after publication of the text thereof in the **Federal Register**.

30. *It is further ordered* That pursuant to section 10 of the Communications Act of 1934, as amended, 47 U.S.C. 160, the Commission WILL FORBEAR from those provisions of section 212 addressing interlocking directorates, 47 U.S.C. 212, effective 30 days after publication of the text thereof in the **Federal Register**.

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

List of Subjects in 47 CFR part 62

Antitrust, Communications common carriers, Radio, Reporting and recordkeeping requirements, Telegraph and telephone.

Federal Communications Commission.

William F. Caton,

Deputy Secretary.

Rule Changes

PART 62—[REMOVED]

Accordingly, under the authority 47 U.S.C. 154, amend 47 CFR chapter I by removing part 62.

[FR Doc. 99–20886 Filed 8–11–99; 8:45 am]

BILLING CODE 6712–01–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

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

RIN 0648–AK32

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Shrimp Fishery of the Gulf of Mexico; Final Rule; Correction

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

ACTION: Final rule; correction.

SUMMARY: NMFS issues a correction to the final rule, published in the **Federal Register** on July 13, 1999, which established procedures for the testing and certification of bycatch reduction devices for use in shrimp trawls in the exclusive economic zone in the Gulf of Mexico. This action corrects a prohibition by adding a cross reference applicable to the South Atlantic shrimp fishery that was inadvertently omitted, corrects an amendatory instruction, corrects an erroneous cross reference in the **DATES** section, and corrects an erroneous acronym in § 622.41(h)(3).

DATES: Effective August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Rodney C. Dalton, 727–570–5325.

SUPPLEMENTARY INFORMATION: On July 13, 1999, NMFS published a final rule, at 64 FR 37690, that established procedures for the testing and certification of bycatch reduction devices for use in shrimp trawls in the exclusive economic zone in the Gulf of Mexico. This rule corrects § 622.7(aa) to incorporate the applicable cross reference regarding the South Atlantic shrimp fishery. Also, this rule corrects cross references in the **DATES** section. In addition, this rule corrects an acronym in § 622.41(3)(i)(B) and (3)(ii).

Corrections

In final rule FR Doc. 99–17488 published on July 13, 1999 (64 FR 37690), make the following corrections:

1. On page 37690, in the 3rd column, under **DATES**, in the 11th and 12th lines, ''§ 622.41(h)(4)(i) and (h)(4)(ii),'' is corrected to read ''§ 622.41(h)(3)(i) and (h)(3)(ii),''.

§ 622.7 [Corrected]

2. On page 37693, in the 3rd column, amendatory instruction 2 is corrected to read as follows: ''2. In § 622.7, paragraph (aa) is revised to read as follows:''.

3. On the same page, in the same column, under § 622.7(aa), in the last line, ''§ 622.41(h)(3)'' is corrected to read ''§ 622.41(g)(3)(i) or (h)(3)''.

§ 622.41 [Corrected]

4. On page 37694, in the 1st column, under § 622.41(h)(3)(i)(B), in the 2nd and 6th lines ''RA'' is corected to read ''RD'' in both places.

5. On the same page, in the 2nd column, under § 622.41(h)(3)(ii), in the 6th, 9th, and 31st lines ''RA'' is corrected to read ''RD'' in three places.

Dated: August 6, 1999.

Andrew A. Rosenberg,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20901 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 080999B]

Fisheries of the Exclusive Economic Zone Off Alaska; Other Rockfish in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting retention of other rockfish in the Western Regulatory Area of the Gulf of Alaska (GOA). NMFS is requiring that catch of other rockfish in this area be treated in the same manner as prohibited species and discarded at sea with a minimum of injury. This action is necessary because the amount of the 1999 total allowable catch (TAC) of other rockfish in this area has been reached.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 9, 1999, until 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson 907–481–1780 or tom.pearson@noaa.gov.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council

under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1999 TAC of other rockfish in the Western Regulatory Area of the GOA was established as 20 metric tons by the Final 1999 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999). See § 679.20(c)(3)(ii).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS, has determined that the 1999 TAC of other rockfish in the Western Regulatory Area of the GOA has been reached. Therefore, NMFS is requiring that further catches of other rockfish in the Western Regulatory Area of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC for other rockfish in the Western Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. The fleet has taken the amount of the 1999 TAC for other rockfish in the Western Regulatory Area of the GOA. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by § 679.20 and is exempt from review under E.O. 12866.

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

Dated: August 9, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20904 Filed 8–9–99; 4:56 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 990304062–9062–01; I.D. 080999A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Central Regulatory Area of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1999 total allowable catch (TAC) of Pacific ocean perch in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), August 9, 1999, through 2400 hrs, A.l.t., December 31, 1999.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 1999 TAC of Pacific ocean perch in the Central Regulatory Area of the Gulf of Alaska was established by the Final 1998 Harvest Specifications of Groundfish for the GOA (64 FR 12094, March 11, 1999) as 6,760 metric tons (mt), determined in accordance with § 679.20(c)(3)(ii). The directed fishery for Pacific ocean perch in the Central Regulatory Area was closed under § 679.20(d)(iii) on July 11, 1999, (64 FR 37884, July 14, 1999) and reopened on August 6, 1999 (notification filed by the Office of the Federal Register on August 5, 1999).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1999 TAC for Pacific ocean perch will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 5,760 mt, and is setting aside the remaining 1,000 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific ocean perch in the Central Regulatory Area.

Maximum retainable bycatch amounts may be found in the regulations at § 679.20(e) and (f).

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1999 TAC of Pacific ocean perch for the Central Regulatory Area of the GOA. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only result in overharvest. NMFS finds for good cause that the implementation of this action should not be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: August 9, 1999.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20921 Filed 8–9–99; 4:56 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 64, No. 155
Thursday, August 12, 1999

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 25

[Docket No. NM162; Notice No. 25–99–08–SC]

Special Conditions: Bombardier Model DHC–8–400 Airplane; Automatic Takeoff Thrust Control System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Bombardier Model DHC–8–400 series airplanes. This new airplane will have a novel or unusual design feature associated with an Automatic Takeoff Thrust Control System (ATTCS). The applicable airworthiness regulations do not contain appropriate safety standards for approach climb performance using an ATTCS. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Comments must be received on or before September 13, 1999.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–14), Docket No. NM162, 1601 Lind Avenue SW., Renton, Washington, 98055; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked ''Docket No. NM162.'' Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Greg Dunn, FAA, Transport Airplane Directorate, Aircraft Certification Office, Standardization Branch, ANM–113, 1601 Lind Avenue SW., Renton, Washington, telephone (425) 227–2799; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM162.'' The postcard will be date stamped and returned to the commenter.

Background

On January 31, 1995, Bombardier Regional Aircraft, 123 Garratt Blvd., Downsview, Ontario, France, M3K 1Y5, applied for an amended type certificate to include the new Bombardier Model DHC–8–400 airplane. The Bombardier Model DHC–8–400, which is a derivative of the Bombardier (formerly de Havilland, Inc.) Model DHC 8–300 series airplanes currently under Type Certificate No. A13NM is a medium-sized airplane powered by two Pratt & Whitney Canada PW150A turbopropeller engines mounted on the wings. Each engine is equipped with a Dowty Aerospace Model R408 propeller and is capable of delivering 5071 horsepower at takeoff. The airplane is configured for five flight crewmembers and 78 passengers.

The Bombardier Model DHC–8–400 incorporates an unusual design feature, the Automatic Takeoff Thrust Control System (ATTCS), referred to by Bombardier as uptrim, to show compliance with the approach climb requirements of § 25.121(d). Appendix I to part 25 limits the application of performance credit for ATTCS to takeoff only. Since the airworthiness regulations do not contain appropriate safety standards for approach climb performance using ATTCS, special conditions are required to ensure a level of safety equivalent to that established in the regulations.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Bombardier must show that the Model DHC–8–400 meets the applicable provisions of the regulations incorporated by reference in Type Certificate No. A13NM or the applicable regulations in effect on the date of application for the change to the type certificate. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A13NM are as follows: part 25, effective February 1, 1965, including Amendments 25–1 through 25–86, and § 25.109 as amended by Amendment 92. The certification basis may also include later amendments to part 25 that are not relevant to these special conditions. In addition, the certification basis for the Model DHC–8–400 includes part 34, effective September 10, 1990, including Amendment 34–3 effective February 3, 1999, plus any amendments in effect at the time of certification; and part 36, effective December 1, 1969, including Amendments 36–1 through 36–21 and any subsequent amendments which will be applicable on the date the type certificate is issued. These special conditions form an additional part of the type certification basis. In addition, the certification basis may include other special conditions that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended) do not contain adequate or appropriate safety standards for the Bombardier Model DHC–8–400 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model DHC–8–400 must

comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

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

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

Novel or Unusual Design Features

The Model DHC–8–400 will incorporate the following novel or unusual design feature: the Automatic Takeoff Thrust Control System (ATTCS), referred to by Bombardier as uptrim, to show compliance with the approach climb requirements of § 25.121(d). The Bombardier Model DHC–8–400 is a medium-sized airplane powered by two Pratt & Whitney Canada PW150A turbopropeller engines equipped with Full Authority Digital Engine Controls (FADEC) that, in part, protect against exceeding engine limits. The Model DHC–8–400 is also equipped with Dowty Aerospace Model R408 propellers as part of the propulsion package. The propellers incorporate a Propeller Electronic Control (PEC) that functions with the FADEC to control the engine/propeller system.

The Model DHC–8–400 incorporates a non-moving throttle system that functions by placing the throttle levers in detents for the takeoff and climb phases of flight, allowing the FADEC to schedule power settings based on flight phase. With the uptrim and associated systems functioning normally as designed, all applicable requirements of part 25 of the Federal Aviation Regulations (FAR) and paragraph 25 of the Joint Aviation Requirements (JAR), will be met without requiring any action by the crew to increase power.

Automatic takeoff power control on the Model DHC–8–400 involves uptrimming the remaining engine to Maximum Takeoff Power (MTOP) and autofeathering the propeller on the failed engine. These actions will be controlled by the PEC. At takeoff when AUTOFEATHER (A/F) is selected and the power levers are set to Normal Takeoff Power (NTOP), an ''A/F ARM'' message on the engine display will confirm to the pilot that the system is armed and autofeather and uptrim will occur without any further action by the crew if an engine fails. During go-around the uptrim will be automatically armed as soon as the control (power) levers are set to the takeoff (go-around) configuration.

Engine power is set to NTOP, which is 90 percent of MTOP, to initiate the takeoff roll. The value of NTOP for the current ambient conditions will be calculated and set by the FADEC. Following an engine failure during takeoff or go-around, the ATTCS will change the power reference on the operating engine to achieve the MTOP rating if the engine power was originally set to NTOP. If the reduced power takeoff option is being used the ATTCS will increase the power of the operating engine from 90 percent to 100 percent of the corresponding set power.

The engine operating limits (turbine temperature and RPM) for NTOP are set and displayed to the pilot when that rating is selected. These limits are set such that the engine red line limits are not exceeded when an uptrim is applied. When MTOP rating is selected or triggered, the engine limits are reset automatically to reflect the engine red line limits.

When both Power Lever Angles (PLA) are high and both the Condition Lever Angles (CLA) are at maximum position (MAX), the system is armed. If the torque on one engine drops below 25 percent, the PEC on the failed engine sends an uptrim signal to the remaining engine. Other conditions that will trigger the uptrim are the reduction of prop speed (Np) below 80 percent or the automatic feathering of the prop. The power levers will continue to function normally should the ATTCS fail. The MTOP can also be selected by pressing the ''MTOP'' switch on the engine control panel. The full MTOP is available if the pilot elects to push the PLA past the takeoff power detent into the over travel range.

To deactivate the uptrim, the PLA's should be moved out of the rating detent to a position less than 60 degrees (PLA not high) or the CLA of the active engine should be moved out of the MAX/1020 takeoff detent.

The part 25 standards for ATTCS, contained in § 25.904 and Appendix I, specifically restrict performance credit for ATTCS to takeoff. Expanding the scope of the standards to include other phases of flight, including go-around, was considered at the time the standards were issued, but flightcrew workload issues precluded further consideration. As stated in the preamble to Amendment 25–62: ''In regard to ATTCS credit for approach climb and go-around maneuvers, current regulations preclude a higher thrust for the approach climb (§ 25.121(d)) than for the landing climb (§ 25.119). The workload required for the flightcrew to monitor and select from multiple in-flight thrust settings in the event of an engine failure during a critical point in the approach, landing, or go-around operations is excessive. Therefore, the FAA does not agree that the scope of the amendment should be changed to include the use of ATTCS for anything except the takeoff phase'' (52 FR 43153, November 9, 1987).

The ATTCS incorporated on the Model DHC–8–400 allows the pilot to use the same power setting procedure during a go-around, regardless of whether or not an engine fails. In either case, the pilot obtains go-around power by moving the throttles into the forward (takeoff/go-around) throttle detent. Since the ATTCS is permanently armed, it will function automatically following an engine failure, and advance the remaining engine to the ATTCS thrust level. Therefore, this design adequately addresses the pilot workload concerns identified in the preamble to Amendment 25–62. Accordingly, these proposed special conditions would require a showing of compliance with those provisions of § 25.904 and Appendix I that are applicable to the approach climb and go-around maneuvers.

The definition of a critical time interval for the approach climb case, during which time it must be extremely improbable to violate a flight path based on the § 25.121(d) gradient requirement, is of primary importance. The § 25.121(d) gradient requirement implies a minimum one-engine-inoperative flight path capability with the airplane in the approach configuration. The engine may have been inoperative before initiating the go-around, or it may become inoperative during the go-around. The definition of the critical time interval must consider both possibilities.

Applicability

As discussed above, these proposed special conditions would be applicable to the Bombardier Model DHC–8–400. Should Bombardier apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain design features on the Bombardier Model DHC–8–400 airplane. It is not a rule of general applicability and affects only the manufacturer who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these proposed special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for the Bombardier Regional Aircraft Model DHC–8–400 airplane.

1. *General.* An Automatic Takeoff Thrust Control System (ATTCS) is defined as the entire automatic system, including all devices, both mechanical and electrical that sense engine failure, transmit signals, actuate fuel controls or power levers, or increase engine power by other means on operating engines to achieve scheduled thrust or power increases and furnish cockpit information on system operation.

2. *ATTCS.* The engine power control system that automatically resets the power or thrust on the operating engine (following engine failure during the approach for landing) must comply with the following requirements:

a. *Performance and System Reliability Requirements.* The probability analysis must include consideration of ATTCS failure occurring after the time at which the flightcrew last verifies that the ATTCS is in a condition to operate until the beginning of the critical time interval.

b. *Thrust Setting.* The initial takeoff thrust set on each engine at the beginning of the takeoff roll or go-around may not be less than:

(1) Ninety (90) percent of the thrust level set by the ATTCS (the maximum takeoff thrust or power approved for the airplane under existing ambient conditions);

(2) That required to permit normal operation of all safety-related systems and equipment dependent upon engine thrust or power lever position; or

(3) That shown to be free of hazardous engine response characteristics when thrust is advanced from the initial takeoff thrust or power to the maximum approved takeoff thrust or power.

c. *Powerplant Controls.* In addition to the requirements of § 25.1141, no single failure or malfunction, or probable combination thereof, of the ATTCS, including associated systems, may cause the failure of any powerplant function necessary for safety. The ATTCS must be designed to:

(1) Apply thrust or power on the operating engine(s), following any one engine failure during takeoff or go-around, to achieve the maximum approved takeoff thrust or power without exceeding engine operating limits; and

(2) Provide a means to verify to the flightcrew before takeoff and before beginning an approach for landing that the ATTCS is in a condition to operate.

3. *Critical Time Interval.* The definition of the Critical Time Interval in Appendix I, Section I25.2(b) shall be expanded to include the following:

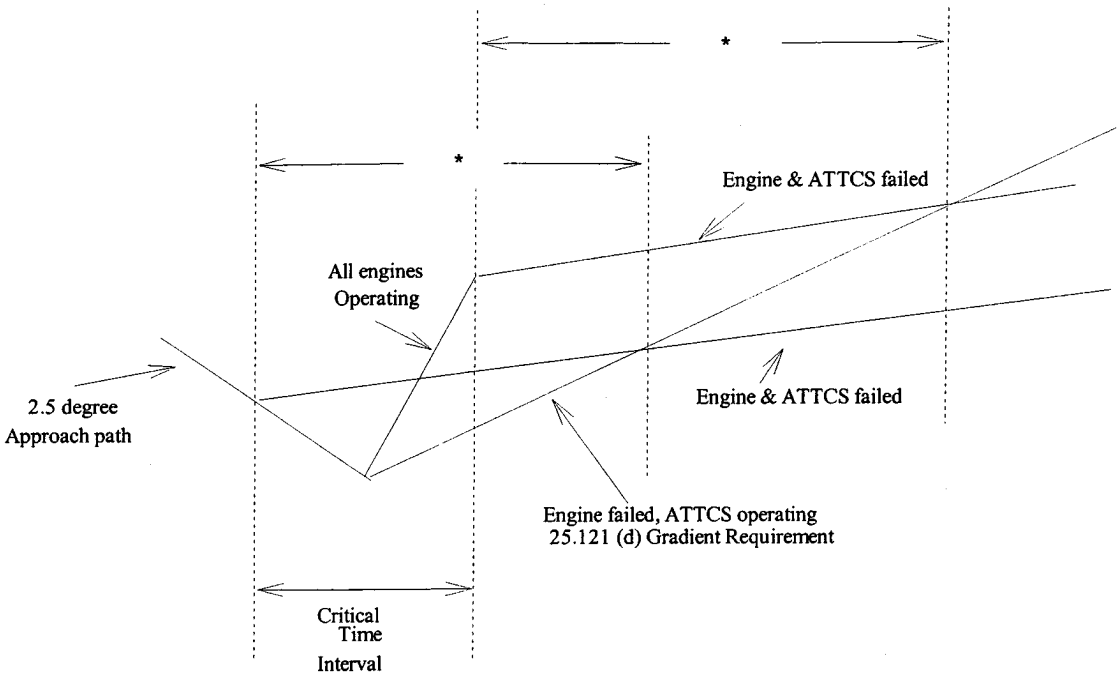
a. When conducting an approach for landing using ATTCS, the critical time interval is defined as follows:

(1) The critical time interval *begins* at a point on a 2.5 degree approach glide path from which, assuming a simultaneous engine and ATTCS failure, the resulting approach climb flight path intersects a flight path originating at a later point on the same approach path corresponding to the part 25 one-engine-inoperative approach climb gradient. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for takeoff beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

(2) The critical time interval *ends* at the point on a minimum performance, all-engines-operating go-around flight path from which, assuming a simultaneous engine and ATTCS failure, the resulting minimum approach climb flight path intersects a flight path corresponding to the part 25 minimum one-engine-inoperative approach climb gradient. The all-engines-operating go-around flight path and the part 25 one-engine-inoperative approach climb gradient flight path originate from a common point on a 2.5 degree approach path. The period of time from the point of simultaneous engine and ATTCS failure to the intersection of these flight paths must be no shorter than the time interval used in evaluating the critical time interval for the takeoff beginning from the point of simultaneous engine and ATTCS failure and ending upon reaching a height of 400 feet.

b. The critical time interval must be determined at the altitude resulting in the longest critical time interval for which one-engine-inoperative approach climb performance data are presented in the Airplane Flight Manual.

c. The critical time interval is illustrated in the following figure:



* The engine and ATTCS failed time interval must be no shorter than the time interval from the point of simultaneous engine and ATTCS failure to a height of 400 feet used to comply with I25.2(b) for ATTCS use during takeoff.

Issued in Renton, Washington, on August 4, 1999.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate Aircraft Certification Service, ANM–100.

[FR Doc. 99–20857 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR part 25

[Docket No. NM160, Notice No. 25–99–07–SC]

Special Conditions: Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 Airplanes; High Intensity Radiated Fields (HIRF)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes as modified by Garrett Aviation Services. The Model 20–C5/–D5/–E5/–F5 airplanes are equipped with a high-technology digital avionics system that performs critical functions. The applicable type certification regulations do not contain adequate or appropriate safety standards for the protection of this system from the effects of high-intensity radiated fields (HIRF). These special conditions provide the additional safety standards that the Administrator considers necessary to ensure that the critical functions that this system performs are maintained when the airplane is exposed to HIRF.

DATES: Comments must be received on or before September 13, 1999.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Transport Airplane Directorate, Attention: Rules Docket (ANM–114), Docket No. NM160, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; or delivered in duplicate to the Transport Airplane Directorate at the above address. Comments must be marked: Docket No. NM160. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: Connie Beane, FAA, Transport Airplane Directorate, Aircraft Certification Service, Standardization Branch, ANM–113, 1601 Lind Avenue SW., Renton, Washington, 98055–4056; telephone (425) 227–2796; facsimile (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of these proposed special conditions by submitting such written data, views, or arguments, as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator. The proposals described in this notice may be changed in light of the comments received. All comments received will be available in the Rules Docket for examination by interested persons, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Persons wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. NM160.'' The postcard will be date stamped and returned to the commenter.

Background

On November 8, 1998, Garrett Aviation Services applied for a supplemental type certificate (STC) to modify Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes listed on Type Certificate A7EU.

The Model 20–C5/–D5/–E5/–F5 series of low wing airplanes are pressurized

airplanes with twin, Garrett TRE731–5AR turbofans that are configured for 8–10 passengers and a crew of 2. The airplane has a maximum takeoff weight of 29,000 pounds, a maximum landing weight of 27,734 pounds, and a range of 1600 nautical miles. The overall length of the Falcon Model 20–C5/–D5/–E5/–F5 airplanes is 56 feet 3 inches, and the wing span is 53 feet, 6 inches.

The modification incorporates the installation of flat panel displays for display of critical flight parameters (altitude, airspeed, and attitude) to the crew. These displays can be susceptible to disruption to both command/response signals as a result of electrical and magnetic interference. This disruption of signals could result in loss of all critical flight displays and annunciations or present misleading information to the pilot.

Type Certification Basis

Under the provisions of 14 CFR 21.101, Garrett Aviation Services must show that the Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes, as changed, continue to meet the applicable provisions of the regulations incorporated by reference in Type Certificate No. A7EU, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in Type Certificate No. A7EU are as follows:

The certification basis for the modified Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes include CAR 4b effective December 1953, through Amendment 4b–12 and SR422B, as amended by type certificate data sheet.

If the Administrator finds that the applicable airworthiness regulations (i.e., CAR 4b, as amended) do not contain adequate or appropriate safety standards for the Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

In addition to the applicable airworthiness regulations and special conditions, the Model 20–C5/–D5/–E5/–F5 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36.

Special conditions, as appropriate, are issued in accordance with 14 CFR 11.49, as required by §§ 11.28 and 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should Garrett Aviation Services apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would also apply to the other model under the provisions of § 21.101(a)(1).

Novel or Unusual Design Features

The modified Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes will incorporate the following new design feature: a new electronic flat panel display system, which was not available at the time of certification of these airplanes, that performs critical functions. This system may be vulnerable to HIRF external to the airplane.

Discussion

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

To ensure that a level of safety is achieved equivalent to that intended by the regulations incorporated by reference, special conditions are needed for the Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes, which require that new electrical and electronic systems, such as the flat panel displays for display of critical flight parameters (altitude, airspeed, and attitude) to the crew, that perform critical functions be designed and installed to preclude component damage and interruption of function due to both the direct and indirect effects of HIRF.

High-Intensity Radiated Fields (HIRF)

With the trend toward increased power levels from ground-based transmitters, plus the advent of space and satellite communications coupled with electronic command and control of the airplane, the immunity of critical digital avionics systems to HIRF must be established.

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

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

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

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

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

Field Strength (volts per meter)	Frequency	
	Peak	Average
10 kHz–100 kHz	50	50
100 kHz–500 kHz	50	50
500 kHz–2 MHz	50	50
2 MHz–30 MHz	100	100
30 MHz–70 MHz	50	50
70 MHz–100 MHz	50	50
100 MHz–200 MHz	100	100
200 MHz–400 MHz	100	100
400 MHz–700 MHz	700	50
700 MHz–1 GHz	700	100
1 GHz–2 GHz	2000	200
2 GHz–4 GHz	3000	200
4 GHz–6 GHz	3000	200
6 GHz–8 GHz	1000	200
8 GHz–12 GHz	3000	300
12 GHz–18 GHz	2000	200
18 GHz–40 GHz	600	200

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

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

Applicability

As discussed above, these special conditions are applicable to Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes modified by Garrett Aviation Services. Should Garrett Aviation Services apply at a later date for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes modified by Garrett Aviation Services. It is not a rule of general applicability, and it affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Dassault Aviation Falcon Model 20–C5/–D5/–E5/–F5 airplanes modified by Garrett Aviation Services.

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

For the purpose of these special conditions, the following definition applies:

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

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

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 99–20859 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–321–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes, that currently requires a one-time inspection to detect chafing of electrical wires in the cable trough below the cabin floor; repair, if necessary; installation of additional tie-mounts and tie-wraps; and application of sealant to rivet heads. This action would require the accomplishment of these same actions on additional airplanes. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent chafing of electrical wires, which could result in an uncommanded shutdown of an engine during flight.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–321–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Peter Cuneo, Senior Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7506; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–321–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–321–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On September 14, 1998, the FAA issued AD 98–20–14, amendment 39–10781 (63 FR 50501, September 22, 1998), applicable to certain Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes, to require a one-time inspection to detect chafing of electrical wires in the cable trough below the cabin floor; repair, if necessary; installation of additional tie-mounts and tie-wraps; and application of sealant to

rivet heads. The requirements of that AD are intended to prevent chafing of electrical wires, which could result in an uncommanded shutdown of an engine during flight.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, Transport Canada Civil Aviation (TCCA), which is the airworthiness authority for Canada, issued Canadian airworthiness directive CF–98–08R1, dated September 16, 1998. Airworthiness directive CF–98–08R1 revises the applicability of Canadian airworthiness directive CF–98–08, dated March 26, 1998, to include Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes having serial numbers 3 through 540, excluding serial number 462. Canadian airworthiness directive CF–98–08 was applicable to Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes having serial numbers 3 through 519, excluding serial number 462.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–20–14 to continue to require a one-time inspection to detect chafing of electrical wires in the cable trough below the cabin floor; repair, if necessary; installation of additional tie-mounts and tie-wraps; and application of sealant to rivet heads. This proposal would expand the applicability of the existing AD to include additional airplanes. The actions would be required to be accomplished in accordance with Bombardier Service Bulletin S.B. 8–53–66, dated March 27, 1998.

Differences Between Existing AD, Service Bulletin, and Proposed Rule

Operators should note that Bombardier Service Bulletin S.B. 8–53–66, dated March 27, 1998, describes, and the existing AD requires, a visual inspection to detect chafing of electrical wires in the cable trough below the cabin floor. This proposed AD refers to that inspection as a general visual inspection. **Note 2** of this AD also includes a definition of this type of inspection.

Cost Impact

There are approximately 231 Bombardier Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes of U.S. registry that would be affected by this proposed AD.

The actions specified in this proposed rule are currently required by AD 98–20–14, which is applicable to 210 Model DHC–8–102, –103, –106, –201, and –202 series airplanes. For these airplanes, it takes approximately 70 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts are provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the current requirements of that AD on U.S. operators of these airplanes is estimated to be $882,000, or $4,200 per airplane. The proposed AD would add no new costs for these airplanes.

The actions specified in this proposed rule are currently required by AD 98–20–14, which is applicable to 15 Model DHC–8–301, –311, and –315 series airplanes. For these airplanes, it takes approximately 100 work hours per airplane to accomplish the required actions, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operators. Based on these figures, the cost impact of the current requirements of that AD on U.S. operators of these airplanes is estimated to be $90,000, or $6,000 per airplane.

The actions specified in this proposed AD would be applicable to 6 additional Model DHC–8–301, –311, and –315 series airplanes of U.S. registry and would take approximately 100 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer at no cost to the operator. Based on these figures, the new costs proposed by this AD on U.S. operators is estimated to be $36,000, or approximately $6,000 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10781 (63 FR 50501, September 22, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 98–NM–321–AD. Supersedes AD 98–NM–172–AD, Amendment 39–10781.

Applicability: Model DHC–8–102, –103, –106, –201, –202, –301, –311, and –315 series airplanes; serial numbers 3 through 540

inclusive, excluding serial number 462; 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 chafing of electrical wires, which could result in an uncommanded shutdown of an engine during flight, accomplish the following:

One-Time Inspection, Corrective Action, and Modification

(a) Perform a one-time general visual inspection to detect chafing of electrical wires in the cable trough below the cabin floor; install additional tie-mounts and tie-wraps; and apply sealant to rivet heads (reference Bombardier Modification 8/2705); in accordance with Bombardier Service Bulletin S.B. 8–53–66, dated March 27, 1998, at the time specified in paragraph (a)(1) or (a)(2) of this AD, as applicable. If any chafing is detected during the inspection required by this paragraph, prior to further flight, repair in accordance with the service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or external area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or drop-light, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

(1) For airplanes having serial numbers 3 through 519 inclusive, excluding serial number 462: Inspect within 36 months after October 27, 1998 (the effective date of AD 98–20–14, amendment 39–10781).

(2) For airplanes having serial numbers 520 through 540 inclusive: Inspect within 36 months after the effective date of this AD, or at the next ''C'' check, whichever occurs first.

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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–98–08R1, dated September 16, 1998.

Issued in Renton, Washington, on August 6, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20882 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–84–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 737–200, –200C, –300, and –400 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Boeing Model 737–200, –200C, –300, and –400 series airplanes, that currently requires repetitive visual inspections to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, and corrective actions, if necessary. That AD also provides an optional terminating action for certain repetitive inspections. This action would add requirements for repetitive high frequency eddy current (HFEC) inspections, and corrective actions, if necessary. This action also would mandate accomplishment of the previously optional terminating action. The actions specified by the proposed AD are intended to prevent fatigue cracking of the corners of the door frame and the cross beams of the aft cargo door, which could result in rapid depressurization of the airplane.

DATES: Comments must be received by September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–84–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Rick Kawaguchi, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1153; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–84–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–84–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On November 30, 1998, the FAA issued AD 98–25–06, amendment 39–10931 (63 FR 67769, December 9, 1998), applicable to certain Boeing Model 737–200, –200C, –300, and –400 airplanes, to require repetitive inspections to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, and corrective actions, if necessary. That action also provides an optional terminating action for the repetitive inspection requirement of that AD. That action was prompted by reports indicating that fatigue cracks have been detected in the corners of the door frame and the cross beams of the aft cargo door on several in-service airplanes, and by another report indicating that rapid depressurization occurred during flight on one of those airplanes. The requirements of that AD are intended to prevent fatigue cracking of the corners of the door frame and the cross beams of the aft cargo door, which could result in rapid depressurization of the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of AD 98–25–06, the FAA has received a report indicating that during a high frequency eddy current inspection a one-inch crack was detected in the forward corner frame of the aft cargo door. Further investigation revealed a crack in the aft corner frame and cracks in the lower cross beam. No cracking was detected during a detailed visual inspection of these areas that was accomplished approximately 925 flight cycles prior to an incident of rapid depressurization of the airplane. In light of this information, the FAA has determined that the detailed visual inspections of the door frame and the cross beams of the aft cargo door required by the existing AD are not providing the degree of safety assurance necessary for the affected airplanes.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would supersede AD 98–25–06 to continue to require repetitive visual inspections to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, and corrective actions, if necessary. This proposed AD would add requirements for repetitive high frequency eddy current (HFEC) inspections of the corners of the aft cargo door frame, and corrective actions, if necessary. This proposal also would mandate accomplishment of the previously optional terminating action.

The HFEC inspections would be required to be accomplished in accordance with the procedures specified in Boeing 737 Nondestructive Test Manual, Part 6, Chapter 51–00–00 (Figure 4 or Figure 23). Modification of the door frame would be required to be accomplished in accordance with Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996. Repairs of the outer chord of the upper and lower cross beams would be required to be accomplished in accordance with a method approved by the Manager, Seattle ACO, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative.

Other Relevant Rulemaking

The FAA previously has issued AD 90–06–02, amendment 39–6489 (55 FR 8372, March 7, 1990), applicable to certain Boeing Model 737 series airplanes. AD 90–06–02 requires accomplishment of certain structural modifications, which constitutes terminating action for the repetitive inspection requirements of this proposed AD.

Differences Between Service Bulletin and This Proposed AD

- As stated in AD 98–25–06, operators should note that, unlike the procedures described in the service bulletin, this proposed AD would not permit further flight with stop-drilled cracks in the frame of the aft cargo door. The FAA has determined that, because of the safety implications and consequences associated with such cracking, any subject aft cargo door frame that is found to be cracked must be permanently repaired and modified prior to further flight.
- As stated in AD 98–25–06, operators should note that the effectivity listing of the service bulletin includes Boeing Model 737–200 and –200C series airplanes having line numbers 6 through 873 inclusive. The applicability of this proposed AD includes not only those airplanes listed in the effectivity listing of the service bulletin, but also Boeing Model 737–200, –200C, –300, and –400 series airplanes; having line numbers 874 through 1642 inclusive; that have certain replacement doors installed and that have not been modified in accordance with Boeing Service Bulletin 737–52–1079.
- Operators also should note that, although the service bulletin specifies that the manufacturer may be contacted for disposition of certain repair conditions, this proposed AD would require the repair of those conditions to be accomplished in accordance with a method approved by the FAA, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.
- Operators should note that, although the service bulletin describes accomplishment of a visual inspection of the corners of the door frame and the cross beams of the aft cargo door, for the reasons discussed previously, the FAA has determined that accomplishment of a visual inspection only is inadequate to detect cracking in certain areas. Therefore, this proposed AD would add repetitive high frequency eddy current inspections to detect cracking of the four corners of the aft cargo door frame.
- Operators should note that this AD proposes to mandate, within 4 years after the effective date of this AD, the modification of the door frame of the aft cargo door described in Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996, as terminating action for the repetitive inspections of the door frame. The FAA has determined that long-term continued operational safety will be better assured by design changes to remove the source of the problem, rather than by repetitive inspections. Long-term inspections may not be providing the degree of safety assurance necessary for the transport airplane fleet. This, coupled with a better understanding of the human factors associated with numerous continual inspections, has led the FAA to consider placing less emphasis on inspections and more emphasis on design improvements. The proposed modification is in consonance with these conditions.

Cost Impact

There are approximately 1,636 Model 737 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 707 airplanes of U.S. registry would be affected by this proposed AD.

The detailed visual inspections that currently are required by AD 98–25–06, and retained in this proposed AD, take approximately 2 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required inspections on U.S. operators is estimated to be $84,840, or $120 per airplane, per inspection cycle.

The new high frequency eddy current inspections that are proposed in this AD action would take approximately 4 work

hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the new inspections proposed by this AD on U.S. operators is estimated to be $169,680, or $240 per airplane, per inspection cycle.

The modification that is proposed in this AD action would take approximately 144 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $4,530 per airplane. Based on these figures, the cost impact of the modification proposed by this AD on U.S. operators is estimated to be $9,311,190, or $13,170 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10931 (63 FR 67769, December 9, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Boeing: Docket 99–NM–84–AD. Supersedes AD 98–25–06, Amendment 39–10931.

Applicability: The following airplane models, certificated in any category:

- Model 737–200 and –200C series airplanes, line numbers 6 through 873 inclusive;
- Model 737–200, –200C, –300, and –400 series airplanes; line numbers 874 through 1642 inclusive; equipped with an aft cargo door having Boeing part number (P/N) 65–47952–1 or P/N 65–47952–524; excluding:

1. Those airplanes on which that door has been modified in accordance with Boeing Service Bulletin 737–52–1079; or

2. Those airplanes on which the door assembly having P/N 65–47952–524 includes four straps (P/N's 65–47952–139, 65–47952–140, 65–47952–141, and 65–47952–142) and a thicker lower cross beam web (P/N 65–47952–157).

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking of the corners of the door frame and the cross beams of the aft cargo door, which could result in rapid depressurization of the airplane, accomplish the following:

Restatement of the Requirements of AD 98–25–06:

Inspections and Corrective Actions

(a) Within 90 days or 700 flight cycles after December 24, 1998 (the effective date of AD 98–25–06, amendment 39–10931), whichever occurs later, perform an internal detailed visual inspection to detect cracking of the corners of the door frame and the cross beams of the aft cargo door, in accordance with Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996.

(1) If no cracking is detected, accomplish the requirements of either paragraph (a)(1)(i) or (a)(1)(ii) of this AD.

(i) Repeat the internal visual inspection thereafter at intervals not to exceed 4,500 flight cycles. Or

(ii) Prior to further flight, modify the corners of the door frame and the cross beams of the aft cargo door in accordance with the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD.

(2) If any cracking is detected in the upper or lower cross beams, prior to further flight, modify the cracked beam in accordance with paragraph III.C. of Part I of the Accomplishment Instructions of the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the repaired beam.

(3) If any cracking is detected in the forward or aft upper door frame, prior to further flight, repair the frame and modify the corners of the door frame of the aft cargo door, in accordance with paragraph III.E. of Part I of the Accomplishment Instructions of the service bulletin, except as provided by paragraph (b) of this AD. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the upper door frame.

Note 2: Cracks of the forward or aft upper door frame, regardless of length, must be repaired prior to further flight in accordance with paragraph III.E. of Part I of the Accomplishment Instructions of the service bulletin.

(4) If any cracking is detected in the forward or aft lower door frame, prior to further flight, replace the damaged frame with a new frame, and modify the corners of the door frame of the aft cargo door, in accordance with paragraph III.F. of Part I of the Accomplishment Instructions of the service bulletin. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (a)(1)(i) of this AD for the lower door frame.

(b) Where Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996, specifies that certain repairs are to be accomplished in accordance with instructions received from Boeing, this AD requires that, prior to further flight, such repairs be accomplished in accordance with a method approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

New Requirements of This AD:

Inspections and Corrective Actions

(c) If any cracking of the outer chord of the upper or lower cross beams of the aft cargo door is detected as a result of any inspection required by paragraph (a) of this AD, prior to further flight, repair in accordance with a method approved by the Manager, Seattle ACO, or in accordance with data meeting the type certification basis of the airplane approved by a Boeing Company Designated Engineering Representative who has been authorized by the FAA to make such findings.

(d) Within 4,500 flight cycles or one year after the effective date of this AD, whichever occurs later: Perform a high frequency eddy current inspection (HFEC) to detect cracking of the four corners of the door frame of the aft cargo door, in accordance with the procedures specified in Boeing 737 Nondestructive Test Manual, Part 6, Chapter 51–00–00 (Figure 4 or Figure 23) .

(1) If no cracking of the corners of the door frame of the aft cargo door is detected, repeat the HFEC inspections thereafter at intervals not to exceed 4,500 flight cycles until accomplishment of the modification specified in paragraph (e) of this AD.

(2) If any cracking of the corners of the door frame of the aft cargo door is detected, prior to further flight, replace the damaged frame with a new frame, and modify the four corners of the door frame, in accordance with Parts II and III of the Accomplishment Instructions of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of paragraph (d)(1) of this AD for that door frame.

Terminating Action

(e) Within 4 years after the effective date of this AD: Modify the four corners of the door frame and the cross beams of the aft cargo door, in accordance with Part II of the Accomplishment Instructions of Boeing Service Bulletin 737–52–1079, Revision 5, dated May 16, 1996. Accomplishment of such modification constitutes terminating action for the repetitive inspection requirements of this AD.

Note 3: Accomplishment of the modification required by paragraph (a) of AD 90–06–02, amendment 39–6489, is considered acceptable for compliance with paragraph (e) of this AD.

Note 4: Modification of the corners of the door frame and the cross beams of the aft cargo door accomplished prior to the effective date of this AD in accordance with Boeing Service Bulletin 737–52–1079, dated December 16, 1983; Revision 1, dated December 15, 1988; Revision 2, dated July 20, 1989; Revision 3, dated May 17, 1990; or Revision 4, dated February 21, 1991; is considered acceptable for compliance with paragraph (e) of this AD.

Alternative Methods of Compliance

(f)(1) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

(f)(2) Alternative methods of compliance, approved previously in accordance with AD 98–25–06, amendment 39–10931, are approved as alternative methods of compliance with this AD.

Note 5: 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

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

Issued in Renton, Washington, on August 6, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20881 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–117–AD]

RIN 2120–AA64

Airworthiness Directives; Construcciones Aeronauticas, S.A. (CASA), Model CN–235 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to all CASA Model CN–235 series airplanes, that currently requires repetitive eddy current inspections to detect fatigue cracks in the nose landing gear (NLG) turning tube, and replacement of cracked tubes. This proposal would add a requirement for the replacement of the existing NLG turning tube constructed of aluminum alloy with a new NLG turning tube made of steel; such replacement would terminate the repetitive inspections. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent fatigue cracking and failure of the NLG turning tube, which could result in reduced structural integrity of the NLG.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Construcciones Aeronauticas, S.A., Getafe, Madrid, Spain. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–117–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–117–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On January 15, 1997, the FAA issued AD 97–02–17, amendment 39–9902 (62 FR 3994, January 28, 1997), applicable to all CASA Model CN–235 series airplanes, to require repetitive eddy

current inspections to detect fatigue cracks in the nose landing gear (NLG) turning tube, and replacement of cracked tubes. That action was prompted by a report of the failure of a NLG turning tube during landing roll; the failure was attributed to fatigue cracking in the turning tube. The requirements of that AD are intended to ensure that fatigue cracking in the NLG turning tube is detected and corrected before it could cause the failure of the tube and, consequently, degrade the structural integrity of the NLG.

Action Since Issuance of Previous Rule

In the preamble to AD 97–02–17, the FAA indicated that the actions required by that AD were considered ''interim action'' until final action is identified, at which time the FAA may consider further rulemaking. The FAA now has determined that further rulemaking action is indeed necessary, and this proposed AD follows that determination.

Explanation of Relevant Service Information

CASA has issued Service Bulletin 35–CSB–32–001, dated February 16, 1999, which describes procedures for replacement of the existing NLG turning tube constructed of aluminum alloy with a new NLG turning tube made of steel. The Dirección General de Aviación Civil (DGAC), which is the airworthiness authority for Spain, classified this service bulletin as mandatory and issued Spanish airworthiness directive 01/95, Rev. 2, dated February 15, 1999, in order to assure the continued airworthiness of these airplanes in Spain.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 97–02–17, amendment 39–9902, to continue to require repetitive eddy current inspections to detect fatigue cracks in the nose landing gear (NLG) turning tube, and replacement of cracked tubes. The proposed AD would add a requirement to replace the existing NLG turning tube constructed of aluminum alloy with a new NLG turning tube made of steel, which would terminate the repetitive inspections.

Differences Between Proposed Rule and Related Service Information

Operators should note that, although the parallel Spanish airworthiness directive does not mandate the accomplishment of required actions for CASA Model CN–235 series airplane, serial number C–011, the applicability of this proposed AD would include that airplane. Although that airplane was not certificated for civilian operation by the DGAC, the FAA has certificated it as such. The FAA has determined that the unsafe condition addressed in this AD may also exist or develop on that airplane.

Cost Impact

The FAA estimates that 2 airplanes of U.S. registry would be affected by this proposed AD.

The actions that are currently required by AD 97–02–17, and retained in this AD, take approximately 8 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the currently required actions on U.S. operators is estimated to be $480 per airplane.

The new actions that are proposed in this AD action would take approximately 16 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would cost approximately $20,722 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $43,364, or $21,682 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–9902 (62 FR 3994, January 28, 1997), and by adding a new airworthiness directive to read as follows:

Construcciones Aeronauticas, S.A. (CASA): Docket 99–NM–117–AD. Supersedes AD 97–02–17, amendment 39–9902.

Applicability: All Model CN–235 series airplanes; including Model CN–235 series airplane, serial number C–011; 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 (f) of this AD. The request should include an assessment of the

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

Compliance: Required as indicated, unless accomplished previously.

To prevent fatigue cracking and failure of the nose landing gear (NLG) turning tube, which could result in reduced structural integrity of the NLG, accomplish the following:

Restatement of Requirements of AD 97–02–17, Amendment 39–9902

(a) At the applicable time specified in either paragraph (a)(1) or (a)(2) of this AD, conduct a high frequency eddy current (HFEC) inspection to detect fatigue cracking in the NLG turning tube, in accordance with the procedures specified in Annex 1 and Annex 2 of CASA Maintenance Instructions COM 235–092, Revision 02, dated May 5, 1995.

(1) For Model CN–235 airplanes [Basic model; Maximum Takeoff Weight (MTOW) = 31,746 lbs. (14,400 kgs.)]: Conduct the inspection prior to or upon the accumulation of 6,000 landings on the NLG turning tube, or within 50 landings after March 4, 1997 (the effective date of AD 97–02–17, amendment 39–9902), whichever occurs later.

(2) For Model CN–235–100 series airplanes [MTOW = 33,290 lbs. (15,100 kgs.)] and Model CN–235–200 series airplanes [MTOW = 34,833 lbs. (15,800 kgs)]: Conduct the inspection prior to or upon the accumulation of 4,800 landings on the NLG turning tube, or within 50 landings after March 4, 1997, whichever occurs later.

(b) If no cracking is detected during the inspection required by paragraph (a) of this AD, repeat the inspection thereafter at intervals not to exceed 200 landings until the requirements of paragraph (d) are accomplished.

(c) If any cracking is detected during any inspection required by paragraph (a) or (b) of this AD, prior to further flight, accomplish the actions required by paragraph (c)(1) or (c)(2) of this AD. After the effective date of this AD, only the actions specified by paragraph (c)(2) of this AD shall be accomplished.

(1) Replace the NLG turning tube with a new unit in accordance with CASA Maintenance Instructions COM 235–092, Revision 02, dated May 5, 1995. After replacement, repeat the HFEC inspection prior to or upon the accumulation of 6,000 landings on the new NLG turning tube installed on Model CN–325 airplanes (basic model); or prior to or upon the accumulation of 4,800 landings on the new NLG turning tube installed on Model CN–325–100 and –200 series airplanes. Thereafter, repeat the inspection at intervals not to exceed 200 landings.

(2) Remove the NLG turning tube, P/N GA 63433, from the NLG yoke assembly and install a new turning tube, P/N GA 65924, and identify the modified NLG with a P/N SB–A0002–0101 data plate with the service bulletin number inscribed, in accordance with CASA Service Bulletin 35–CSB–32–001, dated February 16, 1999.

New Requirements of This AD

(d) Remove the NLG turning tube, P/N GA 63433, from the NLG yoke assembly and install a new turning tube, P/N GA 65924, and identify the modified NLG with a P/N SB–A0002–0101 data plate with the service bulletin number inscribed, in accordance with CASA Service Bulletin 35–CSB–32–001, dated February 16, 1999. Except as provided by paragraph (c)(2) of this AD, accomplish the actions at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD. Accomplishment of these actions constitutes terminating action for the requirements of this AD.

(1) Prior to the accumulation of 4,800 total flight cycles; or

(2) Within 1 year or 200 landings after the effective date of this AD, whichever occurs first.

(e) As of the effective date of this AD, no person shall install a NLG turning tube, P/N GA 63433, on any airplane.

Alternative Methods of Compliance

(f) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, 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

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

Note 3: The subject of this AD is addressed in Spanish airworthiness directive 01/95, Rev. 2, dated February 15, 1999.

Issued in Renton, Washington, on August 6, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20893 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–70–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace Model BAe 146 and BAe Avro 146–RJ Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain British Aerospace Model BAe 146 and BAe Avro 146–RJ series airplanes. This proposal would require repetitive inspections to detect signs of chafing to the fuel feed pipe, and repair or replacement of the fuel feed pipe with a serviceable part, if necessary; and ensuring that responder units, electrical connector backshells, and associated wiring are undamaged and are positioned correctly to provide maximum clearance with the fuel pipe. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent damage to the fuel feed pipe, which could result in fuel leaks and an increased potential for fire on the airplane.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–70–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from AI(R) American Support, Inc., 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington

98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–70–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–70–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on certain British Aerospace Model BAe 146 and BAe Avro 146–RJ series airplanes. The CAA advises that it has received service reports of damage to the fuel feed pipe that supplies secondary fuel flow from the fuel flow divider to the right side fuel manifold. The CAA attributes the damage to movement of the firewall responder unit within its restraining clamps, leading to contact between the backshell clamps of the responder connector and the adjacent fuel pipe. This condition, if not corrected, could result in damage to the fuel feed pipe, which could result in fuel leaks and an increased potential for fire on the airplane.

Explanation of Relevant Service Information

British Aerospace has issued Service Bulletin SB.26–44, dated February 25, 1999, which describes procedures for repetitive detailed inspections to detect signs of chafing of the fuel feed pipe, and repair or replacement of the fuel feed pipe with a serviceable part, if necessary; and procedures for ensuring that responder units, electrical backshell connectors, and associated wiring are undamaged and are positioned correctly to provide maximum clearance with the fuel pipe. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. The CAA classified this service bulletin as mandatory and issued British airworthiness directive 009–02–99 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

British Aerospace has also issued Service Bulletin SB.26–44–01638A, dated February 25, 1999, which describes procedures for modifying the airplane to improve the responder unit clamping arrangement to prevent chafing against the fuel pipe. This modification would eliminate the need for the repetitive inspections.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously. This proposed AD also would provide for optional terminating action for the repetitive inspections.

Operators should note that, in consonance with the findings of the CAA, the FAA has determined that the repetitive inspections proposed by this AD can be allowed to continue in lieu of accomplishment of a terminating action. In making this determination, the FAA considers that, in this case, long-term continued operational safety will be adequately assured by accomplishing the repetitive inspections to detect signs of chafing of the fuel feed pipes before it represents a hazard to the airplane.

Cost Impact

The FAA estimates that 20 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1200, or $60 per airplane, per inspection cycle.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

British Aerospace Regional Aircraft (Formerly British Aerospace Regional Aircraft Limited, Avro International Aerospace Division; British Aerospace, PLC; British Aerospace Commercial Aircraft Limited): Docket 99–NM–70–AD.

Applicability: Model BAe 146 and Avro 146–RJ series airplanes, except those on which Modification HCMO1638A (British Aerospace Service Bulletin SB.26–44–01638A, dated February 25, 1999) has been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the fuel feed pipe, which could result in fuel leaks and an increased potential for fire on the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a detailed visual inspection of the fuel feed pipe for signs of chafing, and ensure that responder units are undamaged and positioned correctly in relation to clamps and that electrical connector backshells and associated wiring are undamaged and are oriented to provide maximum clearance with the fuel pipe; in accordance with British Aerospace Service Bulletin SB.26–44, dated February 25, 1999.

(1) If no chafing is detected, repeat the inspection thereafter at intervals not to exceed 3,000 flight hours, until accomplishment of paragraph (b) of this AD.

(2) If any sign of chafing is detected, prior to further flight, accomplish paragraph (a)(2)(i) or (a)(2)(ii) of this AD, as applicable, in accordance with British Aerospace Service Bulletin SB.26–44, dated February 25, 1999. Repeat the inspection thereafter at intervals not to exceed 3,000 flight hours, until accomplishment of paragraph (b) of this AD.

(i) If the damage does not exceed one-half the thickness of the fuel feed pipe wall, prior to further flight, repair the pipe.

(ii) If the damage exceeds one-half the thickness of the fuel feed pipe wall, prior to further flight, replace the pipe with a serviceable part.

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.''

(b) Modification of the clamping arrangement for the firewall responder units in accordance with British Aerospace Service Bulletin SB.26–44–01638A, dated February 25, 1999, constitutes terminating action for the requirements of this AD.

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, 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, FAA, Transport Airplane Directorate.

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

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

Note 4: The subject of this AD is addressed in British airworthiness directive 009–02–99.

Issued in Renton, Washington, on August 6, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20894 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–385–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model CL–600–2B19 (Regional Jet Series 100) Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. This proposal would require a one-time inspection to detect damage of the input connectors and wiring of the main and auxiliary power unit (APU) battery chargers, and corrective action, if necessary. It would also require installation of secure connectors for the battery charger input connections. In addition, this proposal would require, for certain airplanes, either the installation of a resistor in the battery charger wiring, or the installation of new batteries with internal resistors. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent increased risk of a short circuit and consequent electrical smoke or fire in the aft fuselage.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Canadair, Aerospace Group, P.O. Box 6087, Station Centre-ville, Montreal, Quebec H3C 3G9, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft

Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Louis Castracane, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York 11581; telephone (516) 256–7535; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–385–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–385–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

Transport Canada Aviation (TCA), which is the airworthiness authority for Canada, notified the FAA that an unsafe condition may exist on certain Bombardier Model CL–600–2B19 (Regional Jet Series 100) series airplanes. TCA advises that several incidents of damage to the battery connectors of the main battery and the auxiliary power unit (APU) have been reported. An investigation has revealed that short circuit protection does not exist within the main battery and the APU battery for the mid-voltage sensing wire going from the 10th cell of each battery to its respective battery charger. This condition, if not corrected, could result in increased risk of a short circuit and consequent electrical smoke or fire in the aft fuselage.

Explanation of Relevant Service Information

Bombardier has issued Canadair Alert Service Bulletin A601R–24–085, Revision ''C,'' dated November 5, 1998, which describes procedures for a one-time detailed visual inspection to detect damage of the input connectors and wiring of the main battery and auxiliary power unit (APU) battery charger, and corrective action, if necessary. It also describes procedures for the installation of secure connectors for the battery charger input connections, and either the installation of a resistor in the battery charger wiring or installation of new batteries with internal resistors. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–98–40, dated November 10, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane 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, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 115 airplanes of U.S. registry would be affected by this proposed AD. It would take approximately 6 work hours per airplane to accomplish the proposed actions (no breakdown of work hours for each action is provided in the service bulletin), at an average labor rate of $60 per work hour. Required parts would be provided at no cost to the operators. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $41,400, or $360 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc. (Formerly Canadair): Docket 98–NM–385–AD.

Applicability: Model CL–600–2B19 (Regional Jet Series 100) series airplanes, serial numbers 7003 through 7067 inclusive and 7069 through 7250 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent increased risk of a short circuit and consequent electrical smoke or fire in the aft fuselage, accomplish the following:

Inspection and Corrective Action

(a) For all airplanes: Within 450 flight hours after the effective date of this AD, accomplish the actions specified in paragraphs (a)(1), (a)(2), and (a)(3) of this AD, in accordance with Part A of the Accomplishment Instructions of Canadair Alert Service Bulletin A601R–24–085, Revision 'C,' dated November 5, 1998.

(1) Perform a detailed visual inspection to detect damage of the input connector of the main battery charger and the wire harness between the electrical connectors for the main battery and the main battery charger. If any damage is detected, prior to further flight, repair it, or replace the wiring or connector with new or serviceable parts.

(2) Perform a detailed visual inspection to detect damage of the input connector of the auxiliary power unit (APU) battery charger and the wire harness between the electrical connectors for the APU battery and the APU battery charger. If any damage is detected, prior to further flight, repair it, or replace the wiring or connector with new or serviceable parts.

(3) Secure both the spin coupling ring of the input connector of the main battery charger and the spin coupling ring of the input connector of the APU battery charger by installing heat shrink tubing and ty-rap.

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.''

Modification or Replacement

(b) For airplane serial numbers 7003 through 7067 inclusive and 7069 through 7249 inclusive: Within 450 flight hours after the effective date of this AD, accomplish the actions in either paragraph (b)(1) or (b)(2) in accordance with Part B of the Accomplishment Instructions of Canadair Alert Service Bulletin A601R–24–085, Revision 'C,' dated November 5, 1998.

(1) Install an external 5.1-Kohm resistor in the mid-voltage sensing wire for the main battery and an external 5.1-Kohm resistor in the mid-voltage sensing wire for the APU battery. Or

(2) Install main battery P/N 601R59041–3 and APU battery P/N 600–59151–11, which contain an internal resistor for the mid-voltage sensing wire.

Alternative Methods of Compliance

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

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

Special Flight Permits

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

Note 4: The subject of this AD is addressed in Canadian airworthiness directive CF–98–40, dated November 10, 1998.

Issued in Renton, Washington, on August 6, 1999.

D.L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20895 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–324–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier Model DHC–8–311 and –315 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the supersedure of an existing airworthiness directive (AD), applicable to certain Bombardier Model DHC–8–311 and –315 series airplanes, that currently requires replacement of the nitrogen cylinder assemblies that inflate the airplane's ditching dams with improved nitrogen cylinder assemblies. This action would expand the applicability of the existing AD. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent failure of the ditching dams to inflate fully during an emergency water landing, which could result in water entering the airplane.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Bombardier, Inc., Bombardier Regional Aircraft Division, Garratt Boulevard, Downsview, Ontario M3K 1Y5, Canada. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Ezra Sasson, Aerospace Engineer, Systems and Flight Test Branch, ANE–172, FAA, Engine and Propeller Directorate, New York Aircraft Certification Office, 10 Fifth Street, Third Floor, Valley Stream,

New York 11581; telephone (516) 256–7520; fax (516) 568–2716.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–324–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–324–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

On May 22, 1998, the FAA issued AD 98–11–25, amendment 39–10550 (63 FR 30121, June 3, 1998), applicable to certain Bombardier Model DHC–8–311 and –315 series airplanes, to require replacement of the nitrogen cylinder assemblies that inflate the airplane's ditching dams with improved nitrogen cylinder assemblies. That action was prompted by information by a foreign civil airworthiness authority. The requirements of that AD are intended to prevent failure of the ditching dams to inflate fully during an emergency water landing, which could result in water entering the airplane.

Actions Since Issuance of Previous Rule

Since the issuance of that AD, Transport Canada Civil Aviation (TCA), which is the airworthiness authority for Canada, has advised the FAA that medium and high gross weight configured airplanes on which Bombardier Change Request CR803SO00001–1 or CR803SO00002–1 has been incorporated may also be subject to the identified unsafe condition.

Explanation of Relevant Service Information

The manufacturer has issued de Havilland Service Bulletin S.B. 8–25–122, dated October 10, 1997, which describes procedures for replacing the existing nitrogen cylinder assemblies on ditching dams with new nitrogen cylinder assemblies that incorporate an improved valve assembly. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition. TCA classified this service bulletin as mandatory and issued Canadian airworthiness directive CF–97–21R1, dated July 22, 1998, in order to assure the continued airworthiness of these airplanes in Canada.

FAA's Conclusions

This airplane 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, TCA has kept the FAA informed of the situation described above. The FAA has examined the findings of TCA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would supersede AD 98–11–25 to continue to require replacement of the nitrogen cylinder assemblies that inflate the airplane's ditching dams with improved nitrogen cylinder assemblies. This action would expand the applicability of the existing AD. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 2 airplanes of U.S. registry that would be affected by this proposed AD.

The replacement that is currently required by AD 98–11–25 and retained in the proposed AD would take approximately 4 work hours per airplane to accomplish, at an average labor rate of $60 per work hour. Required parts would be provided by the manufacturer of the nitrogen cylinder assembly at no cost to the operator. Based on these figures, the cost impact of the replacement currently required on U.S. operators is estimated to be $480, or $240 per airplane.

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

Regulatory Impact

The regulations proposed herein would not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12,612, it is determined that this proposal would not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing amendment 39–10550 (63 FR 30121, June 3, 1998), and by adding a new airworthiness directive (AD), to read as follows:

Bombardier, Inc. (Formerly de Havilland, Inc.): Docket 98–NM–324–AD. Supersedes AD 98–11–25, Amendment 39–10550.

Applicability: Model DHC–8–311 and -315 series airplanes in the medium and high gross weight configuration, on which Bombardier Change Request CR803SO00001, CR803SO00001–1, CR803SO00002, CR803SO00002–1, CR803CH00046, CR803CH00079, CR803CH00105, CR825CH00847, or CR803CH00051 has been incorporated; 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 (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 failure of the ditching dams to inflate fully during an emergency water landing, which could result in water entering the airplane, accomplish the following:

Restatement of the Requirements of AD 98–11–25, Amendment 39–10550

(a) For airplanes in the medium and high gross weight configuration, on which Bombardier Change Request CR803SO00001, CR803SO00002, CR803CH00046, CR803CH00079, CR803CH00105, CR825CH00847, or CR803CH00051 has been incorporated: Within 6 months after July 8, 1998 (the effective date of AD 98–11–25), replace the existing nitrogen cylinder assembly on the ditching dams with a new nitrogen cylinder assembly that incorporates an improved valve assembly (reference de Havilland Modification 8/3154), in accordance with de Havilland Service Bulletin S.B. 8–25–122, dated October 10, 1997.

(b) For airplanes in the medium and high gross weight configuration, on which Bombardier Change Request CR803SO00001, CR803SO00002, CR803CH00046, CR803CH00079, CR803CH00105, CR825CH00847, or CR803CH00051 has been incorporated: As of July 8, 1998, no person shall install on any airplane any nitrogen cylinder assembly having part number (P/N) 410870(BSC) or 410870–1.

New Requirements of This AD

Replacement

(c) For airplanes other than those identified in paragraph (a) of this AD: Within 6 months after the effective date of this AD, replace the existing nitrogen cylinder assembly on the ditching dams with a new nitrogen cylinder assembly having P/N 410870–3 or -5, that incorporates an improved valve assembly (reference de Havilland Modification 8/3154), in accordance with de Havilland Service Bulletin S.B. 8–25–122, dated October 10, 1997.

Spares

(d) For airplanes other than those identified in paragraph (a) of this AD: As of the effective date of this AD, no person shall install on any airplane any nitrogen cylinder assembly having P/N 410870(BSC) or 410870–1.

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, New York Aircraft Certification Office (ACO), FAA, Engine and Propeller Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, New York ACO.

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

Special Flight Permits

(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.

Note 3: The subject of this AD is addressed in Canadian airworthiness directive CF–97–21R1, dated July 22, 1998.

Issued in Renton, Washington, on August 6, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20891 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–377–AD]

RIN 2120–AA64

Airworthiness Directives; Dassault Model Falcon 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dassault Model Falcon 2000 series airplanes. This proposal would require a detailed inspection for interference between the safety-lock hooks and upper cowls, and corrective action, if necessary. This proposal also would require modification of the attachment supports of the inner locking hooks; and a detailed inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls; and corrective actions, if necessary. This proposal is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent unintended disengagement of the engine cowl hooks during ground maintenance, which could result in in-flight loss of an engine cowl from the airplane and possible damage to the airplane and persons or property on the ground.

DATES: Comments must be received by September 13, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–377–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dassault Falcon Jet, P.O. Box 2000, South Hackensack, New Jersey 07606. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA,

Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 98–NM–377–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 98–NM–377–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, notified the FAA that an unsafe condition may exist on certain Dassault Model Falcon 2000 series airplanes. The DGAC advises that, during flight, an engine cowl separated from an airplane. A definitive cause for the separation could not be determined because critical pieces of the cowling were not recovered. The separation is thought to have been caused by disengagement of a forward attachment hook during ground maintenance. This theory is supported by another report received from an operator that noted that after closing the cowling during ground maintenance the forward hook was not properly engaged. The existing design of the attachment hook may not adequately prevent such disengagement. This condition, if not corrected, could result in in-flight loss of an engine cowl from the airplane and possible damage to the airplane and persons or property on the ground.

Explanation of Relevant Service Information

Dassault has issued Service Bulletin F2000–133, Revision 1, dated October 7, 1998, which describes procedures for a detailed inspection for interference between the safety-lock hooks and upper cowls, and trimming the upper cowl slots, if necessary. The service bulletin also describes procedures for modification of the attachment supports of the inner locking hooks; and a detailed inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls, and corrective actions, if necessary. The modification involves trimming the attachment support of each lock and applying a corrosion protective coating. The corrective actions involve replacing the safety hammer return springs, front and rear outer attachment hooks, and safety hammers; and trimming the outer edges of the lower cowl, if necessary. Accomplishment of the actions specified in the service bulletin is intended to adequately address the identified unsafe condition.

The DGAC classified this service bulletin as mandatory and issued French airworthiness directive 98–391–006(B), dated October 7, 1998, in order to assure the continued airworthiness of these airplanes in France.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the service bulletin described previously.

Cost Impact

The FAA estimates that 39 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed inspections and modification, and that the average labor rate is $60 per work hour. Required parts would cost approximately $9 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $7,371, or $189 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dassault Aviation: Docket 98–NM–377–AD.

Applicability: Model Falcon 2000 series airplanes, serial numbers 2 through 72 inclusive, except those airplanes on which modification M1486 (reference Dassault Service Bulletin F2000–133, dated July 29, 1998, or Revision 1, dated October 7, 1998) has 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 (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 unintended disengagement of the engine cowl hooks during ground maintenance, which could result in in-flight loss of the engine cowl from the airplane and possible damage to the airplane and persons or property on the ground, accomplish the following:

Corrective Actions

(a) Within 6 months after the effective date of this AD, accomplish the requirements of paragraphs (a)(1), (a)(2), and (a)(3) of this AD in accordance with Dassault Service Bulletin F2000–133, Revision 1, dated October 7, 1998.

(1) Perform a detailed inspection for interference between the safety-lock hooks and upper cowls. If the clearance is outside the limits specified in the service bulletin, prior to further flight, trim the edges of the upper cowl slots.

(2) Modify the attachment supports of the inner locking hooks.

(3) Perform a detailed inspection of the safety-lock hooks on the lower engine cowl for proper operation and for clearance between the outer edges of the upper and lower cowls. If any discrepancy is detected, prior to further flight, perform the applicable corrective action specified in the service bulletin.

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 sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Note 4: The subject of this AD is addressed in French airworthiness directive 98–391–006(B), dated October 7, 1998.

Issued in Renton, Washington, on August 6, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20892 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–162–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–10–30 and –30F Series Airplanes, and Model MD–11 and –11F Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–10–30 and –30F series airplanes, and Model MD–11 and –11F series airplanes. This proposal would require that a determination be made of whether, and at what locations, metallized polyethyleneteraphthalate (MPET) insulation blankets are installed, and replacement of MPET insulation blankets with new insulation blankets. This proposal is prompted by reports of in-flight and ground fires on certain airplanes manufactured with insulation blankets covered with MPET, which may contribute to the spread of a fire when ignition occurs from small ignition sources such as electrical arcing or sparking. The actions specified by the proposed AD are intended to ensure that insulation blankets constructed of MPET are removed from the fuselage. Such insulation blankets could propagate a small fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire.

DATES: Comments must be received by September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–162–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). 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.

FOR FURTHER INFORMATION CONTACT: Robert Stacho, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5334; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–162–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–162–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of a number of in-flight and ground fires on McDonnell Douglas Model DC–9–80 and MD–11 series airplanes manufactured with insulation blankets covered with metallized polyethyleneteraphthalate (MPET) (also known as metallized Mylar). Investigation has revealed that MPET covered insulation blankets may contribute to the spread of a fire when ignition occurs from small ignition sources such as electrical arcing or sparking. The results of extensive flammability testing, conducted by the manufacturer and the FAA, revealed that this type of insulation material will propagate a fire.

There are other materials on insulation blankets that exhibit similar flammability characteristics if ignited. However, these materials are much more difficult to ignite than MPET.

Insulation blankets constructed of MPET installed throughout the fuselage, if not corrected, could propagate a small fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire.

The subject insulation blankets on certain McDonnell Douglas Model DC–10–30 and –30F series airplanes, and Model MD–11F series airplanes are identical to those on the affected Model DC–9–80 and MD–11 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition. The FAA is issuing a separate rulemaking action [notice of proposed rulemaking (NPRM), Rules Docket No. 99–NM–161–AD] to address McDonnell Douglas Model DC–9–80 and MD–90–30 series airplanes, and Model MD–88 airplanes.

Other Relevant Investigations and Rulemaking

The FAA is continuing to investigate various wiring problems on McDonnell Douglas Model DC–9–80, MD–90–30, DC–10, and MD–11 series airplanes, and Model MD–88 airplanes. The FAA may consider additional rulemaking actions to address any identified unsafe condition. The FAA will take into account the impact of those actions on U.S. operators to minimize the duplication of aircraft downtime associated with accomplishing the actions of this proposed AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin DC10–25–368, dated October 31, 1997 (for Model DC–10–30 and –30F series airplanes), and McDonnell Douglas Service Bulletin MD11–25–200, Revision 01, dated March 20, 1998 (for Model MD–11 and –11F series airplanes). The service bulletins describe procedures for replacement of MPET covered insulation blankets with new blankets fabricated with metallized Tedlar or equivalent blanket material. Accomplishment of the replacement procedures specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between the Proposed AD and Service Bulletins

The referenced service bulletins describe procedures for replacement of MPET covered insulation blankets with certain metallized Tedlar or equivalent blanket material, which meet the current FAA flammability standards (i.e., Bunsen burner test). However, this proposed AD requires replacement with insulation blankets that are constructed of materials tested in accordance with Standard Test Method American Society for Testing and Materials (ASTM) E648 and approved by the FAA. The FAA finds that the current flammability standards are not able to distinguish between different types of insulation covering material in their flame spread properties from small ignition sources. ASTM E648 provides a test that will differentiate flame spread properties of different metallized Tedlars. Only one of the two insulation blanket film materials specified in the service bulletins, has successfully passed the testing of the ASTM flammability standard and has been found to be an acceptable replacement material for the MPET covered insulation blankets. Other film material, such as certain polyimide and fluoropolymer composites, also has been successfully tested to ASTM E648 and could be found to be acceptable for compliance with the requirements of this proposed AD if presented to the FAA for approval. These materials are not listed in the service bulletins described previously.

Operators should note that this proposed AD would require replacement of MPET insulation blankets within 4 years after the effective date of this AD. The service bulletins recommend that this action should be accomplished ''at the earliest practical maintenance period.'' Maintenance periods vary between operators and may involve maintenance on an entire airplane or only portions of an airplane. As a result, in developing an appropriate compliance time for this and other proposed AD's, the FAA must adopt a time period that will apply to all operators and airplanes. In establishing a compliance time for this proposed AD, the FAA balanced the urgency associated with addressing the subject unsafe condition against the need to ensure that operators are provided sufficient time to perform a safe replacement of the insulation. Because of the close proximity of the insulation to wiring and other fixtures of various critical airplane systems, it is imperative that operators be given the necessary time to ensure safe

replacement. Therefore, the FAA has determined that a 4-year compliance time is appropriate in that it allows the proposed replacement to be accomplished within an interval of time that encompasses normal scheduled maintenance for the majority of affected operators, thereby, allowing safe replacement. In order to meet the deadline, the FAA expects early planning and anticipates that operators will have to take advantage of every heavy maintenance opportunity.

Operators also should note that the effectivity listing of the referenced service bulletins differs from the applicability of the proposed AD. The applicability of the proposed AD affects airplanes manufactured with MPET insulation blankets. The effectivity listing of the service bulletins not only includes airplanes manufactured with MPET insulation blankets, but airplanes equipped with other materials that are much more difficult to ignite than MPET (as discussed previously). The FAA has determined that only airplanes manufactured with MPET insulation blankets are subject to the identified unsafe condition. Therefore, paragraph (a) of the proposed AD would require that a determination be made of whether, and at what locations, MPET insulation blankets are installed, and the proposal would require corrective action only with respect to those blankets. The proposal would require that this determination be made in a manner approved by the manager of the LAACO. Blankets that are stamped with ''DMS 2072, Type 2, Class 1, Grade A'' or ''DMS 1996, Type 1'' are constructed of MPET. On some blankets, because of their age or wear, it may not be possible to identify these stamps. Boeing is currently developing instructions for how to determine whether such blankets are constructed of MPET. These instructions, if approved, may be referenced as additional service information in any final rule resulting from this rulemaking. In addition, if additional airplane models manufactured with MPET insulation blankets are identified, the FAA may consider additional rulemaking actions to address the identified unsafe condition.

Regulatory Evaluation

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

The FAA conducted a Preliminary Cost Analysis and Initial Regulatory Flexibility Analysis to determine the regulatory impacts of this and one other proposed AD to operators of all 699 U.S.-registered McDonnell Douglas airplanes that have thermal/acoustical insulation blankets covered with a film of MPET. This analysis is included in Rules Docket No.'s 99–NM–162–AD and 99–NM–161–AD. The FAA has determined that 61 Model MD–11 and –11F series airplanes and four Model DC–10–30 and –30F series airplanes operated by 5 entities would be affected by this proposed AD. Three entities operate Model MD–11 and –11F series airplanes and two entities operate both Model MD–11 and –11F series airplanes and Model DC–10–30 and –30F series airplanes.

The Preliminary Cost Analysis and Initial Regulatory Flexibility Analysis, completed by the FAA and included in the Rules Docket, estimates that the affected airplanes could be retrofitted with thermal/acoustic insulation blankets covered with film that exhibit no flame propagation when tested in accordance with the requirements of ASTM E648 or FAA-approved equivalent. Testing conducted by the FAA indicates that there are films that are currently in use that meet the test standard required by this proposed AD. These include certain polyvinylfluoride films that weigh no more than the materials they would replace. The FAA has identified three categories of costs associated with the retrofit: (1) Material costs of the blankets; (2) labor costs to remove existing blankets, install new blankets, and reinstall wiring, panels, floors, and other items; and (3) net lost revenues, or out of service costs. Over the four-year compliance period, material costs would total $3.5 million, labor costs would be $43.5 million, and net lost revenues would be $9.9 million. Total costs would be $56.8 million, or $48.1 million discounted to present value at seven percent.

The Regulatory Flexibility Act (RFA) of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear. Only one entity affected by the proposed AD is considered small. This entity has revenues in excess of $100 million. One entity is not considered a substantial number of small entities by Small Business Administration criteria. Pursuant to the RFA, 5 U.S.C. 605(b), the FAA certifies that this proposed AD would not have a significant economic impact on a substantial number of small entities.

The provisions of this proposed AD would have little or no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or

uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed AD does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–162–AD.

Applicability: Model DC–10–30 and –30F series airplanes, and Model MD–11 and –11F series airplanes; manufacturer's fuselage numbers 440 through 632 inclusive; certificated in any category.

Note: 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 ensure that insulation blankets constructed of metallized polyethyleneteraphthalate (MPET) are removed from the fuselage, accomplish the following:

Inspection

(a) Within 4 years after the effective date of this AD, determine whether, and at what locations, insulation blankets constructed of MPET are installed. This determination shall be made in a manner approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Insulation blankets that are stamped with ''DMS 2072, Type 2, Class 1, Grade A'' or ''DMS 1996, Type 1'' are constructed of MPET.

Corrective Actions

(b) For insulation blankets that are determined not to be constructed of MPET, no further action is required by this AD.

(c) For insulation blankets that are determined to be constructed of MPET, within 4 years after the effective date of this AD, replace the MPET insulation blankets with new insulation blankets. The replacement procedures shall be done in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin DC10–25–368, dated October 31, 1997 (for Model DC–10–30 and –30F series airplanes); or McDonnell Douglas Service Bulletin MD11–25–200, Revision 01, dated March 20, 1998 (for Model MD–11 and –11F series airplanes); as applicable. The replacement insulation blankets must be constructed of materials tested in accordance with Standard Test Method American Society for Testing and Materials (ASTM) E648 and approved by the Manager, Los Angeles ACO.

Note 3: Although this paragraph allows up to 4 years for the required replacement, the FAA anticipates that operators will comply at the earliest practicable maintenance opportunity.

Note 4: Only one of the two metallized Tedlar covers specified in the service bulletins has been shown to have successfully passed the testing of the ASTM flammability standard and is considered acceptable for compliance with the requirements of paragraph (c) of this AD.

Spares

(d) As of the effective date of this AD, no person shall install an MPET insulation blanket on any airplane.

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, 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 5: 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

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

Issued in Renton, Washington, on August 9, 1999.

D. L. Riggin, Acting Manager,

Transport Airplane Directorate,

Aircraft Certification Service.

[FR Doc. 99–20939 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–161–AD]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Model DC–9–80 and MD–90–30 Series Airplanes, and Model MD–88 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain McDonnell Douglas Model DC–9–80 and MD–90–30 series airplanes, and Model MD–88 airplanes. This proposal would require that a determination be made of whether, and at what locations, metallized polyethyleneteraphthalate (MPET) insulation blankets are installed, and replacement of MPET insulation blankets with new insulation blankets. This proposal is prompted by reports of in-flight and ground fires on certain airplanes manufactured with insulation blankets covered with MPET, which may contribute to the spread of a fire when ignition occurs from small ignition sources such as electrical arcing or sparking. The actions specified by the proposed AD are intended to ensure that insulation blankets constructed of MPET are removed from the fuselage. Such insulation blankets could propagate a small fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire.

DATES: Comments must be received by September 27, 1999.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00

p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Aircraft Group, Long Beach Division, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Technical Publications Business Administration, Dept. C1–L51 (2–60). 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.

FOR FURTHER INFORMATION CONTACT: Robert Stacho, Aerospace Engineer, Systems and Equipment Branch, ANM–130L, FAA, Transport Airplane Directorate, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5334; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–161–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–161–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports of a number of in-flight and ground fires on McDonnell Douglas Model DC–9–80 and MD–11 series airplanes manufactured with insulation blankets covered with metallized polyethyleneteraphthalate (MPET) (also known as metallized Mylar). Investigation has revealed that MPET covered insulation blankets may contribute to the spread of a fire when ignition occurs from small ignition sources such as electrical arcing or sparking. The results of extensive flammability testing, conducted by the manufacturer and the FAA, revealed that this type of insulation material will propagate a fire.

There are other materials on insulation blankets that exhibit similar flammability characteristics if ignited. However, these materials are much more difficult to ignite than MPET.

Insulation blankets constructed of MPET installed throughout the fuselage, if not corrected, could propagate a small fire that is the result of an otherwise harmless electrical arc and could lead to a much larger fire.

The subject insulation blankets on certain McDonnell Douglas Model MD–90–30 and DC–10 series airplanes, and Model MD–88 airplanes are identical to those on the affected Model DC–9–80 and MD–11 series airplanes. Therefore, all of these airplanes may be subject to the same unsafe condition. The FAA is issuing a separate rulemaking action [notice of proposed rulemaking (NPRM), Rules Docket No. 99–NM–162–AD] to address McDonnell Douglas Model DC–10 and MD–11 series airplanes.

Other Relevant Investigations and Rulemaking

The FAA is continuing to investigate various wiring problems on McDonnell Douglas Model DC–9–80, MD–90–30, DC–10, and MD–11 series airplanes, and Model MD–88 airplanes. The FAA may consider additional rulemaking actions to address any identified unsafe condition. The FAA will take into account the impact of those actions on U.S. operators to minimize the duplication of aircraft downtime associated with accomplishing the actions of this proposed AD.

Explanation of Relevant Service Information

The FAA has reviewed and approved McDonnell Douglas Service Bulletin MD–90–25–015, Revision 01, dated November 5, 1997 (for Model MD–90–30 series airplanes), and McDonnell Douglas Service Bulletin MD80–25–355, Revision 01, dated November 5, 1997 (for Model DC–9–80 series airplanes and Model MD–88 airplanes). The service bulletins describe procedures for replacement of MPET covered insulation blankets with new blankets fabricated with metallized Tedlar or equivalent blanket material. Accomplishment of the replacement procedures specified in the service bulletins is intended to adequately address the identified unsafe condition.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require accomplishment of the actions specified in the service bulletins described previously, except as discussed below.

Differences Between the Proposed AD and Service Bulletins

The referenced service bulletins describe procedures for replacement of MPET covered insulation blankets with certain metallized Tedlar or equivalent blanket material, which meet the current FAA flammability standards (i.e., Bunsen burner test). However, this proposed AD requires replacement with insulation blankets that are constructed of materials tested in accordance with Standard Test Method American Society for Testing and Materials (ASTM) E648 and approved by the FAA. The FAA finds that the current flammability standards are not able to distinguish between different types of insulation covering material in their flame spread properties from small ignition sources. ASTM E648 provides a test that will differentiate flame spread properties of different metallized Tedlars. Only one of the two insulation blanket film materials specified in the service bulletins has successfully passed the testing of the ASTM flammability standard and has been found to be an acceptable replacement material for the MPET covered insulation blankets. Other film material, such as certain polyimide and fluoropolymer composites, also have been successfully tested to ASTM E648 and could be found to be acceptable for compliance with the requirements of this proposed AD if presented to the FAA for approval. These materials are not listed in the service bulletins described previously.

Operators should note that this proposed AD would require replacement of MPET insulation blankets within 4 years after the effective date of this AD. The service bulletins recommend that this action should be accomplished ''at the earliest practical maintenance period.'' Maintenance periods vary between operators and may involve maintenance on an entire airplane or only portions of an airplane. As a result, in developing an appropriate compliance time for this and other proposed AD's, the FAA must adopt a time period that will apply to all operators and airplanes. In establishing a compliance time for this proposed AD, the FAA balanced the urgency associated with addressing the subject unsafe condition against the need to ensure that operators are provided sufficient time to perform a safe replacement of the insulation. Because of the close proximity of the insulation to wiring and other fixtures of various critical airplane systems, it is imperative that operators be given the necessary time to ensure safe replacement. Therefore, the FAA has determined that a 4-year compliance time is appropriate in that it allows the proposed replacement to be accomplished within an interval of time that encompasses normal scheduled maintenance for the majority of affected operators, thereby, allowing safe replacement. In order to meet the deadline, the FAA expects early planning and anticipates that operators will have to take advantage of every heavy maintenance opportunity.

Operators also should note that the effectivity listing of the referenced service bulletins differs from the applicability of the proposed AD. The applicability of the proposed AD affects airplanes manufactured with MPET insulation blankets. The effectivity listing of the service bulletins not only includes airplanes manufactured with MPET insulation blankets, but airplanes equipped with other materials that are much more difficult to ignite than MPET (as discussed previously). The FAA has determined that only airplanes manufactured with MPET insulation blankets are subject to the identified unsafe condition. Therefore, paragraph (a) of the proposed AD would require that a determination be made of whether, and at what locations, MPET insulation blankets are installed, and the proposal would require corrective action only with respect to those blankets. The proposal would require that this determination be made in a manner approved by the manager of the LAACO. Blankets that are stamped with ''DMS 2072, Type 2, Class 1, Grade A'' or ''DMS 1996, Type 1'' are constructed of MPET. On some blankets, because of their age or wear, it may not be possible to identify these stamps. Boeing is currently developing instructions for how to determine whether such blankets are constructed of MPET. These instructions, if approved, may be referenced as additional service information in any final rule resulting from this rulemaking. In addition, if additional airplane models manufactured with MPET insulation blankets are identified, the FAA may consider additional rulemaking actions to address the identified unsafe condition.

Regulatory Evaluation Summary

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

The FAA conducted a Preliminary Cost Analysis and Initial Regulatory Flexibility Analysis to determine the regulatory impacts of this and one other proposed AD to operators of all 699 U.S.-registered McDonnell Douglas airplanes that have thermal/acoustical insulation blankets covered with a film of MPET. This analysis is included in the Rules Docket No.'s 99–NM–161–AD and 99–NM–162–AD. The FAA has determined that 612 Model DC–9–80 series airplanes and 22 Model MD–90–30 series airplanes operated by 16 entities would be affected by this proposed AD. Thirteen of these entities operate N-registered Model DC–9–80 series airplanes, three entities operate Model MD–90–30 series airplanes, and two entities operate both Model DC–9–80 series airplanes and Model MD–90–30 series airplanes.

The Preliminary Cost Analysis and Initial Regulatory Flexibility Analysis, completed by the FAA and included in this Rules Docket, estimates that the affected airplanes could be retrofitted with thermal/acoustic insulation blankets covered with film that exhibit no flame propagation when tested in accordance with the requirements of ASTM E648 or FAA-approved equivalent. Testing conducted by the FAA indicates that there are films that are currently in use that meet the test standard required by this proposed AD. These include certain polyvinylfluoride films that weigh no more than the materials they would replace. The FAA has identified three categories of costs associated with the retrofit: (1) Material costs of the blankets; (2) labor costs to remove existing blankets, install new blankets, and reinstall wiring, panels, floors, and other items; and (3) net lost revenues, or out of service costs. Over the four-year compliance period, material costs would be $17.2 million, labor costs would be $214.1 million, and net lost revenues would be $13.3 million. Total costs would be $244.6 million, or $207.0 million discounted to present value at seven percent.

The Regulatory Flexibility Act (RFA) of 1980 establishes ''as a principle of regulatory issuance that agencies shall endeavor, consistent with the objective of the rule and of applicable statutes, to fit regulatory and informational requirements to the sale of the business, organizations, and governmental jurisdictions subject to regulation. To achieve that principle, the RFA requires agencies to solicit and consider flexible regulatory proposals and to explain the rationale for their actions. The RFA covers a wide-range of small entities, including small businesses, not-for-profit organizations, and small governmental jurisdictions.

Agencies must perform a review to determine whether a proposed or final rule will have a significant economic impact on a substantial number of small entities. If the determination is that it will, the Agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a proposed or final rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

Three of the operators affected by the proposed AD are considered small, that is, they employ fewer than 1,500 people. One of these operators is a private corporation and the FAA is unable to ascertain any financial information about it. The other two entities have revenues in excess of $100 million. Two entities are not considered a substantial number of small entities by Small Business Administration criteria. Pursuant to the RFA, 5 U.S.C. 605(b), the FAA certifies that this proposed AD would not have a significant economic impact on a substantial number of small entities.

The provisions of this proposed AD would have little or no impact on trade for U.S. firms doing business in foreign countries and foreign firms doing business in the United States.

Title II of the Unfunded Mandates Reform Act of 1995 (the Act), enacted as Pub. L. 104–4 on March 22, 1995, requires each Federal agency, to the extent permitted by law, to prepare a written assessment of the effects of any Federal mandate in a proposed or final agency rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. Section 204(a) of the Act, 2 U.S.C. 1534(a), requires the Federal agency to develop an effective process to permit timely input by elected officers (or their designees) of State, local, and tribal governments on a proposed ''significant intergovernmental mandate.'' A ''significant intergovernmental mandate'' under the Act is any provision in a Federal agency regulation that would impose an enforceable duty upon State, local, and tribal governments, in the aggregate, of $100 million (adjusted annually for inflation) in any one year. Section 203 of the Act, 2 U.S.C. 1533, which supplements section 204(a), provides that before establishing any regulatory requirements that might significantly or uniquely affect small governments, the agency shall have developed a plan that, among other things, provides for notice to potentially affected small governments, if any, and for a meaningful and timely opportunity to provide input in the development of regulatory proposals.

This proposed AD does not contain any Federal intergovernmental or private sector mandate. Therefore, the requirements of Title II of the Unfunded Mandates Reform Act of 1995 do not apply.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

McDonnell Douglas: Docket 99–NM–161–AD.

Applicability: Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), DC–9–87 (MD–87) series airplanes; Model MD–90–30 series airplanes; and MD–88 airplanes; manufacturer's fuselage numbers 1011 through 2241 inclusive; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To ensure that insulation blankets constructed of metallized polyethyleneteraphthalate (MPET) are removed from the fuselage, accomplish the following:

Inspection

(a) Within 4 years after the effective date of this AD, determine whether, and at what locations, insulation blankets constructed of MPET are installed. This determination shall be made in a manner approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note 2: Insulation blankets that are stamped with ''DMS 2072, Type 2, Class 1, Grade A'' or ''DMS 1996, Type 1'' are constructed of MPET.

Corrective Actions

(b) For insulation blankets that are determined not to be constructed of MPET, no further action is required by this AD.

(c) For insulation blankets that are determined to be constructed of MPET, within 4 years after the effective date of this AD, replace the MPET insulation blankets with new insulation blankets. The replacement procedures shall be done in accordance with the Accomplishment Instructions of McDonnell Douglas Service Bulletin MD–90–25–015, Revision 01, dated November 5, 1997 (for Model MD–90–30 series airplanes); or McDonnell Douglas Service Bulletin MD80–25–355, Revision 01, dated November 5, 1997 (for Model DC–9–80 series airplanes and Model MD–88 airplanes); as applicable. The replacement insulation blankets must be constructed of materials tested in accordance with Standard Test Method American Society for Testing and Materials (ASTM) E648 and approved by the Manager, Los Angeles ACO.

Note 3: Although this paragraph allows up to 4 years for the required replacement, the FAA anticipates that operators will comply at the earliest practicable maintenance opportunity.

Note 4: Only one of the two metallized Tedlar covers specified in the service bulletins has been shown to have successfully passed the testing of the ASTM flammability standard and is considered acceptable for compliance with the requirements of paragraph (c) of this AD.

Spares

(d) As of the effective date of this AD, no person shall install an MPET insulation blanket on any airplane.

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, 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 5: 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

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

Issued in Renton, Washington, on August 9, 1999.

D. L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 99–20940 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–105237–99]

RIN 1545–AX19

Furnishing Identifying Number of Income Tax Return Preparer

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: The IRS is proposing regulations that allow income tax return preparers to elect an alternative to their social security number (SSN) for

purposes of identifying themselves on returns they prepare. The text of the temporary regulations published in the Rules and Regulations section of this issue of the **Federal Register** also serves as the text of these proposed regulations. The regulations affect individual preparers who elect to identify themselves using a number other than their SSN.

DATES: Written or electronically generated comments and requests for a public hearing must be received by November 9, 1999.

ADDRESSES: Send submissions to: CC:DOM:CORP:R (REG–105237–99), 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–105237–99), 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.

FOR FURTHER INFORMATION CONTACT: Concerning the regulations, Andrew J. Keyso, (202) 622–4910; concerning submissions, Michael Slaughter, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Income Tax Regulations (26 CFR part 1) relating to section 6109. The temporary regulations provide that an income tax return preparer who is an individual may furnish either a social security number or an alternative identifying number to satisfy the requirements of section 6109(a)(4). The text of those regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the temporary regulations and these proposed regulations.

Special Analyses

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

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to written comments (a signed original and eight (8) copies) and electronic comments that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested by any person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Andrew J. Keyso, Office of Assistant Chief Counsel (Income Tax & Accounting). 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 1.6109–2 is amended by revising paragraphs (a) and (d) to read as follows:

§ 1.6109–2 Furnishing identifying number of income tax return preparer.

(a) [The text of proposed paragraph (a) is the same as the text of § 1.6109–2T(a) published elsewhere in this issue of the **Federal Register**].

* * * * *

(d) [The text of proposed paragraph (d) is the same as the text of § 1.6109–2T(d) published elsewhere in this issue of the **Federal Register**].

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 99–20486 Filed 8–11–99; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–6417–3]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Anchor Chemicals Superfund Site from the National Priorities List; request for comments.

SUMMARY: The United States Environmental Protection Agency (EPA), Region 2, announces its intent to delete the Anchor Chemicals Superfund Site (Site) from the National Priorities List (NPL) and requests public comment on this action. The NPL constitutes appendix B of 40 CFR part 300 which is the National Oil & Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. EPA and the New York State Department of Environmental Conservation (NYSDEC) have determined that all appropriate response actions have been completed and no further action by the responsible parties is appropriate under CERCLA. In addition, EPA and NYSDEC have determined that response activities conducted to date at the Site have been protective of public health, welfare, and the environment.

DATES: Comments concerning the deletion of the Site from the NPL may be submitted on or before September 13, 1999.

ADDRESSES: Comments should be submitted to: Thomas Taccone, Remedial Project Manager, U.S. Environmental Protection Agency, Region 2, 290 Broadway, 20th Floor, New York, New York 10007–1866.

Comprehensive information on the Site is contained at: U.S. Environmental Protection Agency, Region 2, Superfund Records Center 290 Broadway, Room 1828, New York, New York 10007–1866,

(212) 637–4308, Hours: Mon.–Fri. 9:00am—5:00 pm.

Information on the Site is also available for viewing at the Site Administrative Record Repository located at: Hicksville Library, Community Room, 169 Jerusalem Avenue, Hicksville, L.I. 11801, Tel. (516) 931–1417, Hours: Mon.√Thurs. 9:00 am–9:00 pm or Fri.–Sat. 9:00 am–5:00 pm.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Taccone at the address above or by telephone at (212) 637–4281 or by electronic mail at ''Taccone.Tom@epamail.epa.gov.''

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

EPA Region 2 announces its intent to delete the Anchor Chemicals Superfund Site (the Site) from the National Priorities List (NPL) and requests public comment on this deletion. The NPL is appendix B to the National Oil & Hazardous Substances Pollution Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of CERCLA, as amended, 42 U.S.C. 9601 *et seq*. EPA identifies sites that appear to present a significant risk to public health, welfare, or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of remedial actions financed by the Hazardous Substances Superfund Response Trust Fund (the Fund). Pursuant to § 300.425(e)(3) of the NCP, any site deleted from the NPL remains eligible for Fund-financed remedial actions, if conditions at the site warrant such action.

EPA will accept comments concerning the deletion of the Site from the NPL for 30 days after 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 how the Site meets the NPL deletion criteria.

II. NPL Deletion Criteria

The NCP establishes the criteria that the Agency uses to delete sites from the NPL. In accordance with 40 CFR 300.425 (e)(1)(i)–(iii), sites may be deleted from the NPL where no further response is appropriate. In making this determination, EPA, in consultation with the NYSDEC, will consider whether any of the following criteria has been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required; or

(ii) All appropriate Fund-financed responses under CERCLA have been implemented, and no further response action by responsible parties is appropriate; or

(iii) A remedial investigation has shown that the release poses no significant threat to public health or to the environment and, therefore, taking remedial measures is not appropriate.

III. Deletion Procedures

The NCP provides that EPA shall not delete a site from the NPL until the State in which the release was located has concurred, and the public has been afforded an opportunity to comment on the proposed deletion. Deletion of a site from the NPL does not affect responsible party liability or impede Agency efforts to recover costs associated with response efforts. The NPL is designed primarily for information purposes and to assist Agency management.

EPA Region 2 will accept and evaluate public comments before making a final decision to delete the Site. The following procedures were used for the intended deletion of the Site:

1. EPA Region 2 issued a Record of Decision for the Site in September 1995, which stated that no remedial action was necessary, since the Site did not pose an unacceptable threat to human health and the environment.
2. EPA has recommended deletion.
3. The NYSDEC concurred with the deletion decision in a letter dated July 7, 1999.
4. Concurrent with this Notice of Intent to Delete, a notice has been published in a local newspaper and has been distributed to appropriate federal, state and local officials, and other interested parties.
5. EPA has made available the relevant documents to this decision at the addresses listed above.

The comments received during the comment period will be evaluated before any final decision is made. EPA Region 2 will prepare a Responsiveness Summary, if necessary, which will address any significant comments received during the public comment period.

If, after consideration of the comments it receives, EPA decides to proceed with the deletion, the EPA Regional Administrator will place a Notice of Deletion in the **Federal Register**. The NPL will reflect this deletion in the next final update. Public notices and copies of the Responsiveness Summary, if any, will be made available to local residents by EPA Region 2.

IV. Basis for Intended Site Deletion

The following summary provides a brief description and history of the Anchor Chemicals Superfund Site and the Agency's rationale for recommending deletion of the Site, in the Town of Oyster Bay, Nassau County, New York, from the NPL.

The Site is approximately 1.5 acres in size and includes one 28,850 square foot, two-story building. Most of the Site is paved with asphalt. The KoBar Company purchased the Site on September 30, 1964, and in the same year constructed the building for the Anchor Chemical Corporation. Before the building was constructed, the Site property was used for agricultural purposes.

From 1964 to 1978, Anchor Chemical manufactured, blended and stored chemicals for the graphic arts industry. Seventeen underground storage tanks (USTs), which ranged in size from 500 to 4,000 gallons, were used by the company at the Site to store chemicals and solvents, such as acetone, 1,1,1-trichloroethane (1,1,1-TCA), methylene chloride, 2-butoxyethanol and isopropyl alcohol. The chemicals were also stored in seven aboveground tanks which were removed from the Site in 1985. The tanks ranged in size from 550 to 1,500 gallons.

In addition, there are nine dry wells and one drain on-Site. The dry wells and drain were installed to collect rainwater runoff and drainage from the building. Liquid which collects in the dry wells infiltrates into the soil. None of the dry wells are connected to a sewer.

In 1977, the Nassau County Health Department (NCHD) discovered 1,1,1-TCA, trichloroethene (TCE) and tetrachloroethene (PCE) in liquid samples near the dry wells. In subsequent testing of 14 of the 17 USTs, six tanks failed air-over-product tank tightness tests, indicating that the tanks had the potential to leak. Five tanks were decommissioned in 1983; the remaining twelve were decommissioned in 1991. In 1982, the NCDH requested Anchor/Lith Kem-Ko, the operators, to investigate the possibility of groundwater and soil contamination at the Site.

Three groundwater monitoring wells were installed in September 1982. Groundwater samples taken from the wells contained elevated levels of 1,1,1-TCA, PCE, dichloroethane,

chlorodibromo-methane, methylene chloride and TCE. Soil samples, taken during the well installations, revealed the presence of methylene chloride and 1,1,1-TCA. On June 10, 1986, the Site was placed on the National Priorities List.

On June 2, 1989, EPA issued an Administrative Order on Consent to the K.B. Company, the owner of the property and successor to Kobar, to undertake a remedial investigation/feasibility study (RI/FS) to determine the nature and extent of contamination at the Site and to evaluate options for cleanup. Field work was completed in February 1995 and an RI report was submitted to EPA in March 1995. The report revealed a significant decrease in the concentration of the contaminants in the groundwater and soil from those levels observed in the early 1980s. In addition, the risk assessment determined that the Site did not pose an unacceptable risk to human health and the environment. EPA published these findings in a Record of Decision (ROD) on September 29, 1995.

The ROD stated that the risks posed by the Site contamination are within the acceptable risk range, but noted that four dry wells on Site were found to be contaminated with chromium, lead, 1,1,1-TCA and other volatile compounds. Groundwater samples from several monitoring wells on Site also showed concentrations of chromium and 1,1,1-TCA above Maximum Contaminant Levels. On September 29 and 30, 1995, a removal action was performed at the Site. The action consisted of the removal and off-Site disposal of contaminated soils and sediments from the dry wells to prevent further groundwater contamination. The excavated materials were disposed of in accordance with Resource Conservation and Recovery Act (RCRA) requirements. The completion of the removal action was documented in a Removal Action Report, dated May 1996, by the responsible parties. The ROD stated that no additional action was necessary at the Site upon completion of the removal action. EPA formally acknowledged completion of the action in a Preliminary Closeout Report for the Site on September 30, 1996. Results from two rounds of groundwater samples, which were collected in April 1996 and July 1997, confirmed the effectiveness of the removal action and that the Site does not pose an unacceptable risk to human health and the environment. A Final Close Out Report was not prepared by EPA, since completion of all response actions for the Site has been documented in the ROD and in the Preliminary Closeout Report.

The responsible parties have completed all necessary response actions at the Site. EPA, in consultation with NYSDEC, has determined that the Anchor Chemicals Superfund Site does not pose a significant threat to human health or the environment. No further Site remediation is necessary.

Because all of the necessary response actions have been competed at the Site, and since the Site does not pose an unacceptable risk to human health and the environment, EPA has also determined that the five-year review requirement of section 121(c) of CERCLA, as amended, is not applicable.

Dated: July 27, 1999.

Herb Barrack,

Acting Regional Administrator, Region 2.

[FR Doc. 99–20550 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 190

[Docket No. RSPA–98–4284; Notice 1]

RIN 2137–AD22

Pipeline Safety Enforcement Procedures

AGENCY: Research and Special Programs Administration (RSPA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: We are proposing to revise our pipeline safety enforcement procedures concerning alleged violations for which persons agree to proposed compliance orders or pay proposed civil penalties without contesting the allegations. At present, if a person responds to a notice of probable violation (NOPV) by paying a civil penalty proposed for an alleged violation, we consider the allegation uncontested and find that the person committed the violation. The violation then counts as a prior offense in determining the amount of any future civil penalty assessment against that person. We are proposing to adopt identical procedures for NOPV responses that agree to proposed compliance orders without contesting the alleged violations. Further, we are proposing to stop preparing final orders for alleged violations for which persons agree to proposed compliance orders or pay proposed civil penalties without contesting the allegations. The proposed rule changes would unify and streamline the handling of uncontested alleged violations in enforcement cases.

DATES: Persons interested in submitting written comments on this notice must do so by October 12, 1999. Late filed comments will be considered so far as practicable.

ADDRESSES: You may submit written comments by mailing or delivering an original and two copies to the Dockets Facility, U.S. Department of Transportation, Room PL–401, 400 Seventh Street, SW, Washington, DC 20590–0001. The Dockets Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays when the facility is closed. Or you may submit written comments to the docket electronically. To do so, log on to the following Internet Web address: http://dms.dot.gov. Click on ''Help & Information'' for instructions on how to file a document electronically. All written comments should identify the docket and notice numbers stated in the heading of this notice. Anyone who wants confirmation of mailed comments must include a self-addressed stamped postcard.

FOR FURTHER INFORMATION CONTACT: Linda Daugherty at (202) 366–4577 or linda.daugherty@rspa.dot.gov. Comments may be read on the internet at http://dms.dot.gov. General information about RSPA's pipeline safety program can be obtained at http://ops.dot.gov.

SUPPLEMENTARY INFORMATION:

Response Options

Under the pipeline safety enforcement procedures in 49 CFR Part 190, in responding to an NOPV (§ 190.207), a person may decide not to contest an alleged violation. To do so, the person, or ''respondent,'' either pays a proposed civil penalty (§ 190.209(a)(1)) or agrees to a proposed compliance order (§ 190.209(b)(1)), or both when applicable.

If a proposed civil penalty is paid, we then ''close the case with prejudice to the respondent,'' as § 190.209(a)(1) provides. Such closure means that we consider the alleged violation to have been committed by the respondent, and that we will treat the violation as a ''prior offense'' under § 190.225(c) in determining the amount of any future assessment against the respondent (see 53 FR 1634; Jan. 21, 1988).

In contrast, the procedures do not provide for a similar closure when a person agrees to a proposed compliance order without contesting the alleged violation. This inconsistency may be confusing when an NOPV proposes both a civil penalty and a compliance order for the same alleged violation.

Therefore, we are proposing to revise § 190.209 to treat uncontested responses involving civil penalty payments and compliance order agreements alike. The separate lists of response options now stated in § 190.209(a) and § 190.209(b) would be combined in proposed § 190.209(a). Proposed § 190.209(a)(1) would clarify that by paying a proposed civil penalty or agreeing to a proposed compliance order, the respondent elects not to contest the underlying alleged violation. The phrase ''close the case with prejudice to the respondent'' would be replaced by a fuller explanation, under proposed § 190.209(b), of the consequences of paying a proposed civil penalty or agreeing to a proposed compliance order without contesting the underlying alleged violation.

A separate option under present § 190.209(b) to request execution of a consent order would be removed as unnecessary. Under § 192.219, a respondent may request execution of a consent order at any time before issuance of a compliance order. And a consent order may be requested in connection with any response that contests an alleged violation.

The present paragraph (c) in § 190.209 is published incorrectly as the third item in a list instead of as an independent paragraph. This paragraph also references a previously deleted paragraph (c). So we are proposing to revise the paragraph structure of § 190.209 for clarity and to omit the obsolete reference in paragraph (c).

Final Order

Under § 190.213, we now prepare a final order in every enforcement case. Each order addresses each alleged violation in the case. Based on the evidence presented, the order states our findings on whether a violation has been committed as alleged, and if a sanction is to be imposed, states the amount of the civil penalty or terms of the compliance order.

For alleged violations a respondent decides not to contest by paying a proposed civil penalty or agreeing to a proposed compliance order, or both, we believe preparation of a separate document called a final order is a redundant administrative step.

Proposed § 190.209(b)(3) would eliminate the unnecessary paperwork of preparing a final order for alleged violations a respondent decides not to contest by paying a proposed civil penalty or agreeing to a proposed compliance order, or both. A conforming change to § 190.213(a) also would be made. Despite the lack of a separate document called ''Final Order,'' if an operator did not comply with the terms of an agreed to compliance order, RSPA could enforce the agreement by assessing civil penalties or by obtaining a court injunction.

Regulatory Analyses and Notices

A. Executive Order 12866 and DOT Policies and Procedures

The Office of Management and Budget (OMB) does not consider this proposed rulemaking to be a significant regulatory action under Section 3(f) of Executive Order 12866 (58 FR 51735; October 4, 1993). Therefore, OMB has not reviewed this rulemaking document. DOT does not consider this proposed rulemaking significant under its regulatory policies and procedures (44 FR 11034; February 26, 1979). Because the proposed rulemaking should enhance governmental efficiency without cost to the regulated industry, a further regulatory evaluation is not warranted.

B. Regulatory Flexibility Act

The proposed rule changes would not impose additional requirements on pipeline operators, including small entities that operate regulated pipelines. Based on the facts available about the anticipated impact of this proposed rulemaking, I certify, pursuant to Section 605 of the Regulatory Flexibility Act (5 U.S.C. 605), that this proposed rulemaking would not have a significant economic impact on a substantial number of small entities.

C. Executive Order 13084

The proposed rules have been analyzed in accordance with the principles and criteria contained in Executive Order 13084, ''Consultation and Coordination with Indian Tribal Governments.'' Because the proposed rules would not significantly or uniquely affect the Indian tribal governments, the funding and consultation requirements of Executive Order 13084 do not apply.

D. Paperwork Reduction Act

This proposed rulemaking contains no information collection that is subject to review by OMB under the Paperwork Reduction Act of 1995.

E. Unfunded Mandates Reform Act of 1995

This proposed rulemaking would not impose unfunded mandates under the Unfunded Mandates Reform Act of 1995. It would not result in costs of $100 million or more to either State, local, or tribal governments, in the aggregate, or to the private sector, and would be the least burdensome alternative that achieves the objective of the rule.

F. Executive Order 12612

This action would not have substantial direct effects on states, on the relationship between the Federal 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 (52 FR 41685; October 30, 1987), RSPA has determined that the final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

G. Impact on Business Processes and Computer Systems

Many computers that use two digits to keep track of dates will, on January 1, 2000, recognize ''double zero'' not as 2000 but as 1900. This glitch, the Year 2000 problem, could cause computers to stop running or to start generating erroneous data. The Year 2000 problem poses a threat to the global economy in which Americans live and work. With the help of the President's Council on Year 2000 Conversion, Federal agencies are reaching out to increase awareness of the problem and to offer support. We do not want to impose new requirements that would mandate business process changes when the resources necessary to implement those requirements would otherwise be applied to the Year 2000 Problem.

This notice of proposed rulemaking does not propose business process changes or require modifications to computer systems. Because this notice apparently does not affect the ability of organizations to respond to the Year 2000 problem, we do not intend to delay the effectiveness of the rule changes proposed in this notice.

List of Subjects in 49 CFR Part 190

Enforcement procedures, Penalty, Pipeline safety.

In consideration of the foregoing, we propose to amend 49 CFR part 190 as follows:

1. The authority citation for Part 190 continues to read as follows:

Authority: 33 U.S.C. 1321; 49 U.S.C. 5101–5127, 60101 *et seq.*; Sec. 212–213, Pub. L. 104–121, 110 Stat. 857; 49 CFR 1.53.

2. Section 190.209 would be revised to read as follows:

§ 190.209 Response options.

(a) Within 30 days of receipt of a notice of probable violation, the respondent shall respond to the allegations of violation and proposed

sanctions in the following way to the Regional Director who issued the notice:

(1) Elect not to contest an allegation by paying the proposed civil penalty or agreeing to the proposed compliance order applicable to the allegation;

(2) Submit written explanations, information, or other materials that answer the allegations or seek mitigation of the proposed civil penalty or proposed compliance order; or

(3) Request a hearing under § 190.211.

(b) If a respondent responds to an alleged violation under paragraph (a)(1) of this section—

(1) The allegation automatically becomes an agency determination that the respondent has committed the violation as alleged, allowing OPS to consider the violation as a prior offense in assessing civil penalties in the future;

(2) The proposed civil penalty applicable to the violation is assessed, or the terms of the proposed compliance order applicable to the violation are imposed, without further action; and

(3) The finding of violation, assessment of civil penalty, or compliance terms imposed under § 190.209(b)(1) and (2), as evidenced by the notice of probable violation and the respondent's response, constitute a final order under 49 U.S.C. 60101 *et seq.*

(c) Failure of the respondent to respond in accordance with paragraph (a) of this section constitutes a waiver of the right to contest the allegations in the notice of probable violation and authorizes the Associate Administrator, OPS, without further notice to the respondent, to find facts to be as alleged in the notice of probable violation and to issue a final order under § 190.213.

3. Section 190.213(a) is revised to read as follows:

§ 190.213 Final order.

(a) Except with respect to violations resolved under § 190.209(b), after a hearing under § 190.211 or, if no hearing has been requested, after expiration of the 30 day response period prescribed in § 190.209, the case file of an enforcement proceeding commenced under § 190.207 is forwarded to the Associate Administrator, OPS, for issuance of a final order.

* * * * *

Issued in Washington, DC on August 6, 1999.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 99–20816 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 64, No. 155
Thursday, August 12, 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

Agricultural Marketing Service

[Docket Number LS–99–11]

Notice of Request for New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), this notice announces the Agricultural Marketing Service's (AMS) request for comments on a new information collection related to the delivery of Meat Grading and Certification (MGC) Branch services. This voluntary survey would give MGC Branch's external customers, who are primarily in the livestock and meat industry, an opportunity to provide feedback on the quality of service they are receiving thereby assisting the MGC Branch to continuously improve its services and service delivery.

DATES: Comments on this notice must be received on or before October 12, 1999 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Contact Marlene M. Betts, Assistant to the Chief, Meat Grading and Certification Branch, Livestock and Seed Program, AMS, USDA, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248, Telephone (202) 720–1640, or Fax (202) 690–4119.

SUPPLEMENTARY INFORMATION:

The Agricultural Marketing Act of 1946, as amended, (7 U.S.C. 1621–1627) (Act) directs the Secretary of the Department of Agriculture (USDA) to facilitate the marketing of agricultural products by developing and applying grade standards. Under the Act, AMS offers grading, quality assurance, and certification services for a user-fee, to facilitate the efficient marketing of meat and meat products in the global marketplace. The MGC Branch provides voluntary quality grading and certification services based on U.S. grade standards and approved specifications to producers, slaughterers, wholesalers, retailers, consumers, brokers, and other financially interested parties involved in the marketing of livestock and meat products.

There are approximately 380 current users of the AMS's, MGC Branch voluntary quality grading and certification services. These customers are located nationwide and represent a diverse mixture of small, medium, and large producers; slaughterers; wholesalers; retailers; brokers; and other financially interested parties. These companies request product grading and certification services from an MGC Branch Area Office. (There are four MGC Branch Area Offices nationwide.)

The mission of the MGC Branch is to provide timely, high-quality, unbiased service that facilitates the orderly marketing and distribution of agricultural commodities, and fosters goodwill in the global marketplace. To accomplish this mission, the MGC Branch needs feedback from customers to evaluate the services that are provided.

Title: Customer Service Survey (Meat Grading and Certification Services).

OMB Number: New collection, a number will be assigned after approval.

Expiration Date of Approval: New collection.

Type of Request: New information collection.

Abstract: The collection of information using a voluntary customer service survey will provide all MGC Branch customers an opportunity to comment on the type and level of services they expect and evaluate the actual services that they receive. This information will assist the MGC Branch in continuously improving its services to meet or exceed customer expectations.

The MGC Branch does not have a formal means of determining its external customer's expectations or the quality of service that is delivered. To collect this information, the MGC Branch proposes to annually distribute a voluntary customer service survey. The information collected from the survey will be used to evaluate service delivery and assist in planning and managing the program.

The customer service survey consists of one document comprised of 20 inquiry components where customers assess the quality of service that is provided by the MGC Branch. Some examples of survey components customers are asked to assess and respond to include the following: ''MGC Branch employees provide service at the date and time requested,'' ''MGC Branch employees provide helpful technical advice,'' and ''Graders working in your facility receive adequate supervision.'' These survey components will be assessed using a rating scale ranging from ''strongly agrees'' to ''strongly disagrees'' or ''not applicable.'' There is also space available on the survey for the customer to provide additional comments they deem appropriate.

Due to the voluntary nature of grading and certification services, MGC Branch customers will use the services only if they receive the quality of service that meets or exceeds their expectations. By obtaining information from customers through a voluntary customer service survey, the MGC Branch could continue to improve its services to meet or exceed customer expectations.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average .084 hours per response.

Respondents: Livestock and meat industry or other for-profit businesses.

Estimated Number of Respondents: 428.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 36 hours.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's 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 those who are to respond, including the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology. Comments may be sent to Marlene M. Betts, Assistant to the Chief, Meat Grading and Certification Branch, Livestock and Seed Program, AMS, USDA, STOP 0248, Room 2628–S, 1400 Independence Avenue, SW., Washington, DC 20250–0248. All comments received will be available for public inspection during regular business hours at the same address.

All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

Dated: August 4, 1999.

Robert L. Leverette,

Acting Deputy Administrator, Livestock and Seed Program.

[FR Doc. 99–20876 Filed 8–11–99; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 98–020–2]

Fruit Fly Cooperative Control Program; Draft Environmental Impact Statement

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service has prepared a draft environmental impact statement for the Fruit Fly Cooperative Control Program. This document analyzes potential environmental effects of cooperative efforts to control exotic fruit fly pests in the United States. We are requesting public comments on the draft environmental impact statement, and notifying the public of the comment period and public meetings for the draft environmental impact statement.

DATES: We invite you to comment on the draft environmental impact statement. We will consider all comments that we receive by October 12, 1999. The public meetings will be held in (1) Washington, DC, on August 16, 1999; (2) Tampa, FL, on August 18, 1999; (3) Miami, FL, on August 20, 1999; (4) Brownsville, TX, on August 23, 1999; and (5) Los Angeles, CA, on August 25, 1999.

ADDRESSES: Please send your comment and three copies to: Mr. Harold T. Smith, Environmental Protection Officer, Environmental Analysis and Documentation, PPD, APHIS, 4700 River Road, Unit 149, Riverdale, MD 20737–1228.

Please state that your comment refers to Docket No. 98–020–2.

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

Copies of the draft environmental impact statement are available for review between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays at the following locations:

APHIS Reading Room, room 1141, South Building, 14th Street and Independence Avenue, SW., Washington, DC;

USDA, APHIS Library, 4700 River Road, Riverdale, MD;

USDA, APHIS, PPQ, 9580 Micron Avenue, Suite I, Sacramento, CA 95827;

USDA, APHIS, PPQ, 3505 Boca Chica Boulevard, Suite 360, Brownsville, TX 78521–4065;

USDA, APHIS, PPQ, 3505 25th Avenue, Building 1 North, Gulfport, MS 39501; and

USDA, APHIS, PPQ, Blason II, 1st Floor, 505 South Lenola Road, Moorestown, NJ 08057.

Interested persons may obtain a copy of the draft environmental impact statement by writing to any of the last four addresses listed above (those beginning with USDA, APHIS, PPQ) or to the address listed below under **FOR FURTHER INFORMATION CONTACT.**

The public meeting will be held at the following locations and times:

(1) South Agriculture Building, 14th Street and Independence Avenue, SW., Washington, DC, on August 16, 1999, from 1 p.m. to 4 p.m.;

(2) Ramada Airport Inn and Conference Center, 5303 West Kennedy Boulevard, Tampa, FL, on August 18, 1999, from 1 p.m. to 4 p.m., and 6 p.m. to 9 p.m.;

(3) Doubletree Grand Hotel, 1717 North Bayshore, Miami, FL, on August 20, 1999, from 1 p.m. to 4 p.m. and 6 p.m. to 9 p.m.;

(4) Holiday Inn Fort Brown, 1900 East Elizabeth Street, Brownsville, TX, on August 23, 1999, from 6 p.m. to 9 p.m.; and

(5) Embassy Suites Los Angeles/Downey, 8425 Firestone Boulevard, Downey, CA, on August 25, 1999, from 1 p.m. to 4 p.m., and 6 p.m. to 9 p.m.

FOR FURTHER INFORMATION CONTACT: Mr. Harold T. Smith, Environmental Protection Officer, Environmental Analysis and Documentation, PPD, APHIS, 4700 River Road Unit 149, Riverdale, MD 20737–1228; (301) 734–8565.

SUPPLEMENTARY INFORMATION:

Background

Many fruit fly species are serious pests of agriculture throughout the World and represent a threat to the agriculture and ecology of the United States. The Animal and Plant Health Inspection Service (APHIS), in cooperation with other Federal and State organizations, is proposing a national program, a broad strategy, to respond to that threat. The national program includes what formerly were separate cooperative programs to control various fruit fly pest species.

APHIS, with the assistance of its cooperators, has developed a draft environmental impact statement (EIS) that analyzes a range of program alternatives and their associated components, including exclusion, detection and prevention, and control. The EIS focuses principally on the potential environmental effects of the control measures, but maintains a secondary focus on the identification of strategies for the reduction of risk in fruit fly programs.

We published a notice of intent to prepare an EIS in the **Federal Register** on March 20, 1998 (63 FR 13614–13615, Docket No. 98–020–1). The notice of intent requested comments from the public concerning issues that should be addressed in the EIS. Comments from the public during the formal scoping period were considered by APHIS for the development of the draft.

Major Issues

The comments received from the public helped us to determine the principal focus and issues of the draft EIS. The document analyzes the following broad alternatives: (1) No action, (2) a nonchemical program, and (3) an integrated program. The draft focuses principally on the potential environmental effects of control components (especially chemicals) but also focuses on the identification of strategies to reduce risk in fruit fly programs.

The draft EIS is now available for review and comment. We are seeking input from the public, including private citizens, organizations, industry, and other government agencies.

Preparation of the Final Environmental Impact Statement.

APHIS will consider all comments received by the close of the comment period in the development of the final EIS for the Fruit Fly Cooperative Control Program. A notice announcing the availability of the final document will be published in a subsequent **Federal Register** notice.

This notice is issued in accordance with: (1) The National Environmental Policy Act of 1969, as amended (NEPA) (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

Done in Washington, DC, this 3rd day of August 1999.

Bobby R. Acord,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 99–20820 Filed 8–11–99; 8:45 am]

BILLING CODE 3410–34–U

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Land Exchanges

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate, without change, a previously approved information collection. This information collection will provide the Forest Service with the information to complete an Agreement to Initiate and an Exchange Agreement when cooperating in land exchanges with non-Federal parties. Forest Service personnel collect the information from non-Federal land exchange parties.

DATES: Comments must be received in writing on or before October 12, 1999.

ADDRESSES: All comments should be addressed to Jack L. Craven, Director, Lands Staff, Mail Stop 1124, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–6090.

Comments also may be submitted via facsimile to (202) 205–1604 or by email to: lands/wo@fs.fed.us.

The public may inspect comments received in the Office of the Director, Lands Staff, 201 14th Street, SW, Washington, DC. Visitors are encouraged to call ahead to (202) 205–1248 to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: James M. Williams, Lands Specialist, at (202) 205–1248 or Kathleen L. Dolge, Realty Specialist, at (202) 205–1248.

SUPPLEMENTARY INFORMATION:

Background

Land exchanges are discretionary, voluntary, real estate transactions between the Secretary of Agriculture, acting by and through the Forest Service, and non-Federal land exchange parties. Land exchanges can be initiated by a non-Federal party, an agent of a landowner, a broker, a third party, or a non-Federal public agency.

Each land exchange requires preparation of an Agreement to Initiate as required by § 254.4 of title 36 of the Code of Federal Regulations (CFR), which specifies the preliminary, non-binding intentions of the non-Federal land exchange party and of the Forest Service in pursuing a land exchange.

As the land exchange proposal develops, the Forest Service and the non-Federal land exchange party may enter into a binding Exchange Agreement pursuant to 36 CFR, § 254.14. The Exchange Agreement is a legally binding document delineating the conditions that must be met to complete the land exchange.

Data from this information collection can be unique to each land exchange and are not available from other sources.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: Agreement to Initiate.

OMB Number: 0596–0105.

Expiration Date of Approval: May 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved information collection.

Abstract: The data collected are used by the agency to facilitate a mutually beneficial land exchange between the Forest Service and a non-Federal partner.

The Agreement to Initiate is a non-binding document. Respondents answer questions in the Agreement to Initiate that include the description of properties being considered in the land exchange; an implementation schedule of action items, such as the relocation of any tenants occupying the land; and the identification of the party responsible for each action item, as well as target dates for completion of each action item.

Respondents are non-Federal land exchange parties. Forest Service personnel collect the information by phone, in face-to-face meetings with land exchange parties, or by requesting in a letter to the exchange party that the requested information be submitted by mail.

Data gathered in the information collection are not available from other sources.

Estimate of Burden: 1 hour.

Type of Respondents: Non-Federal land exchange parties.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100 hours.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: Exchange Agreement.

OMB Number: 0596–0105.

Expiration Date of Approval: May 31, 1998.

Type of Request: Reinstatement, without change, of a previously approved information collection.

Abstract: The data collected are used by the agency to facilitate a mutually beneficial land exchange between the Forest Service and a non-Federal land exchange partner.

The Exchange Agreement is a legally binding document. Respondents will be asked questions, such as the identification of the non-Federal land exchange parties; the description of the lands and interests to be exchanged, such as roads; the identification of all reserved and outstanding interests, such as roads, minerals, and easements; and all other terms and conditions necessary to complete an exchange.

Respondents are non-Federal land exchange parties. Forest Service personnel collect the information by phone, in face-to-face meetings with land exchange parties, or by requesting in a letter to the land exchange party that the requested information be submitted by mail.

Data gathered in this information collection are not available from other sources.

Estimate of Burden: 1 hour.

Type of Respondents: Non-Federal land exchange partners.

Estimated Number of Respondents: 100.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 100 hours.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed

collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comment

All comments received in response to this notice, including name and address when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: August 4, 1999.

Arthur Bryant,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 99–20842 Filed 8–11–99; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Improve Management of the Tongass National Forest and Service to Local, Regional, and National Customers

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to establish a new information collection. The new collection will provide information that will help Forest Service personnel identify and meet the needs of people who use, visit, or benefit in other ways from the Tongass National Forest in southeast Alaska. Respondents will be chosen from three different groups of customers: southeast Alaska residents; southeast Alaska visitors; and the general public.

DATES: Comments must be received in writing on or before October 12, 1999.

ADDRESSES: All comments should be addressed to: Robert F. Schroeder, Forestry Sciences Lab, Forest Service, USDA, 2770 Sherwood Lane, Suite 2A, Juneau, AK 99801.

Comments also may be submitted via facsimile to (907) 586–7848 or by email to rschroeder/r10@fs.fed.us.

The public may inspect comments received at the Office of the Forestry Sciences Lab, Forest Service, USDA, 2770 Sherwood Lane, Suite 2A, Juneau, Alaska. Visitors are asked to call (907) 586–8811, extension 240, to facilitate entrance into the building.

FOR FURTHER INFORMATION CONTACT: Robert F. Schroeder, Forestry Sciences Lab, at (907) 586–8811, extension 240.

SUPPLEMENTARY INFORMATION:

Background

The Tongass National Forest encompasses nearly 85 percent of the land in southeast Alaska, and activities conducted on the Forest form the basis for the regional economy. Commercial fishing, timber production, mineral extraction, and the quickly growing tourism industry depend on the renewable and non-renewable natural resources of this National Forest. The Forest Service completed a revision of the Tongass Land Management Plan in 1997 and published a revised Record of Decision in the **Federal Register** on May 11, 1999 (64 FR 25274). The Tongass Land Management Plan and Record of Decision will serve as a blueprint for how the Forest Service will manage the Tongass National Forest over the next 10 to 15 years.

While revising the Tongass Land Management Plan in 1997, the Forest Service identified critical information needs. Some of these information needs were associated with the human component of Tongass National Forest ecosystems, that is the people and social systems that benefit from these ecosystems.

The collected data, while addressing the human component, will provide the Forest Service with a better understanding of how forest management practices influence community well-being and social change within the southeast Alaska geographic area and will help the agency meet the needs of three groups of diverse customers: residents of southeast Alaska who are affected by forest management actions on a day-to-day basis, people from outside the southeast Alaska geographic area who visit the Tongass National Forest, and people who may never visit the Tongass National Forest yet believe they benefit because it exists.

The agency will gain a better understanding of the demands the public makes on the Tongass National Forest programs and services, how well information about agency programs and services are communicated to the public, and how well the agency meets the needs and expectations of the three identified groups of people.

Forest Service personnel from the Pacific Northwest Research Station Forestry Sciences Lab in Juneau, Alaska, will work in cooperation with University of Alaska research staff to design, administer, and evaluate these surveys. Interviewers will conduct most surveys by telephone. Mail-back questionnaires and face-to-face interviews will be used to reach people who do not have telephones.

People from each of the three identified groups will be asked to respond to questions that include their perceptions of how the Tongass National Forest is managed by the agency, their preferences for how this National Forest should be managed, their perceptions of Tongass National Forest ecosystems, their past and planned visits to the Tongass National Forest, their use of the forest's resources, their vision of the forest of the future, their household and community economic dependence on the forest, and their attitudes and values concerning timber management.

The information collection is comprised of three closely related surveys: The Tongass Southeast Alaska Resident Survey, The Tongass Visitor Survey, and The Tongass National Public Survey. A description of each survey form follows.

Description of Information Collection

The following describes the new information collection:

Title: The Tongass Southeast Alaska Resident Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection requirement and has not received approval from the Office of Management and Budget.

Abstract: The Forest Service conducted a survey in 1979 to assess the interaction of the southeast Alaska residents with the Tongass National Forest. This survey also included the perceptions these residents had of the Tongass as a natural resource. The 1979 survey provided the most recent comprehensive information on southeast Alaska residents' subsistence and recreational use of the Tongass, their attitudes and values concerning the Tongass National Forest, their interest in the development of a regional timber economy, and their perceptions of Forest Service land management practices. This important benchmark

survey is now 20 years old and may not be an accurate reflection of the views, perceptions, and activities of current southeast Alaska residents.

This new information collection will provide current data and identify issues that have become important to the southeast Alaska residents in the intervening years. Respondents also will be asked questions that relate to issues that were not important at the time of the 1979 survey. These issues include large scale timber harvesting on national forest and private lands, a large increase in tourist use of the forest, expansion of tourist use into back-country areas, economic restructuring of the area that is moving away from timber, mining, and commercial fishing toward tourism and service industries, and an increasing resident and visitor population competing for limited fish and wildlife resources.

Forest Service personnel and University of Alaska research staff will conduct a random sample survey of southeast Alaska residents, primarily through telephone interviews.

Data gathered in this information collection are not available from other sources.

Estimated Burden per Respondent: 30 minutes.

Type of Respondents: Individuals from southeast Alaska.

Estimated Number of Respondents: 1600.

Estimated Number of Responses per Respondents: 1.

Estimated Total Burden on Respondents: 800 hours.

Description of Information Collection

The following describes the new information collection:

Title: The Tongass Visitor Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection requirement and has not received approval from the Office of Management and Budget.

Abstract: In 1979, the Forest Service conducted a survey of cruise ship passengers visiting southeast Alaska as a companion study to the 1979 Alaska Public Survey. In the intervening years, tourism has increased in southeast Alaska, with approximately 1 million visitors expected in 1999.

The Forest Service is the primary land manager in the southeast Alaska area. The tourist industry has become a dominant economic and social force within this area, and the tourist experience has become a more important concern of the agency's management of the Tongass National Forest.

Visitors are drawn to the scenic attractions on the Tongass National Forest that include the tidewater and other glaciers; the wilderness, wildlife, and whales; the Native cultures and colorful history; and excellent sport fishing opportunities. Cruise ship visitors comprise a large majority of the total visitor population to southeast Alaska. However, independent travelers are becoming a larger segment of the tourist population.

This information collection will help Forest Service personnel evaluate a visitor's interaction with the Tongass National Forest, the perceptions visitors have regarding the Forest Service's land management practices of these natural resources, the role the Tongass National Forest plays in attracting visitors to southeast Alaska, and how the agency's land management practices add to or detract from visitors' experiences.

This information collection will be accomplished through interviews with tourists visiting southeast Alaska. Forest Service personnel in cooperation with university research staff will collect information through telephone interviews, mail-back questionnaires, and face-to-face interviews. Forest Service personnel will compare the data from this collection to the study conducted in 1979.

Data gathered in this information collection are not available from other sources.

Estimated Burden per Respondent: 30 minutes.

Type of Respondents: Individuals from the main market segments of southeast Alaska pleasure visitor populations.

Estimated Number of Respondents: 1,500.

Estimated Number of Responses per Respondents: 1.

Estimated Total Burden on Respondents: 750 hours.

Description of Information Collection

The following describes the new information collection:

Title: Tongass National Public Survey.

OMB Number: New.

Expiration Date of Approval: New.

Type of Request: This is a new information collection requirement and has not received approval from the Office of Management and Budget.

Abstract: The Tongass National Public Survey will provide a method of collecting information to learn if people in the United States outside Alaska are aware of the existence of the Tongass National Forest and, of those who are aware, how they perceive the benefits of this Forest. Respondents will be non-Alaskan residents of the United States.

Forest Service personnel will work cooperatively with university staff and professional contractors to ask respondents questions that include their knowledge about the Tongass National Forest, their past or planned visits to the forest, the benefits they believe they obtain or receive from this National Forest, and their perceptions of the agency's management of this Forest. Researchers will conduct a telephone survey of people who live in the United States outside of Alaska.

Data gathered in this information collection are not available from other sources.

Estimated Burden per Respondent: 30 minutes.

Type of Respondents: Individuals from the national public.

Estimated Number of Respondents: 1,200.

Estimated Number of Responses per Respondents: 1.

Estimated Total Burden on Respondents: 600 hours.

Comments Are Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice will be summarized and included in the request for Office of Management and Budget approval. Those who submit comments should be aware that all comments, including names and addresses when provided, are placed in the record and are available for public inspection.

Dated August 4, 1999.

Robert Lewis, Jr.,

Deputy Chief for Research and Development.

[FR Doc. 99–20843 Filed 8–11–99; 8:45 am]

BILLING CODE 3410–11–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Public Rights-of-Way; Access Advisory Committee

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of intent to establish advisory committee.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) announces its intent to establish a Public Rights-of-Way Access Advisory Committee (Committee) to make recommendations for accessibility guidelines for public rights-of-way covered by the Americans with Disabilities Act of 1990 and the Architectural Barriers Act of 1968. The Access Board requests applications for representatives to serve on the Committee.

DATES: Applications should be received by September 27, 1999.

ADDRESSES: Applications should be sent to the Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Fax number (202) 272–5447. Applications may also be sent via electronic mail to the Access Board at the following address: windley@access-board.gov.

FOR FURTHER INFORMATION CONTACT: Scott Windley, Office of Technical and Information Services, Architectural and Transportation Barriers Compliance Board, 1331 F Street, NW., suite 1000, Washington, DC 20004–1111. Telephone number (202) 272–5434 extension 25 (Voice); (202) 272–5449 (TTY).

SUPPLEMENTARY INFORMATION:

Availability of Copies and Electronic Access

Single copies of this publication may be obtained at no cost by calling the Access Board's automated publications order line (202) 272–5434, by pressing 1 on the telephone keypad, then 1 again, and requesting publication N–03 (Public Rights-of-Way Access Advisory Committee notice). Persons using a TTY should call (202) 272–5449. Please record a name, address, telephone number and request publication N–03. This document is available in alternate formats upon request. Persons who want a copy in an alternate format should specify the type of format (cassette tape, Braille, large print, or computer disk). This document is also available on the Board's Internet site (http://www.access-board.gov/notices/prowac.htm).

Background

The Architectural and Transportation Barriers Compliance Board (Access Board) is responsible for developing accessibility guidelines under the Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. 12101 *et seq.*) to ensure that facilities and vehicles covered by the law are readily accessible to and usable by individuals with disabilities.[1] The Department of Justice is responsible for issuing final regulations, consistent with the guidelines issued by the Access Board, to implement titles II and III (except for transportation vehicles and facilities). The Department of Transportation is responsible for issuing regulations to implement the transportation provisions of titles II and III of the ADA. Those regulations must also be consistent with the Access Board's guidelines.

The Architectural Barriers Act of 1968 (ABA) (42 U.S.C. 4151 *et seq.*) requires that facilities designed, built, altered or leased with certain Federal funds be accessible to persons with disabilities. Similar to its responsibility under the ADA, the Access Board is responsible for developing accessibility guidelines for facilities covered by the ABA. The Board's guidelines serve as the basis for enforceable standards issued by four standard-setting agencies; the standard-setting agencies are the Department of Defense (DOD), the General Services Administration (GSA), the Department of Housing and Urban Development (HUD), and the U.S. Postal Service (USPS).[2]

Rulemaking History

On July 26, 1991, the Access Board published the Americans with Disabilities Act Accessibility Guidelines (ADAAG) for new construction and alterations in places of public accommodation and commercial facilities. 36 CFR part 1191. ADAAG contains scoping provisions and technical specifications generally applicable to buildings and facilities (sections 1 through 4) and additional requirements specifically applicable to certain types of buildings and facilities covered by title III of the ADA: restaurants and cafeterias (section 5); medical care facilities (section 6); mercantile and business facilities (section 7); libraries (section 8); and transient lodging (section 9). On September 6, 1991, the Access Board amended ADAAG to include additional requirements specifically applicable to transportation facilities (section 10).

On December 21, 1992, the Access Board published a notice of proposed rulemaking (NPRM) in the **Federal Register** which proposed to add four special application sections to ADAAG specifically applicable to certain types of State and local government buildings and facilities covered by title II of the ADA. Those special application sections included:

11. Judicial, Legislative, and Regulatory Facilities.
12. Detention and Correctional Facilities.
13. Accessible Residential Housing.
14. Public Rights-of-Way.

The NPRM also proposed requirements and asked questions regarding the addition of miscellaneous provisions specifically applicable to State and local government facilities. 57 FR 60612 (December 21, 1992).

On June 20, 1994, the Board published an interim rule in the **Federal Register** which added sections 11 through 14 and miscellaneous provisions to ADAAG. 59 FR 31676 (June 20, 1994) as corrected at 59 FR 32751 (June 24, 1994). The interim rule sought comment on sections 11 through 14 and the miscellaneous provisions.

On January 13, 1998, the Board published final rules for State and local governments but decided to reserve section 14, due in large measure to the concerns of the transportation community expressed in comments to the Board on the proposed and interim final rules. 63 FR 2000. Many of those commenters, including public works agencies, transportation departments, and traffic consultants, were concerned that the section 14 provisions would be applied to existing developed rights-of-way.

The response to both the NPRM and the interim rule clearly indicated the need for substantial education and outreach regarding the application of

[1] The Access Board is an independent Federal agency established by section 502 of the Rehabilitation Act (29 U.S.C. 792) whose primary mission is to promote accessibility for individuals with disabilities. The Access Board consists of 25 members. Thirteen are appointed by the President from among the public, a majority of who are required to be individuals with disabilities. The other twelve are heads of the following Federal agencies or their designees whose positions are Executive Level IV or above: The departments of Health and Human Services, Education, Transportation, Housing and Urban Development, Labor, Interior, Defense, Justice, Veterans Affairs, and Commerce; the General Services Administration; and the United States Postal Service.

[2] The Uniform Federal Accessibility Standards (UFAS) were developed by the four standard-setting agencies to implement the Architectural Barriers Act of 1968. Most Federal agencies also reference UFAS as the accessibility standard for buildings and facilities constructed or altered by recipients of Federal financial assistance for purposes of section 504 of the Rehabilitation Act of 1973, as amended.

guidelines in this area. Rather than finalizing the guidelines for public rights-of-way, the Board embarked upon an ambitious outreach plan to the highway industry. This outreach included producing a series of videotapes, an accessibility checklist, a synthesis on accessible pedestrian signals, and a design guide on accessible public rights-of-way. In addition, the Board has been actively involved with transportation industry organizations and has worked closely with the Federal Highway Administration on access issues.

The Access Board has reviewed its education and outreach program and the impact of State and local government regulatory efforts in this area, and believes that the development of requirements for accessibility in the public right-of-way is appropriate at this time. At its May 1999 meeting, the Access Board voted to reinitiate rulemaking on accessible pedestrian facilities by convening a Federal advisory committee to develop recommendations for guidelines for public rights-of-way covered by the Americans with Disabilities Act and the Architectural Barriers Act.

Public Rights-of-Way Access Advisory Committee

The Access Board intends to establish a Public Rights-of-Way Access Advisory Committee (Committee) to assist the Board in the process of developing its accessibility guidelines. The Committee will make recommendations to the Access Board on the content and format of the guidelines, including scoping and technical provisions to address access to sidewalks, street crossings, and related pedestrian facilities. The Committee will be expected to present a report with its recommendations to the Access Board within one year of the Committee's first meeting. The Access Board requests applications for representatives of the following interests for membership on the Committee:

- Federal agencies;
- Design professional organizations;
- Transportation and traffic engineering institutes, departments, and organizations;
- State and local government public works and transportation agencies;
- Pedestrian and bicycle organizations;
- Standard setting organizations;
- Organizations representing the access needs of individuals with disabilities; and
- Other persons affected by the accessibility guidelines.

The number of Committee members will be limited to effectively accomplish the Committee's work and will be balanced in terms of interests represented. Organizations with similar interests are encouraged to submit a single application to represent their interest. Although the Committee will be limited in size, there will be opportunities for the public to present written information to the Committee, to participate through subcommittees, and to comment at Committee meetings.

Applications should be sent to the Access Board at the address listed at the beginning of this notice. The application should include the representative's name (and an alternate), title, address and telephone number; a statement of the interests represented; and a description of the representative's qualifications, including engineering, technical and design expertise and knowledge of making public rights-of-way accessible to individuals with disabilities.

Committee members will not be compensated for their service. The Access Board may, at its own discretion, pay travel expenses for a limited number of persons who would otherwise be unable to participate on the Committee. Committee members will serve as representatives of their organizations, not as individuals. They will not be considered special government employees and will not be required to file confidential financial disclosure reports.

After the applications have been reviewed, the Access Board will publish a notice in the **Federal Register** announcing the appointment of Committee members and the first meeting of the Committee. The first meeting of the Committee is tentatively scheduled for November 8–9, 1999 in Washington, DC. The Committee will operate in accordance with the Federal Advisory Committee Act, 5 U.S.C. app 2. Each meeting will be open to the public. A notice of each meeting will be published in the **Federal Register** at least 15 days in advance of the meeting. Records will be kept of each meeting and made available for public inspection.

Lawrence W. Roffee,

Executive Director.

[FR Doc. 99–20883 Filed 8–11–99; 8:45 am]

BILLING CODE 8150–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Tennessee Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 1:00 p.m. and adjourn at 5:00 p.m. on September 1, 1999, at the Tennessee General Assembly Legislative Plaza, Room 30, 6th Avenue and Charlotte Avenue, Nashville, Tennessee 37243. The purpose of the meeting is to discuss the status of the Commission, the Committee's Title VI report, and the problems/progress of civil rights activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Bobby D. Doctor, Director of the Southern Regional Office, 404–562–7000 (TDD 404–562–7004). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least ten (10) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, August 9, 1999.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 99–20884 Filed 8–11–99; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Bureau of Export Administration

Action Affecting Export Privileges; FADI BOUTROS, Also Known as Fadi E. Sitto, Fadi Jirjis, and Fred Boutros; Order Denying Permission To Apply for or Use Export Licenses

On April 29, 1999, Fadi Boutros, also known as Fadi E. Sitto, Fadi Jirjis, and Fred Boutros (Boutros), was convicted in the United States District Court for the District of Connecticut on one court of violating Section 38 of the Arms Export Control Act (currently codified at 22 U.S.C.A. § 2778 (1990 & Supp. 1999)) (AECA) and one count of violating the International Emergency Economic Powers Act (50 U.S.C.A. §§ 1701–1706 (1991 & Supp. 1999)) (IEEPA). Specifically, Boutros was convicted of willfully attempting to export defense articles on the U.S. Munitions List from the United States to Iraq via Jordan, namely, ITT Aviator Night Vision GEN II AN/AVS 6 systems, without first having obtained the required export license from the United States Department of State, and of willfully dealing and attempting to deal in defense articles on the U.S. Munitions List intended for exportation to Iraq via

Jordan, specifically, ITT Aviator Night Vision GEN III AN/AVS 6 systems, and engaging and attempting to engage in activity intended to promote such dealing, without first having obtained the authorization of the United States Department of Treasury, in violation of the embargo against Iraq contained in the Office of Foreign Assets Control's Iraqi Sanctions Regulations.

Section 11(h) of the Export Administration Act of 1979, as amended (currently codified at 50 U.S.C.A. app. §§ 2401–2420 (1991 & Supp. 1999)) (the Act),[1] provides that, at the discretion of the Secretary of Commerce,[2] no person convicted of violating the AECA or IEEPA, or certain other provisions of the United States Code, shall be eligible to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act or the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (1999)) (the Regulations), for a period of up to 10 years from the date of the conviction. In addition, any license issued pursuant to the Act in which such a person had any interest at the time of conviction may be revoked.

Pursuant to §§ 766.25 and 750.8(a) of the Regulations, upon notification that a person has been convicted of violating the AECA or IEEPA, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, shall determine whether to deny that person permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, and shall also determine whether to revoke any license previously issued to such a person.

Having received notice of Boutros's conviction for violating the AECA and IEEPA, and following consultations with the Director, Office of Export Enforcement, I have decided to deny Boutros permission to apply for or use any license, including any License Exception, issued pursuant to, or provided by, the Act and the Regulations, for a period of 10 years from the date of his conviction. The 10-year period ends on April 29, 2009. I have also decided to revoke all licenses issued pursuant to the Act in which Boutros had an interest at the time of his conviction.

Accordingly, it is hereby *Ordered*

I. Until April 29, 2009, Fadi Boutros, also known as Fadi E. Sitto, Fadi Jirjis, and Fred Boutros, currently incarcerated at: Federal Correction Institute, P.O. Box 9999, Milan, Michigan 48160, and with an address at: 1491 Fueta Heights Lane, El Cajon, California 92019, may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States, that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefiting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

II. No person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the denied person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the denied person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the denied person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the denied person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the denied person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the denied person, or service any item, of whatever origin, that is owned, possessed or controlled by the denied person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

III. After notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to Boutros by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be subject to the provisions of this Order.

IV. This Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

V. This Order is effective immediately and shall remain in effect until April 29, 2009.

VI. A copy of this Order shall be delivered to Boutros. This Order shall be published in the **Federal Register.**

Dated: August 3, 1999.

Eileen M. Albanese,

Director, Office of Exporter Services.

[FR Doc. 99–20911 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–DT–M

[1] The Act expired on August 20, 1994. Executive Order 12924 (3 CFR, 1994 Comp. 917 (1995)), extended by Presidential Notices of August 15, 1995 (3 CFR, 1995 Comp. 501 (1996)), August 14, 1996 (3 CFR, 1996 Comp. 298 (1997)), August 13, 1997 (3 CFR 1997 Comp. 306 (1998)), and August 13, 1998 (3 CFR, 1998 Comp. 294 (1999)), continued the Export Administration Regulations in effect under IEEPA.

[2] Pursuant to appropriate delegations of authority that are reflected in the Regulations, the Director, Office of Exporter Services, in consultation with the Director, Office of Export Enforcement, exercises the authority granted to the Secretary by Section 11(h) of the Act.

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Circular Welded Non-Alloy Steel Pipe-From Mexico; Antidumping Duty Administrative Review; Extension of Time Limit

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of extension of time limit.

SUMMARY: The Department of Commerce (the Department) is extending the time limit for the preliminary results of the antidumping duty administrative review of Circular Welded Non-alloy Steel Pipe from Mexico. This review covers the

period November 1, 1997 through October 31, 1998.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: John Drury or Linda Ludwig, Office of AD/CVD Enforcement, Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone (202) 482–0195 or 482–3833, respectively.

SUPPLEMENTARY INFORMATION: Because it is not practicable to complete this review within the original time limit, the Department is extending the time limit for completion of the preliminary results until November 30, 1999, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act'') by the Uruguay Round Agreements Act of 1994 (19 U.S.C. 1675 (a)(3)(A)). See memorandum to Robert S. LaRussa from Joseph A. Spetrini regarding the extension of case deadline, dated July 30, 1999.

This extension is in accordance with section 751(a)(3)(A) of the Act (19 U.S.C. 1675 (a)(3)(A)).

Dated: July 30, 1999.

Joseph A. Spetrini,

Deputy Assistant Secretary, Enforcement Group III.

[FR Doc. 99–20737 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–805]

Certain Circular Welded Non-Alloy Steel Pipe from Mexico; Termination of Anticircumvention Inquiry

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Termination of Anticircumvention Inquiry.

SUMMARY: On January 10, 1997, in response to a request from petitioners in this case,[1] the Department of Commerce (the Department) initiated an inquiry to determine whether certain imports of (i) pipe certified to the American Petroleum Institute (API) 5L line pipe specifications (API 5L or line pipe) and (ii) pipe certified to both the API 5L line pipe specifications and the less-stringent American Society for Testing and Materials (ASTM) A53 standard pipe specifications (dual-certified pipe[2]) are circumventing the antidumping duty order on certain welded non-alloy carbon steel pipe from Mexico (57 FR 49453, November 2, 1992). The anticircumvention inquiry covered two manufacturers/exporters of the merchandise subject to this inquiry, Hylsa, S.A. de C.V. (Hylsa) and Tuberia Nacionál, S.A. de C.V. (TUNA), and the period January 1, 1996 through December 31, 1996.

In response to rulings by the Court of International Trade (the Court) and the Court of Appeals for the Federal Circuit (Federal Circuit) we are terminating the anticircumvention inquiry.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Robert M. James at (202) 482–5222, Antidumping and Countervailing Duty Enforcement Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

Applicable Statute and Regulations: Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended (the Tariff Act), and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 1997, the Department initiated an anticircumvention inquiry in response to allegations that, following publication of the antidumping duty order, exporters of standard pipe from Mexico began circumventing the order by having pipe intended for use as standard pipe certified as line pipe or certified as both line and standard pipe. Following initiation Hylsa and TUNA brought suit before the Court (*Hylsa, S.A. de. C.V. and Tuberia Nacionál, S.A. de C.V.* v. *United States*, Court No. 97–01–00132) (Hylsa I) challenging the legality of the Department's anticircumvention inquiry, given the Department's March 1996 negative scope determination covering the very merchandise subject to the instant inquiry. After granting a temporary restraining order (TRO) enjoining the department from proceeding with its investigation, the Court subsequently vacated this TRO and dismissed the case. *Hysla* v. *United States*, 960 F. Supp. 320 (CIT 1997).[3]

On December 19, 1997, the Department released its ''Notice of Affirmative preliminary Determination of Circumvention.'' Hylsa again sought a permanent injunction from the Court barring the completion of the investigation, the publication of the preliminary determination and any notification of the United States Customs Service. On February 3, 1998, the Court issued the requested permanent injunction in light of its earlier decision in a related case, *Wheatland Pipe Company* v. *United States*, 973 F. Supp. 149 (CIT 1997). *See Hylsa, S.A. de C.V.* versus United States, slip Op. 98–10 (CIT 1998) (Hylsa II).

The Department appealed the Court's decision in *Hylsa II* to the Court of Appeals for the Federal Circuit (Federal Circuit). However, on November 23, 1998, the Federal Circuit affirmed the Court's July 18, 1997 decision in the earlier *Wheatland* litigation on virtually identical issues. *Wheatland Pipe Company* versus *United States*, 161 F.3d 1365 (Fed. Cir. 1998).

In light of the Federal Circuit's decision in *Wheatland*, on January 19, 1999, all parties moved the Federal Circuit to dismiss the appeal of *Hylsa II*. Accordingly, as the Department has been permanently enjoined from conducting this anticircumvention inquiry, we are hereby terminating this inquiry.

This notice serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the disposition of information disclosed under APO in accordance with 19 CFR 353.34(d) (1994). Timely, written notification of the return or destruction of APO materials is hereby requested.

This notice is published in accordance with section 781(c) of the Tariff Act (19 U.S.C. 1677j(c)) and 19 CFR 53.29.

Dated: August 5, 1999.

Richard O. Weible,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 99–20898 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–DS–P

[1] Petitioners are: Allied Tube & Conduit Corp., Sawhill Tubular Division of Tex-Tube Co., Century Tube Corp., Laclede Steel Co., LTV Tubular Products Co.; Sharon Tube Co., Western Tube & Conduit Co., Wheatland Tube Co., and CSI Tubular Products, Inc.

[2] This merchandise, sometimes referred to as ''dual-stenciled,'' may also include ''multiple-stenciled'' pipe.

[3] The Federal Circuit affirmed the Court's dismissal of Hylsa's and TUNA's action in *Hylsa I* on February 12, 1998. *See Hylsa. S.A. de C.V. and Tuberia Nacionál* v. *United States*, Appeal No. 97–1270 (Fed. Cir. 1998)

DEPARTMENT OF COMMERCE

International Trade Administration

[A–122–822 and A–122–823]

Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada: Extension of Time Limits for Preliminary Results of Antidumping Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of Extension of Time Limits For Preliminary Results of Antidumping Administrative Review.

EFFECTIVE DATE: August 12, 1999.

FOR FURTHER INFORMATION CONTACT: Elfi Blum-Page, Mark Hoadley, or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington DC 20230; telephone: (202) 482–0197, (202) 482–0666 or (202) 482–3020, respectively.

The Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act. In addition, unless otherwise indicated, all citations to the Department's regulations are to the current regulations, codified at 19 CFR Part 351 (1999).

Background

On August 19, 1993, the Department published in the **Federal Register** (58 FR 44162) the antidumping duty orders on certain corrosion-resistant carbon steel flat products and certain cut-to-length carbon steel plate from Canada. Based on timely requests by petitioners and respondents in both proceedings, the Department published its initiation of these antidumping duty administrative reviews covering the period of August 1, 1997 through July 31, 1998 (63 FR 51893) on September 29, 1998.

Extension of Time Limits for Preliminary Results

Because of the complexities enumerated in the Memorandum from Joseph A. Spetrini to Robert S. LaRussa, Extension of Time Limit for the Preliminary Results of Antidumping Administrative Reviews: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate From Canada, dated August 6, 1999, it is not practicable to complete these reviews within the time limits mandated by section 751(a)(3)(A) of the Act.

Therefore, in accordance with section 751(a)(3)(A) of the Act, the Department is extending the time limits for the preliminary results 10 days to August 16, 1999. The final results continue to be due 120 days after the publication of the preliminary results.

Dated: August 6, 1999.

Richard O. Weible,

Acting Deputy Assistant Secretary for AD/CVD Enforcement, Group III.

[FR Doc. 99–20897 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080699A]

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Beluga Whale Harvest Report.

Agency Form Number: None.

OMB Approval Number: 0648–0382.

Type of Request: Extension of a currently approved collection.

Burden: 5 hours.

Number of Respondents: 10

Avg. Hours Per Response: 30 minutes.

Needs and Uses: The National Marine Fisheries Service requires Alaskan Natives who harvest beluga whales in Cook Inlet to report certain information and to submit the labeled jawbones on the whales taken. The information will be used to evaluate the health and stability of this stock and to construct a management regime that will provide for a sustainable subsistence harvest by Alaskan Natives.

Affected Public: Individuals.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5033, 14th and Constitution Avenue, NW, Washington, DC 20230 (or via the Internet at LEngelme@doc.gov).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, NW, Washington, DC 20503.

Dated: August 6, 1999.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 99–20903 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Notice of Intent To Conduct Emergency Assessment and Restoration Planning

AGENCIES: National Oceanic and Atmospheric Administration (NOAA), Department of Commerce; United States Department of the Interior; and Government of American Samoa.

ACTION: Notice of intent to conduct emergency assessment and restoration planning.

SUMMARY: In December 1991, nine vessels grounded on the reefs in Pago Pago Harbor, American Samoa, during Hurricane ''Val.'' The U.S. Coast Guard (USCG) responded, removing an estimated 10,500 gallons of diesel, lube and hydraulic oil. Due in part to recent discharges of oil from the vessels, the USCG has determined that an imminent pollution threat exists and intends to eliminate the risk of pollutant discharge by removing all fuel oil and other hazardous materials from the vessels. The natural resource trustees (''Trustees'') intend to take emergency restoration action to minimize continuing injuries and prevent additional response related injuries.

DATES: Comments must be submitted in writing on or before September 13, 1999.

ADDRESSES: Jim Hoff, NOAA, National Ocean Service, Office of Response and Restoration, Silver Spring, MD 20910–3281.

SUPPLEMENTARY INFORMATION: United States Coast Guard Samoa Longliners Clean Up—In December 1991, nine foreign-owned fishing vessels grounded on the reefs in Pago Pago Harbor, American Samoa, during Hurricane ''Val.'' Approximately 1,500 gallons of oil was discharged into the surrounding waters. The USCG responded, removing an estimated 10,500 gallons of diesel,

lube and hydraulic oil from three of the vessels before suspending operations due to adverse weather conditions.

Due in part to recent discharges of oil from the vessels, the USCG has determined that an imminent pollution threat exists and intends to eliminate the risk of pollutant discharge by removing all fuel oil and other hazardous materials (including ammonia, asbestos and zinc) from the vessels. To accomplish this, the USCG proposes to dismantle the vessels to allow access to the double bottom tanks and remove all of the hazardous materials, oil and oily debris, and other toxic substances. After removal of the pollutants, the remainder of the vessels may be left for possible future removal by another, as yet unidentified, party. The USCG response approach is detailed in the June 28, 1999, Incident Action Plan.

Pursuant to section 1006 of the Oil Pollution Act and 15 CFR 990.26, the natural resource trustees intend to take emergency restoration action to minimize continuing injuries and prevent additional response related injuries. The Trustees for this incident are the U.S. Department of Commerce through the National Oceanic and Atmospheric Administration (NOAA); the U.S. Department of the Interior; and the Government of American Samoa. The Trustees are designated pursuant to the National Contingency Plan, 40 CFR Sections 300.600 and 300.605.

During the week of June 28, 1999, the Trustees visited the vessel sites to collect baseline data to assist in the evaluation of potential injuries caused by the USCG response, which is expected to begin on or about August 1, 1999. Based on these data and other information, the Trustees have determined that the response will likely cause natural resource and resource service injuries.

Injuries that may result from the response will be documented in an Emergency Assessment and Restoration Plan being developed by the Trustees. The objective of this plan will be to determine appropriate restoration alternatives for injuries caused by the USCG response. The justification for and extent and nature of emergency restoration required will be described more fully in the Emergency Assessment and Restoration Plan.

FOR FURTHER INFORMATION CONTACT: For further information contact: Jim Hoff, at (301) 713–3038, ext. 188; or Lelei Peau, (684) 633–5155, or Sheila Wiegman, at (684) 633–2304.

Dated: August 4, 1999.

John Oliver,

Director, Management and Budget Office, National Ocean Service.

[FR Doc. 99–20847 Filed 8–11–99; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 080999F]

Fisheries of the Exclusive Economic Zone Off Alaska; Crab Interim Action Committee Meeting

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

ACTION: Notice of meeting.

SUMMARY: NMFS announces a Crab Interim Action Committee (CIAC) meeting to review an appeal of recent Alaska Board of Fisheries (Board) preseason management decisions to revise State regulations governing the Bering Sea/Aleutian Islands King and Tanner crab fisheries.

DATES: The meeting will be held Wednesday, August 11, 1999, from 10:00 am to 5:00 p.m., Alaska local time.

ADDRESSES: The meeting will be held at the NMFS Regional Office in the Federal Building, 709 West 9th Street, Room 445, Juneau, AK 99801.

FOR FURTHER INFORMATION CONTACT: Gretchen Harrington, 907–586–7445 (phone), (907) 586–7465 (fax), or gretchen.harrington@noaa.gov (e-mail).

SUPPLEMENTARY INFORMATION: An appeal has been submitted to the Secretary of Commerce requesting Secretarial review of three management decisions made by the Board at its meeting in March 1999. The Fishery Management Plan for the Bering Sea/Aleutian Islands King and Tanner Crabs (FMP) requires the CIAC to review the appeal prior to action by the Secretary. The CIAC has no authority to grant or reject the appeal, but will comment on the appeal for the benefit of the Secretary. The CIAC will review the Board's actions to determine whether the management measures adopted by the Board are consistent with the FMP (including compliance with framework criteria), the Magnuson-Stevens Fishery Conservation and Management Act, and other Federal law.

The FMP delegates management of the king and Tanner crab fisheries in Federal waters to the State of Alaska, with Federal oversight. The appeal requested Secretarial review of the Board's decision to (1) move the Bristol Bay red king crab fishing season from November 1 to October 15, (2) implement a 30-day exclusion period when no pot or trawl gear can be fished in Area T before the red king crab fishery in that area, and (3) implement a 30-day exclusion period when no pot or trawl gear can be fished in Area J prior to the *C. bairdi* Tanner crab fishery in that area and include trawl gear in the existing 14-day exclusion period for *C. opilio* Tanner crab.

Subsequent to the March 1999 meeting, the Board decided to abate the implementation through regulation of the trawl gear exclusion periods until consultation with the North Pacific Fishery Management Council (Council) and further deliberation. The Board consulted with the Council during a joint meeting on July 27, 1999. The Board will decide at an August 6, 1999, teleconference meeting whether to proceed to implement the trawl gear exclusion periods or continue to abate this action pending further deliberation and consultation with the Council. If the Board continues to abate implementation of the exclusion periods, the CIAC only will review the Board's action to change Bristol Bay red king crab season. Further abeyance by the Board on the trawl gear exclusion periods would alleviate the urgency for the August 11, 1999, CIAC meeting and the meeting may be rescheduled for a later date.

NMFS invites the public to attend the CIAC meeting to listen to staff presentations, however, no public testimony will be heard. Interested public should contact NMFS prior to August 11, 1999, to confirm the meeting date (See **ADDRESSES**).

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Gretchen Harrington (see **FOR FURTHER INFORMATION CONTACT**) prior to the workshop date.

Dated: August 9, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20929 Filed 8–9–99; 4:56 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 073099B]

Fisheries of the Exclusive Economic Zone Off Alaska; Groundfish of the Bering Sea and Aleutian Islands Area; Exempted Fishing Permit

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

ACTION: Issuance of an exempted fishing permit.

SUMMARY: NMFS announces the issuance of exempted fishing permit (EFP) 99–03 to Groundfish Forum, Inc. The EFP authorizes Groundfish Forum to conduct an experiment in the Bering Sea and Aleutian Islands management area (BSAI) that would test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. This EFP is necessary to provide information not otherwise available through research or commercial fishing operations. The intended effect of this action is to promote the purposes and policies of the Magnuson-Stevens Fishery Conservation and Management Act.

ADDRESSES: Copies of the EFP and the Environmental Assessment analyzing the potential impacts of fishing activities to be conducted under the EFP are available from the Sustainable Fisheries Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Lori Gravel.

FOR FURTHER INFORMATION CONTACT: Susan Salveson, 907–586–7228.

SUPPLEMENTARY INFORMATION: The Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) authorizes the issuance of EFPs for fishing for groundfish in a manner that would otherwise be prohibited under existing regulations. The procedures for issuing EFPs are set out at 50 CFR 679.6 and 600.745(b).

NMFS received the application for EFP 99–03 from Groundfish Forum, Inc. on March 23, 1999. Groundfish Forum is an industry group representing small and medium size factory trawlers that mainly process head and gut product forms. The Alaska Fisheries Science Center (AFSC), NMFS, determined the application to be sufficiently complete to warrant further consideration by NMFS and the North Pacific Fishery Management Council (Council). The Council's April 1999 meeting agenda, which was published in the **Federal Register** on April 6, 1999 (64 FR 16707), provided public notice of the Council's intent to review and consider the EFP and receive testimony from interested members of the public on the proposed experimental fishing activity. The Council endorsed the Groundfish Forum's EFP application at its April 1999 meeting.

The application requested authorization for Groundfish Forum to test the accuracy of at-sea observer basket sampling practices, the design and use of automated species composition sampling, and the effect of fish stratification in trawls on size composition sampling. The supporting experimental design described in the application was developed in coordination with the North Pacific Groundfish Observer Program, AFSC, NMFS. NMFS is supportive of experimentation to assess the accuracy of catch composition and accounting given the agency's responsibility to monitor and manage total mortality of fishery resources as a result of the fishing activities authorized under the FMP. Successful completion of the experiment could provide data for improvements in observer sampling of catch and facilitate more accurate accounting of total catch mortality associated with the commercial North Pacific groundfish fisheries.

NMFS currently relies on NMFS-certified observers to determine species composition of sampled hauls using standard species composition sampling methods. In mixed species fisheries, observers onboard trawl vessels typically rely on basket samples of fish collected randomly as fish are transfered from the trawl codend into a holding bin (trawl catcher vessels) or as fish are transfered from live tanks into the processing line (catcher/processor vessels). Concern exists that these species composition sampling techniques may not accurately reflect the catch composition of an individual haul. This EFP will provide information not otherwise available through research or commercial fishing operations because it is not economically feasible for vessels to participate in an experiment of this extent and rigor during the fast-paced commercial fisheries.

The experimental fishery will be conducted by one vessel in the BSAI flathead sole and Greenland turbot fisheries. Fishing under the EFP would take place in Bycatch Zone 2 of the Bering Sea in areas normally fished for flathead sole and Greenland turbot. The operator of the participating vessel will determine exact fishing locations. Fishing operations will start on or about September 3, 1999, and will last 3 to 4 weeks. This time line is set to accommodate the schedule of NMFS personnel associated with the experiment. The effective period for the EFP may be revised to a later time period in 1999 pending prior agreement between the permit holder and the Administrator, Alaska Region, NMFS (Regional Administrator).

The experiment authorized under the EFP is comprised of three parts. Part I will test the accuracy of basket sampling for species composition and part II will test alternative automated species composition methods. These two parts of the experiment will consist of 30 tows each for a total of 60 tows. The desired catch composition of each tow in parts I and II is 50 percent or more flatfish, with flathead sole being the predominant flatfish species. In the event that the actual catch composition is markedly and consistently different from these desired percentages, Groundfish Forum and NMFS personnel will evaluate the actual catch composition's effect on the experiment and encourage the participating vessel to find remedies to maintain the quality of the experiment. Failure to achieve an acceptable catch composition may result in discontinuation of the experiment.

The flathead sole fishery was chosen for the first two parts of the experiment because it is a mixed fishery in which flatfish and roundfish are commonly caught together in tows; typical tows are fairly long (2–3 hours); and typical haul size is fairly large [around 15 metric tons (mt) on average], but not so large as to necessarily overwhelm the accounting necessary for the experiment. Mixed catches, tow duration, and size of hauls are important factors in determining the potential for catch to be stratified when sampled. Stratification of catch can adversely affect the quality of observer data collected under current sampling procedures. Additional reasons for selecting the flathead sole fishery are that it is currently the most economically viable flatfish fishery for the average sized head-and-gut trawl catcher/processor vessel and the fishery can be conducted during late summer when weather conditions are amenable for the experiment.

Part III of the experiment will assess the effect of fish stratification in a haul on sampling for species size composition. This portion of the experiment will take place immediately following the successful completion of

parts I and II and will rely on a small number of tows targeting Greenland turbot. This fishery was chosen for part III because it presents a reasonable opportunity for harvesting target species of different sizes. The revenue received from the limited harvest of Greenland turbot also will support the participating vessel's involvement in the experiment.

All of the incidental catch amounts of pollock and Pacific cod harvested in the flatfish fishing activities authorized under the EFP must be retained to minimize discard amounts, contrary to existing regulations that require retention of these two species only up to a specified maximum retainable catch allowance (§ 679.27). For all other non-flatfish species, standard maximum retainable catch allowances established in regulations at 50 CFR 679.20 will apply based on retained flatfish as the basis species.

The catch of groundfish under this EFP must not exceed a total of 925 mt during parts I and II of the experiment and 342 mt during part III. If these authorized amounts are found to be insufficient to fully conduct the experiment, the applicant must confer with the Regional Administrator and obtain a modification to the EFP according to regulations at § 679.6 prior to any catch of groundfish in excess of these amounts.

The total catch of Greenland turbot authorized under all parts of the EFP is limited to the smallest of the following amounts: (1) An amount equal to 35 percent of the amount of pollock, Pacific cod, and flatfish other than Arrowtooth flounder caught and retained by the permitted vessel during parts I and II of the experiment; (2) the amount of Greenland turbot caught when a total of 342 mt of groundfish have been caught during part III of the experiment; or (3) a total of 175 mt of Greenland turbot caught at any time during the experiment (parts I, II, or III).

If Pacific halibut bycatch during part III of the EFP exceeds 10.2 mt, fishing activities under the EFP must cease and the experiment will be terminated by the Regional Administrator. Although an upper limit of halibut bycatch equal to 10.2 mt is established for part III, the halibut bycatch limit likely will not prevent the harvest of the entire allowable amount of turbot based on 1997–98 observer data collected on halibut bycatch rates in the Greenland turbot fishery. Limits on the catch of prohibited species during parts I and II of the experiment are not established given the objective of the experimental design approved by NMFS for this portion of the experiment.

Existing regulations governing retention and release of prohibited species, as defined at § 679.21(b), will apply to the vessel participating in the experiment except that no deck-sorting of groundfish or prohibited species will be allowed during parts I and II of the experiment. Deck-sorting of halibut will be required during Part III of the experiment to reduce halibut bycatch mortality.

Groundfish and prohibited species catch associated with this experiment will not be deducted from total allowable catch (TAC) or prohibited species bycatch allowances specified for the 1999 groundfish fisheries.

The participating vessel is required to carry three NMFS-certified observers. Other on-board EFP personnel will include a NMFS scientist and one Groundfish Forum project coordinator. The vessel operator also will need to provide crew members or other qualified personnel to assist observers and to carry out the sorting and weighing of fish prior to discard. NMFS staff have recommended that the experiment be conducted on a trawl catcher/processor vessel used primarily to produce headed and gutted product because the problem of catch stratification is most often associated with the fisheries and vessel configurations of that sector.

Vessel owners interested in participating in this EFP experiment must apply through a ''request for proposals'' (RFP) process administered by Groundfish Forum. The participating vessel will be chosen on the basis of how well the vessel's owners and crew are able to identify creative, workable solutions to the logistical challenges described in the experimental design developed jointly by NMFS and Groundfish Forum. The selection of a participating vessel will be made through a NMFS-directed review of applications. In the event that more than one vessel equally satisfies the requirements in the RFP, the participating vessel will be selected by lottery.

The Regional Administrator has approved the EFP application and has issued EFP 99–03 to Groundfish Forum subject to the permit terms and conditions summarized above. Failure of the permit holder to comply with the terms and conditions of the EFP may be grounds for revocation, suspension, or modification of the EFP under 15 CFR part 904 with respect to any or all persons and vessels conducting activities under the EFP. Failure to comply with applicable laws also may result in sanctions imposed under those laws.

Classification

The Regional Administrator determined that fishing activities conducted under this action would not affect endangered and threatened species or modify critical habitat in any manner not considered in prior consultations on the groundfish fisheries.

This notice is exempt from review under E.O. 12866. It also is exempt from the Regulatory Flexibility Act (RFA) because prior notice and opportunity for public comment are not required for this notice. Therefore, the analytical requirements of the RFA are inapplicable.

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

Dated: August 6, 1999.

Gary C. Matlock,

Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 99–20902 Filed 8-11-99; 8:45 am]

BILLING CODE 3510–22–F

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to Chicago Board of Trade Corn Futures Contract Regarding the Delivery Listing Cycle

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to contract terms and conditions.

SUMMARY: The Chicago Board of Trade (CBT or Exchange) has proposed amendments to the corn futures contract that would list November and January as additional delivery months. The proposed amendments were submitted under the Commission's 45-day Fast Track procedures which provides that, absent any contrary action by the Commission, the proposed amendments may be deemed approved on September 9, 1999—45 days after the Commission's receipt of the proposals. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 27, 1999.

ADDRESSES: Interested persons should submit their views and comments to

Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to the delivery months for the CBT corn futures contract.

FOR FURTHER INFORMATION CONTACT: Please contact John Bird of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581, telephone (202) 418–5274. Facsimile number: (202) 418–5527. Electronic mail: jbird@cftc.gov.

SUPPLEMENTARY INFORMATION: The existing terms of the CBT corn futures contract provide for the following delivery months: March, May, July, September and December. The Exchange is proposing to list November and January as additional delivery months. The CBT intends to apply the proposed amendments beginning with the November 2000 and January 2001 contract months following its receipt of notice of Commission approval. In support of the proposed amendments, the CBT stated that:

> The proposed amendments to add November and January trading months will result in a trading month cycle that better reflects the harvest and key marketing periods for corn. Therefore, November and January contracts will increase the harvest and winter marketing hedging effectiveness, respectively. Furthermore, the preservation of the December contract allows a temporary transition period.
>
> * * * The Exchange will monitor the activity in the November, December, and January contracts to determine which contracts the market prefer. Based on that information and the performance of the new Illinois River delivery system, the Exchange will consider whether further changes in the Corn futures trading months are needed. The December contract is listed through 2001.
>
> * * * The addition of the November Corn contract reflects historical U.S. harvest data showing 89 percent of the harvest completed by November 15th * * * In addition, the January Corn contract represents the mid-month in the busiest three month period of corn shipments on the Illinois River * * *

The Commission requests comment on the proposed amendments.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the Internet on the CFTC website at www.cftc.gov under ''What's New & Pending''.

Other materials submitted by the CBT in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the CBT, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 9, 1999.

John R. Mielke,

Acting Director.

[FR Doc. 99–20855 Filed 8–11–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Applications of the Commodity Exchange. Inc. Division of the New York Mercantile Exchange for Designation as a Contract Market in FTSE Eurotop 300 Stock Index Futures and Options

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of terms and conditions of proposed commodity futures and options contracts.

SUMMARY: The Commodity Exchange, Inc. Division of the New York Mercantile Exchange (COMEX or Exchange) has applied for designation as a contract market in FTSE Eurotop 300 stock index futures and options. The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 27, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521 or by electronic mail to *secretary@cftc.gov*. Reference should be made to the COMEX FTSE Eurotop 300 stock index futures and option contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Thomas Leahy of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC (202) 418–5278. Facsimile number: (202) 418–5527. Electronic mail: *tleahy@cftc.gov*.

SUPPLEMENTARY INFORMATION: The Exchange requested an abbreviated public comment period of 15 days citing the similarities between the proposed contract and the Exchange's existing FTSE Eurotop 100 futures and option contracts. In approving the existing Eurotop 100 contracts, the Commission determined that those contracts satisfied the requirements of the Accord. In view of the contract's similarities, the fact that the same entity (FTSE) owns and maintains the Eurotop 100 and the Eurotop 300 indexes, and because all the stocks comprising the Eurotop 100 are included in the Eurotop 300, the Division believes that the abbreviated 15-day comment period requested by the Exchange is appropriate.

Copies of the terms and conditions will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 418–5100.

Other materials submitted by the COMEX in support of the applications for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1997)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of the Secretariat at the Commission's

headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed terms and conditions, or with respect to other materials submitted by the COMEX, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 9, 1999.

John Mielke,

Acting Director.

[FR Doc. 99–20854 Filed 8–11–99; 8:45 am]

BILLING CODE 6351–01–M

COMMODITY FUTURES TRADING COMMISSION

Proposed Amendments to New York Mercantile Exchange California-Oregon-Border and Palo Verde Electricity Futures Contracts Regarding the Contract Size, Hourly Rate of Delivery, Price Limits and Related Provisions

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of proposed amendments to contract terms and conditions.

SUMMARY: The New York Mercantile Exchange (NYMEX or Exchange) has proposed amendments to the California-Oregon-Border and Palo Verde electricity futures contracts that would halve both the hourly rate of delivery, to one megawatt per hour from two megawatts per hour, and the contract size, to 432 megawatt hours (MWhs) from 864 MWhs. In addition, the Exchange proposes conforming amendments to halve the specified monthly delivery-unit amounts (based on the number of on-peak delivery days in the month) to reflect the reduced contract size. In addition, for both contracts, the Exchange proposes certain modifications to the price limit provisions, including setting a uniform price limit of $10 per MWh expandable to $20 and $30 per MWh following a trading halt(s). The Acting Director of the Division of Economic Analysis (Division) of the Commission, acting pursuant to the authority delegated by Commission Regulation 140.96, has determined that publication of the proposals for comment is in the public interest, will assist the Commission in considering the views of interested persons, and is consistent with the purposes of the Commodity Exchange Act.

DATES: Comments must be received on or before August 27, 1999.

ADDRESSES: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street, NW., Washington, DC 20581. In addition, comments may be sent by facsimile transmission to facsimile number (202) 418–5521, or by electronic mail to secretary@cftc.gov. Reference should be made to the proposed amendments to contract size and price limits of the NYMEX California-Oregon-Border and Palo Verde electricity futures contracts.

FOR FURTHER INFORMATION CONTACT: Please contact Joseph Storer of the Division of Economic Analysis, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581, telephone (202) 418–5282. Facsimile number: (202) 418–5527. Electronic mail: jstorer@cftc.gov.

SUPPLEMENTARY INFORMATION: The Exchange justified the proposals by stating that:

> These rule changes [to the contract size] are being proposed in order to provide more consistency between the futures and cash markets. Currently the standard cash market transaction requires a delivery rate of 25 MW. Since the delivery rate of many cash market contracts is not divisible by two 2 MW—the delivery rate of the futures contract—it is difficult to use the futures contracts for hedging. A delivery rate of 1 MW would allow traders to more precisely hedge with 25 futures contracts per standard cash market transaction.
>
> These changes [to the price limit provisions] help to ensure that futures market prices are able to reflect cash market pricing by not subjecting them to artificial price constraints at times when the market is reacting to fundamental changes in the supply/demand balance. Rule language identical to the language proposed in this submission has already been approved by the Commission for the Exchange's Cinergy, Entergy and PJM contracts.

The NYMEX stated in its submission that it plans to make the amendment effective 60 days following notice of Commission approval for application to existing and newly listed months. Exchange staff indicated that the planned implementation date is November 1, 1999. According to the Exchange, ''implementation for contracts with open interest would be executed between trading sessions and all open positions will be split so that any open positions would be converted to two open positions. For example, if a trader held a short position of 20 contracts at the end of the trading session before the effective date of the rules, the trader would hold a short position of 40 contracts at the beginning of the next session. The total value of the position would be unchanged since each old position based on 864 MWhs would be converted to two positions based on 432 MWhs which is an equivalent MWh total.''

The Division requests comment on the proposed amendments. In addition, the Division requests comment on the Exchange proposal to apply the amendments to certain existing contract months, as noted above.

Copies of the proposed amendments will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, Three Lafayette Centre, 21st Street NW, Washington, DC 20581. Copies of the proposed amendments can be obtained through the Office of the Secretariat by mail at the above address, by phone at (202) 418–5100, or via the Internet on the CFTC website at www.cftc.gov under ''What's New & Pending''.

Other materials submitted by the NYMEX in support of the proposal may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR part 145 (1987)), except to the extent they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Act Compliance Staff of the Office of Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views, or arguments on the proposed amendments, or with respect to other materials submitted by the NYMEX, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581 by the specified date.

Issued in Washington, DC, on August 9, 1999.

John Mielke,

Acting Director.

[FR Doc. 99–20856 Filed 8–11–99; 8:45 am]

BILLING CODE 6351–01–M

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 99–C0007]

Consolidated Electrical Distributors, Inc., a Domestic Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1115.20(b)(4). Published below is a provisionally-accepted Settlement Agreement with Consolidated Electrical Distributors, Inc., containing a civil penalty of $1,500,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on it contents by filing a written request with the Office of the Secretary by August 27, 1999.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 99–C0007, Office of the Secretary, Consumer Product Safety Commission, Washington, DC 20207.

FOR FURTHER INFORMATION CONTACT: Howard N. Tarnoff, Trial Attorney, Office of Compliance and Enforcement, Consumer Product Safety Commission, Washington, DC 20207; telephone (301) 504–0626, 1346.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: August 5, 1999.

Sadye E. Dunn,

Secretary.

UNITED STATES OF AMERICA

Consumer Product Safety Commission

In the Matter of Consolidated Electrical Distributors, Inc.; Respondent

CPSC DOCKET NO. 99–C0007

Consent Agreement

This Consent Agreement is made by and between the staff of the Consumer Product Safety Commission, and Consolidated Electrical Distributors, Inc., a domestic corporation, to settle the staff's allegations that Consolidated Electrical Distributors, Inc., distributed in commerce certain allegedly defective in-wall electric heaters manufactured by Cadet Manufacturing Company (''Cadet''), a domestic corporation, with its principal place of business located at 2500 West Fourth Plain Boulevard, Vancouver, Washington 98660.

Parties

1. The ''staff'' is the staff of the Consumer Product Safety Commission (''CPSC'' or ''the Commission''), an independent regulatory agency of the United States of America, established by Congress pursuant to Section 4 of the Consumer Product Safety Act (''CPSA''), 15 U.S.C. 2053, as amended.

2. Respondent Consolidated Electrical Distributors, Inc. (''CED'') is a corporation organized and existing under the laws of the State of Delaware, with its principal place of business located at 31356 Via Colinas, Westlake Village, California 91362. CED is a distributor of electrical materials and products.

Subject Matter

3. Since approximately 1978, Cadet has allegedly manufactured, sold and/or distributed in commerce in-wall electric heaters for use in homes and residences under the brand names ''Cadet'' and ''Encore.'' These include all models and variants within each model of the series FW (including models FW–051, FW–101, FW–122, FW–202, and FW–751), manufactured between 1978 and 1987; series FX (including models FX–051, FX–052, FX–071, FX–072, FX–101, FX–102, FX–122, FX–151, FX–152, FX–202, FX–242), manufactured between 1985 and 1994; series LX (including models LX–242, LX–302, LX–402, and LX–482), manufactured between 1985 and 1994; series TK (including models TK–051, TK–071, TK–072, TK–101, TK–102, TK–151, and TK–152), manufactured between 1984 and 1998; series ZA (including models ZA–051, ZA–052, ZA–071, ZA–072, ZA–101, ZA–102, ZA–122, ZA–151, ZA–152, ZA–202, and ZA–242), manufactured between 1985 and 1994; series Z (including models ZA–072, ZA–101, ZA–102, ZA–151, ZA–152, ZA–202, and ZA–208), manufactured between 1993 and 1999; and all series and models of the same or functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX (including models RX–072, RX–101, RX–102, RX–151, RX–152, RX–202, and RX–242), manufactured between 1985 and 1994; series RLX (including models RLX–302, RLX–402, and RLX–482) manufactured between 1985 and 1994; series RK (including models RK–101 and RK–102), manufactured between 1984 and 1998; series RA (including models RA–101, RA–102, RA–151, RA–152, RA–202), manufactured between 1985 and 1994; and series ZC (including models ZC–072, ZC–101, ZC–102, ZC–151, ZC–152, ZC–202, and ZC–208), manufactured between 1993 and 1999. For each of these heaters, the variants signified by the suffix T (with thermostat), W (white color), and TW (with thermostat and white color) found after the model number are included. All the heaters and variants referred to in this paragraph shall hereinafter be collectively referred to as ''the Heaters.'' The Heaters were sold and/or distributed to consumers principally in the States of California, Idaho, Montana, Oregon, and Washington. Since approximately 1978, CED has allegedly sold and/or distributed certain of the Heaters in commerce.

4. On January 14, 1999, the staff filed an Administrative Complaint (''Complaint'') against Cadet, seeking a determination that certain of the Heaters present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2), and public notice and a recall of certain of the Heaters pursuant to Sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d). The Complaint alleged that certain of the Heaters are defective and present a substantial product hazard within the meaning of Section 15(a)(2) of the CPSA, 15 U.S.C. 2064(a)(2), because their design and/or manufacture causes them to overheat, fail, and catch fire; and/or allows lint, dirt, or debris to build up within the heaters and catch fire. The Complaint also alleged that the design of certain of the Heaters can cause the Heaters to spew flames and/or burning or molten particles, or eject sparks into the living space of a home or residence, or energize the Heaters creating a risk of electric shock. The staff has agreed with Cadet to the terms of a corrective action plan for notification to consumers and for the replacement of the Heaters (''the Corrective Action Plan'' or ''the Plan''). The Corrective Action Plan is incorporated in a Consent Agreement and Order between Cadet and the staff, which was executed by Cadet on June 17, 1999 and executed by the staff on June 18, 1999, and will be submitted to the Commission for final approval.

Agreement of the Parties

5. It is the express purpose of the parties entering this Consent Agreement to protect the public safety by assisting Cadet's recall and replacement of the Heaters.

6. Fulfillment of the terms of this Consent Agreement and the attached Order (hereinafter ''Order'' or ''the Order''), which is hereby incorporated by reference, shall resolve all potential obligations of CED (and each of CED's predecessors, successors, assigns, parents, subsidiaries, affiliated entities, agents, representatives, attorneys, employees, officers, directors, stockholders, and principals) (collectively ''the CED Releasees'') under Section 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d), to give public notice of the alleged hazard presented by the Heaters, and to repair, replace, or refund the purchase price of the Heaters. Fulfillment of the terms of this Consent Agreement and Order shall also resolve all potential obligations and liabilities of the CED Releasees for all other claims and causes of action which could have been alleged by the CPSC against the CED Releasees relating to the Heaters, based upon information known to the CPSC, or otherwise in the CPSC's possession, at the time the CPSC staff signs this Consent Agreement. Nothing in this Paragraph 6 is intended to limit the CPSC's rights under Paragraph 21 of this Consent Agreement.

7. The staff believes that this Consent Agreement and Order is an equitable resolution of consumer claims against CED for replacement heaters, and the staff has concluded that the Corrective Action Plan, and CED's participation in that Plan, will provide an effective, fair, reasonable and adequate remedy for consumers throughout the United States who own or are otherwise exposed to the heaters by notifying

consumers of the alleged hazard and providing replacement heaters to them, and that this Agreement is, therefore, in the best interests of consumers.

8. This Consent Agreement and Order shall not be deemed or construed as an admission by CED or as evidence: (a) Of any violation of law or regulation by CED; (b) of other wrongdoing by CED; (c) that the Heaters are defective, create a substantial product hazard, or are unreasonably dangerous; or (d) of the truth of any claims or other matters alleged or otherwise stated by the CPSC or any other person either against CED or with respect to the Heaters. Except as specifically set forth in Paragraphs 9, 10, and 11, below, CED does not admit the factual allegations and other statements, or any conclusions of law, as alleged or otherwise stated in the Complaint or this Consent Agreement and Order which relate to the Heaters.

9. The Heaters are ''consumer products'' within the meaning of Section 3(a)(1) of the CPSA, 15 U.S.C. 2052(a)(1).

10. CED is a ''distributor'' of ''consumer product[s],'' which are ''distributed in commerce,'' as those terms are defined in Sections 3(a)(1), (5), and (11) of the CPSA, 15 U.S.C. 2052(a)(1), (5), and (11).

11. The CPSC has jurisdiction over CED and the Heaters under Sections 3(a)(1), (5), and (11) and Section 15 of the CPSA, 15 U.S.C. 2052(a)(1), (5), and (11) and § 2064.

12. For purposes of this settlement only, CED agrees not to contest the staff's allegation, which CED denies, that the Heaters contain a ''defeat which creates a substantial product hazard,'' as those terms are defined in Section 15(a) of the CPSA, 15 U.S.C. 2064(a).

13. Upon final acceptance by the CPSC of this Consent Agreement and Order, CED knowingly, voluntarily, and completely waives and relinquishes any past, present, and/or future right or rights in this matter captioned *In the Matter of Consolidated Electrical Distributors, Inc.*, CPSC Docket No. 99–C0007: (a) To an administrative or judicial hearing and to all further procedural steps—including findings of fact and conclusions of law—to determine whether the Heaters contain a defect which creates a substantial product hazard within the meaning of Section 15 of the CPSA; (b) to seek judicial review or otherwise challenge or contest the validity of this Consent Agreement and Order as issued and entered; (c) to seek judicial review of this or any past orders, findings, and/or determinations of the CPSC in this matter, except as set forth in Paragraphs 22 and 25 of this Consent Agreement; and (d) to file any claim or to seek any remedy under the Equal Access to Justice Act.

14. The Order is issued under Sections 15(c) and (d) of the CPSA, 15 U.S.C. 2064(c) and (d), and a violation of this Consent Agreement and Order is a prohibited act within the meaning of Section 19(a)(5) of the CPSA, 15 U.S.C. 2068(a)(5), and may subject CED to civil and/or criminal penalties under Sections 20 and 21 of the CPSA, 15 U.S.C. 2069 and 2070.

15. The parties agree to fulfill all requirements of this Consent Agreement and Order.

16. For all purposes, the Consent Agreement and Order shall constitute an enforceable judgment obtained in an action or proceeding by a governmental unit to enforce its police and regulatory power. CED acknowledges and agrees that this Consent Agreement and Order are pursuant to the CPSC's police and regulatory power to remedy the alleged risk created by the Heaters, and that, once CED signs the Consent Agreement and Order, the Consent Agreement and Order will not be subject to an automatic stay in any bankruptcy proceeding involving CED.

17. CED acknowledges that any interested person may bring any action pursuant to Section 24 of the CPSA, 15 U.S.C. 2073, in the United States District Court in which CED is found or transacts business, to enforce the Order and to obtain appropriate injunctive relief.

18. This Consent Agreement and Order shall be binding upon and inure to the benefit of the parties hereto and their successors, assigns, and any operating bankruptcy trustees or receivers. If, prior to the termination of this Consent Agreement and Order, CED merges with any other business entity or sells, assigns, or otherwise transfers substantially all of its assets, CED shall provide reasonable prior notice to the surviving corporation or to the purchaser, assignee, or transferee of substantially all of CED's assets, of this Consent Agreement and Order, and of its binding effect upon said surviving corporation, purchaser, assignee, or transferee. The existence of this Consent Agreement and Order and its binding effect shall be noted in any agreement between CED and such surviving corporation, purchaser, assignee, or transferee. It shall be a condition of any such merger, sale, assignment, or transfer that the surviving corporation or the purchaser, assignee, or transferee shall execute a document agreeing to be bound by the provisions of this Consent Agreement and Order and shall submit to the jurisdiction of the CPSC for purposes of enforcement of this Consent Agreement and Order. In the event of any merger, sale, assignment, or transfer of substantially all of CED's assets, CED shall provide written notice to the staff at least sixty (60) days prior to any such merger, asset sale, assignment, or transfer.

19. The CPSC, the staff, and/or CED may disclose terms of this Consent Agreement and Order to the public.

20. The staff is entering into this Consent Agreement and Order upon reliance on CED's representation that CED and Cadet have executed a settlement agreement dated June 22, 1999 (''the CED/Cadet Settlement Agreement'') that provides, *inter alia*: (a) For the payment by CED to Cadet, subject to the terms of the CED/Cadet Settlement Agreement, of Six Hundred and Fifty-One Thousand Dollars ($651,000) in satisfaction of CED's pre- and post-bankruptcy petition accounts receivable debts claimed by Cadet; and (b) for CED to purchase Two Million Dollars ($2,000,000) worth of products from Cadet, at market prices, over the next two years following the effective date of this Consent Agreement and Order, subject to the terms and conditions of the CED/Cadet Settlement Agreement.

21. The CPSC, at its sole discretion and upon reasonable notice to the staff and CED, may void, suspend, or rescind all, or any part, of this Consent Agreement and Order if, in CED's letter to the staff dated March 10, 1999, CED materially and knowingly misrepresented the dollar amount of the products it purchased from Cadet from 1989 through 1998, or if CED and Cadet have not executed the CED/Cadet Settlement Agreement referred to in Paragraph 20 of this Consent Agreement. In no event shall a default by Cadet under the CED/Cadet Settlement Agreement or any termination resulting from a default by Cadet affect the CPSC's and CED's rights and obligations under this Consent Agreement and Order. Notwithstanding the provisions of Paragraph 32 of this Consent Agreement, the CPSC may exercise its rights under this Paragraph 21 within, and not later than, three (3) years after the date on which the CPSC finally accepts this Consent Agreement and enters the Order.

22. If any provision of this consent Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the term of this Consent Agreement and Order, such provision shall be fully severable. In such event, there shall be added as part of this consent Agreement and Order a provision as similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable. The effective date of the added provision shall be the date upon which the prior provision was held to be invalid, illegal, or unenforceable. the rest of the Consent Agreement and Order shall remain in full effect, unless the CPSC determines, after providing CED with notice and a reasonable opportunity to comment, that severing the provision materially impacts the Corrective Action Plan or remediation program set forth in this Consent Agreement and Order. The CPSC determination shall constitute the final agency decision and shall be subject to judicial review, such review to be based upon the record of any such CPSC proceeding and according to law.

23. This Consent Agreement and Order have been negotiated by the parties. CED is not relying on the advice of the staff, nor anyone associated with the staff, as to legal, tax, or other consequences of any kind arising out of this Consent Agreement and Order, and CED specifically assumes the risk of all legal, tax, and other consequences.

24. CED acknowledges that this Consent Agreement and Order have been negotiated between unrelated, sophisticated, and knowledgeable parties acting in their own self-interest and represented by counsel, and the provisions of this Consent Agreement and Order shall not be interpreted or construed against any person or entity because that person or entity or any of its attorneys or representatives drafted or participated in drafting this Consent Agreement and Order.

25. The provisions of this Consent Agreement and Order shall be interpreted in a reasonable manner to effect its purpose to remedy the alleged hazard that the Heaters pose and to resolve potential claims by the CPSC against CED with respect to the

Heaters. In the event of a dispute between the parties arising under this Consent Agreement and Order, the parties agree to submit the dispute to non-binding arbitration by a panel of three arbitrators, according to the rules of the American Arbitration Association then in effect. The CPSC and CED shall each have the right to select one arbitrator, and shall jointly select the third arbitrator. If the CPSC and CED are unable to agree on the selection of the third arbitrator, that arbitrator shall be selected by the American Arbitration Association. Either party may institute an action, following the non-binding decision rendered by the arbitration panel, in the United States District Court for the District Court for the District of Columbia. Notwithstanding the foregoing, neither the arbitrators nor the CPSC shall have authority to resolve dispute arising under the CED/Cadet Settlement Agreement, including but not limited to those provisions referred to in Paragraph 20, above, nor may any rights or obligations arising out of the CED/Cadet Settlement Agreement be enforced through this Consent Agreement and Order.

26. The existence of a dispute between the staff and CED over any provision of this Consent Agreement and Order shall not excuse, toll, or suspend any obligation or deadline imposed upon CED or the staff under this Consent Agreement and Order, other than the specific provisions in dispute.

27. This Consent Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered, except in writing executed by the parties and approved by the CPSC.

28. This Consent Agreement and Order contain the entire agreement, understanding, representation, and interpretation of the parties herein, and nothing else may be used to vary or contradict its terms.

29. CED and the staff consent to the entry of the Order attached hereto.

30. Upon provisional acceptance of this Consent Agreement and Order by the CPSC, this Consent Agreement and Order shall be placed on the public record and shall be published in the **Federal Register** in accordance with the procedures set forth in 16 CFR 1115.20(b)(4). If the CPSC does not receive any written request not to accept this Consent Agreement and Order within fifteen (15) calendar days, this Consent Agreement and Order shall be deemed finally accepted on the twentieth (20th) calendar day after the date it is published in the **Federal Register**, in accordance with 16 CFR 1115.20(b)(5).

31. Upon final acceptance by the CPSC of this Consent Agreement and Order, the CPSC shall issue the incorporated Order. This Consent agreement and Order shall become effective upon service of the signed Order upon CED.

32. CED's obligations under this Consent Agreement and Order shall terminate when CED makes the final payment required under Paragraphs 4 and 5 of the Order.

33. CED makes the monetary payments described in Paragraphs 4 and 5 of the Order solely as restitution to fund the Corrective Action Plan and thereby to settle claims arising out of its alleged distribution of the Heaters. CED makes the monetary payment described in paragraph 20 of this Consent Agreement solely to satisfy Cadet's claims against CED for pre- and post-bankruptcy petition accounts receivable debts claimed by Cadet. No payment made pursuant to or referred to in this Consent Agreement and Order is a fine or other penalty paid with respect to any violation of any law or regulation. Payment hereunder does not constitute, nor shall it be construed or treated as, payment in lieu of a fine or other penalty, punitive recovery, or forfeiture.

34. Each party shall cooperate fully to implement its obligation under the terms and conditions of this Consent Agreement and Order.

35. The parties have executed two (2) identical copies of this Consent Agreement and the two copies shall be treated as one and the same executed Consent Agreement.

Dated: July 19, 1999.

Howard N. Tarnoff, Trial Attorney,
Magaret H. Plank, Trial Attorney

Eric L. Stone, Director, Legal Division, Alan H. Schoem, Assistant Executive, Director, Office of Compliance, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, Telephone: (301) 504–0626

Dated July 19, 1999.

Blake A. Biles, Esq., Jamellah L. Braddock, Esq., Arnold & Porter, 555 Twelfth Street, NW, Washington, DC 20004–1206, Telephone: (202) 942–5836

Counsel for Respondent, Consolidated Electrical Distributors, Inc.

H. Dean Bursch, President & Chief Executive Officer, Consolidated Electrical Distributors, Inc.

Order

Upon Consideration of the Consent Agreement entered into between Respondent Consolidated Electrical Distributors, Inc. (''CED'') and the staff of the Consumer Product Safety Commission (''the staff'') (collectively ''the parties''); and

The Consumer Product Safety Commission (''CPSC'' or ''the Commission'') having jurisdiction over the subject matter and CED;

It is hereby ordered that:

1. The Consent Agreement between CED and the staff is incorporated herein by reference and accepted, and CED shall comply with all obligations of the Consent Agreement and this Order.

2. Based on the Consent Agreement, the CPSC finds that the Consent Agreement and this Order are necessary to protect the public from the alleged hazard presented by Cadet's series FW, FX, LX, TK, ZA, and Z in-wall electric heaters, and the functionally identical heaters manufactured and distributed by Cadet under the Encore brand name, including series RX, RLX, RK, RA, and ZC. These heaters shall hereinafter be collectively referred to as ''the Heaters.''

3. CED shall immediately cease and desist offering for sale and/or distributing in commerce any of the Heaters, whether by itself or through its subsidiaries, affiliates, CED-owned distribution centers, or any other persons or entities over whom CED has control.

4. CED shall pay into a staff-designated, interest-bearing escrow account (''the escrow account''), the sum of ONE MILLION FIVE HUNDRED THOUSAND DOLLARS ($1,500,000), according to the following schedule:

a. TWO HUNDRED AND FIFTY THOUSAND DOLLARS ($250,000) upon the CPSC's final acceptance of this Order.

b. FIVE HUNDRED THOUSAND DOLLARS ($500,000) on or before the later of August 1, 1999, or upon the CPSC's final acceptance of this Order.

c. FIVE HUNDRED THOUSAND DOLLARS ($500,000) on or before the later of October 1, 1999, or upon the CPSC's final acceptance of this Order.

d. TWO HUNDRED AND FIFTY THOUSAND DOLLARS ($250,000) on or before the later of December 1, 1999, or upon the CPSC's final acceptance of this Order.

5. CED shall pay into the escrow account a contingent contribution of an additional FIVE DOLLARS ($5.00) for every heater in excess of two hundred and fifty thousand (250,000) heaters ordered by consumers under the Consent Agreement and Order between Cadet and the staff executed by Cadet on June 17,1999 and by the staff on June 18, 1999 (the ''Cadet Consent Agreement and Order''); provided, CED's contingent contribution shall be capped at FIVE HUNDRED THOUSAND DOLLARS ($500,000), and in no event shall CED be required to make more than one contingent contribution payment. CED shall pay its contingent contribution within fifteen (15) days of CED's receipt of written notice from the staff either: (a) That consumers have ordered at least 350,000 total replacement heaters under the Cadet Consent Agreement and Order; or (b) specifying the number of replacement heaters in excess of 250,000 ordered by consumers within twenty-four (24) months after the Effective Date of the Cadet Consent Agreement and Order.

6. The monetary payments referred to in Paragraphs 4 and 5, above, may be distributed by the CPSC to offset expenses directly related to Cadet's CPSC-approved Corrective Action Plan.

7. In addition to any penalty it may incur pursuant to Paragraph 14 of the Consent Agreement, if CED fails to make timely contributions to the escrow account, as required by Paragraphs 4 and 5 of this Order, CED shall be liable for additional contributions to the escrow account. Such additional contributions shall include the following:

a. Interest at the percentage rate established by the Department of the Treasury pursuant to 31 U.S.C. 3717, for any period after the due date; and

b. A five percent (5%) per month penalty charge if the deposit is not made within thirty (30) days after the due date.

Provisionally accepted and Provisional Order issued on the 5th day of August, 1999.

By order of the Commission.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 99–20803 Filed 8–11–99; 8:45 am]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–30]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–30, with attached transmittal, policy justification, and Sensitivity of Technology.

Dated: August 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

30 July 1999

In reply refer to:
I-99/009850

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-30, concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance (LOA) to the Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost $400 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: **House Committee on International Relations**
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-30

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Taipei Economic and Cultural Representative Office (TECRO) in the United States pursuant to P.L. 96-8**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 222 million
Other	$ 178 million
TOTAL	$ 400 million

(iii) **Description of Articles or Services Offered: Two E-2T Hawkeye 2000E aircraft, two AN/APS-145 radar, two T56-A-427 engines, two OE-335/A antenna groups, two Mission Computer Upgrade/Advanced Control Indicator Set, two Passive Detection System, upgrade of software laboratory, spare and repair parts, support equipment, supply support, publications, personnel training and training equipment, U.S. Government and contractor engineering and technical services, and other related elements of logistics support.**

(iv) **Military Department: Navy (SDE)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: See Annex attached**

(vii) **Date Report Delivered to Congress: 30 July 1999**

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States - E-2T Hawkeye 2000E Aircraft

The Taipei Economic and Cultural Representative Office (TECRO) in the United States has requested a possible sale of two E-2T Hawkeye 2000E aircraft, two AN/APS-145 radar, two T56-A-427 engines, two OE-335/A antenna groups, two Mission Computer Upgrade/Advanced Control Indicator Set, two Passive Detection System, upgrade of software laboratory, spare and repair parts, support equipment, supply support, publications, personnel training and training equipment, U.S. Government and contractor engineering and technical services, and other related elements of logistics support. The estimated cost is $400 million.

This proposed sale is consistent with United States law and policy, as expressed in Public Law 96-8.

The recipient needs these aircraft to augment its present operational inventory and its self-defense capability. The recipient's Air Force already has four E-2T aircraft in its inventory.

The proposed sale of this equipment and support will not affect the basic military balance in the region. Others in the region have the E-2C in their inventories.

The prime contractor will be Northrop Grumman Corporation, Bethpage, New York. There are no offset agreements proposed connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government representatives in Taiwan. However; there will be two contractor representatives for two years for technical support following the delivery of the aircraft.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

Transmittal No. 99-30

Notice of Proposed Issuance of Letter of Offer Pursuant to Section 36(b)(1) of the Arms Export Control Act

Classified Annex
Item No. vi

(vi) Sensitivity of Technology:

1. The E-2T aircraft contains sensitive state-of-the-art technology. Some of the hardware publications, performance specifications, operational capability, parameters, vulnerabilities to countermeasures, and software documentation are classified Secret. The classified information to be provided consists of that which is necessary for the operation, maintenance, and repair (through depot level) of the E-2T aircraft and its installed systems and related software.

2. If a technologically advanced adversary were to obtain knowledge of the specific hardware and software elements, the information could be used to develop countermeasures which might reduce weapon system effectiveness or be used in the development of a system with similar or advanced capabilities.

3. A determination has been made that the recipient can provide substantially the same degree of protection for the sensitive technology being released as the U.S. Government. This sale is necessary in furtherance of the U.S. foreign policy and national security objectives outlined in the Policy Justification.

[FR Doc. 99–20786 Filed 8–11–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

[Transmittal No. 99–31]

36(b)(1) Arms Sales Notification

AGENCY: Defense Security Cooperation Agency, Department of Defense.

ACTION: Notice.

SUMMARY: The Department of Defense is publishing the unclassified text of a section 36(b)(1) arms sales notification. This is published to fulfill the requirements of section 155 of Pub. L. 104–164 dated 21 July 1996.

FOR FURTHER INFORMATION CONTACT: Ms. J. Hurd, DSCA/COMPT/RM, (703) 604–6575.

The following is a copy of a letter to the Speaker of the House of Representatives, Transmittal 99–31, with attached transmittal, and policy justification.

Dated: August 6, 1999.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–10–M

DEFENSE SECURITY COOPERATION AGENCY

WASHINGTON, DC 20301-2800

30 July 1999

In reply refer to:
I-99/009851

Honorable J. Dennis Hastert
Speaker of the House of
Representatives
Washington, D.C. 20515-6501

Dear Mr. Speaker:

Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 99-31, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance (LOA) to Taipei Economic and Cultural Representative Office in the United States for defense articles and services estimated to cost $150 million. Soon after this letter is delivered to your office, we plan to notify the news media.

Sincerely,

MICHAEL S. DAVISON, JR.
LIEUTENANT GENERAL, USA
DIRECTOR

Attachments

Same ltr to: House Committee on International Relations
Senate Committee on Appropriations
Senate Committee on Foreign Relations
House Committee on National Security
Senate Committee on Armed Services
House Committee on Appropriations

Transmittal No. 99-31

Notice of Proposed Issuance of Letter of Offer
Pursuant to Section 36(b)(1)
of the Arms Export Control Act

(i) **Prospective Purchaser: Taipei Economic and Cultural Representative Office (TECRO) in the United States pursuant to P.L. 96-8**

(ii) **Total Estimated Value:**

Major Defense Equipment*	$ 0 million
Other	$ 150 million
TOTAL	$ 150 million

(iii) **Description of Articles or Services Offered: This sale will provide funds for the establishment of a Cooperative Logistics Supply Support Arrangement (CLSSA) for spare parts in support of F-5E/F, C-130H, Indigenous Defense Fighter, F-16A/B with Block 15 Mid-Life Upgrade and for U.S. systems and sub-systems of the aircraft.**

(iv) **Military Department: Air Force (KDG)**

(v) **Sales Commission, Fee, etc., Paid, Offered, or Agreed to be Paid: None**

(vi) **Sensitivity of Technology Contained in the Defense Article or Defense Services Proposed to be Sold: None**

(vii) **Date Report Delivered to Congress: 30 July 1999**

* as defined in Section 47(6) of the Arms Export Control Act.

POLICY JUSTIFICATION

Taipei Economic and Cultural Representative Office in the United States - Cooperative Logistics Supply Support Arrangement

The Taipei Economic and Cultural Representative Office in the United States (TECRO) has requested the establishment of a Cooperative Logistics Supply Support Arrangement (CLSSA) for spare parts in support of F-5E/F, C-130H, Indigenous Defense Fighter, F-16A/B with Block 15 Mid-Life Upgrade and for U.S. systems and sub-systems of the aircraft. The estimated cost is $150 million.

This proposed sale is consistent with United States law and policy, as expressed in Public Law 96-8.

These spare parts are required to assure that aircraft and aircraft systems previously procured from the United States are maintained in a mission capable status. The recipient will have no difficulty utilizing these additional spare parts.

The proposed sale of this equipment and support will not affect the basic military balance in the region.

Procurement of these items will be from the many contractors providing similar items to the U.S. armed forces. There are no offset agreements proposed in connection with this potential sale.

Implementation of this proposed sale will not require the assignment of any additional U.S. Government or contractor representatives to Taiwan.

There will be no adverse impact on U.S. defense readiness as a result of this proposed sale.

[FR Doc. 99–20787 Filed 8–11–99; 8:45 am]
BILLING CODE 5001–10–C

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the President's Information Technology Advisory Committee (Formerly the Presidential Advisory Committee on High Performance Computing and Communications, Information Technology, and the Next Generation Internet)

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and summary agenda for the next meeting of the President's Information Technology Advisory Committee. The meeting will be open to the public. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

DATES: September 2, 1999.

ADDRESSES: NSF Board Room (Room 1235), National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Proposed Schedule and Agenda: The President's Information Technology Advisory Committee (PITAC) will meet in open session from approximately 8:30 a.m. to 12:30 p.m. and 1:30 p.m. to 4:30 p.m. on September 2, 1999. This meeting will include: (1) Discussions on PITAC's review of Information Technology for the Twenty-First Century: A Bold Investment in America's Future (IT^2), proposed in the President's FY 2000 budget, including reports from PITAC IT^2 review panels on: software (software development, human computer interface and information management); scalable information infrastructure; socio-economic issues; and high-end computing. (2) Discussion of PITAC's agenda in the coming year. Time will also be allocated during the meeting for public comments by individuals and organizations.

FOR FURTHER INFORMATION CONTACT: The National Coordination Office for Computing, Information, and Communications provides information about this Committee on its web site at: http://www.ccic.gov; it can also be reached at (703) 306–4722. Public seating for this meeting is limited, and is available on a first-come, first-served basis.

Dated: August 6, 1999.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 99–20788 Filed 8–11–99; 8:45 am]

BILLING CODE 5000–10–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before October 12, 1999.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: August 6, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Title: Applications for Assistance (Sections 8002 and 8003) Impact Aid Program.

Frequency: Annually.

Affected Public: Individuals or households; Federal Government; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 602,237.

Burden Hours: 631,534.

Abstract: A local educational agency must submit an application to the Department to receive Impact Aid payments under Sections 8002 or 8003 of the Elementary and Secondary Education Act (ESEA), and a State requesting certification under Section 8009 of the ESEA must submit data for the Secretary to determine whether the State has a qualified equalization plan and may take Impact Aid payments into consideration in allocating State aid.

Written comments and requests for copies of this information collection request should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the internet address *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Kathy Axt at 703–426–9692. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–20814 Filed 8–11–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The Leader, Information Management Group, Office of the Chief Information Officer invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before September 13, 1999.

ADDRESSES: Written comments should be addressed to the Office of

Information and Regulatory Affairs, Attention: Danny Werfel, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW, Room 10235, New Executive Office Building, Washington, DC 20503 or should be electronically mailed to the internet address DWERFEL@OMB.EOP.GOV.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: August 6, 1999.

William E. Burrow,

Leader, Information Management Group, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Local Education Agency Component of Study of School Violence and Prevention.

Frequency: Two one time reportings.

Affected Public: Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 204.

Burden Hours: 250.

Abstract: The purpose of this study is to increase understanding of how local education agencies plan, implement, and evaluate their alcohol, tobacco, and other drug (ATOD) and violence prevention efforts, especially efforts funded under the Safe and Drug-Free Schools and Communities Act. This study also will assess the implementation of the Principles of Effectiveness, and document obstacles or barriers to implementation of the principles.

Requests for copies of this information collection should be addressed to Vivian Reese, U.S. Department of Education, 400 Maryland Avenue, SW, Room 5624, Regional Office Building 3, Washington, DC 20202–4651, or should be electronically mailed to the Internet address *Vivian__Reese@ed.gov*, or should be faxed to 202–708–9346.

For questions regarding burden and/or the collection activity requirements, contact Jacqueline Montague at 202–708–5359 or electronically at her internet address Jackie Montague@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 99–20815 Filed 8–11–99; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER99–3915–000, et al.]

Northern States Power Company, et al.; Electric Rate and Corporate Regulation Filings

August 5, 1999.

Take notice that the following filings have been made with the Commission:

1. Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), Public Service Company of Colorado and Cheyenne Light, Fuel and Power Company and Southwestern Public Service Company

[Docket No. ER99–3915–000]

Take notice that on July 30, 1999, Northern States Power Company (Minnesota) (NSP–M) on behalf of the intended successor-in-interest to its utility business, provisionally referred to as New NSP Utility, Northern States Power Company (Wisconsin), Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (jointly, the Applicants) tendered for filing revised Standards of Conduct pursuant to 18 CFR Part 37.

Applicants state that the filing is made in conjunction with three related filings consisting of (1) a merger application under Section 203 of the Federal Power Act, (2) a Joint Operating Agreement and a Statement of Policy and Code of Conduct under Section 205 of the Federal Power Act, and (3) joint Open Access Transmission Tariff under Section 205 of the Federal Power Act.

The Applicants request that the revised Standards of Conduct become effective immediately.

Copies of the filing have been served on the affected state regulatory commissions and on each entity that is a party to the above-captioned dockets.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

2. Cheyenne Light, Fuel and Power Company, Northern States Power Company (Minnesota), Northern States Power Company (Wisconsin), Public Service Company of Colorado and Southwestern Public Service Company

[Docket No. ER99–3916–000]

Take notice that on July 30, 1999, Cheyenne Light, Fuel and Power Company, Northern States Power Company (Minnesota) (NSP–M) on behalf of the intended successor-in-interest to its utility business, provisionally referred to as New NSP Utility, Northern States Power Company (Wisconsin), Public Service Company of Colorado, and Southwestern Public Service Company (jointly, the Applicants), tendered for filing a Joint Open Access Transmission Tariff which is to take effect upon consummation of the proposed merger of NSP–M and New Century Energies, Inc.

Applicants state that the filing is made in conjunction with three related filings consisting of (1) a merger application under Section 203 of the Federal Power Act, (2) a Joint Operating Agreement and a Statement of Policy and Code of Conduct under Section 205 of the Federal Power Act, and (3) revised Standards of Conduct under 18 CFR Part 37.

Copies of the filing have been served on the affected state regulatory commissions and on the Applicants' existing open access transmission tariff customers.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

3. Southern Energy New England, L.L.C., Southern Energy Canal, L.L.C. and Southern Energy Kendall, L.L.C.

[Docket No. ER99–3917–000]

Take notice that on July 30, 1999, Southern Energy New England, L.L.C., Southern Energy Canal, L.L.C., and Southern Energy Kendall, L.L.C. (the Southern Parties), tendered for filing an application requesting approval of

certain proposed amendments to their Market Rate Tariffs. The proposed amendments would authorize the Southern Parties to engage in wholesale sales of ancillary services to eligible customers at market rates.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

4. Cleco Energy LLC

[Docket No. ER99–3918–000]

Take notice that on July 29, 1999, Cleco Energy LLC, (formerly named CLECO ENERGY, L.L.C.), tendered for filing its Notice of Succession in which it adopted, ratified, and made its own in every respect all applicable rate schedules, and supplements thereto, heretofore filed with the Commission by CLECO ENERGY, L.L.C.

Effective November 20, 1998, CLECO ENERGY, L.L.C., changed its name to Cleco Energy LLC.

Comment date: August 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

5. Nevada Power Company

[Docket No. ER99–3919–000]

Take notice that on July 29, 1999, Nevada Power Company (NPC), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under NPC's (Transmission Provider) Open Access Transmission Tariff with Aquila Energy Marketing Corporation (Aquila).

A copy of this filing has been served on Aquila and the Nevada Public Service Commission.

Comment date: August 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

6. Nevada Power Company

[Docket No. ER99–3920–000]

Take notice that on July 29, 1999, Nevada Power Company (NPC), tendered for filing a Service Agreement to provide Non-Firm Point-to-Point Transmission Service under NPC's Open Access Transmission Tariff with British Columbia Power Exchange Corporation (Powerex).

A copy of this filing has been served on Powerex and the Nevada Public Service Commission.

Comment date: August 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

7. Consumers Energy Company

[Docket No. ER99–3922–000]

Take notice that on July 30, 1999, Consumers Energy Company (Consumers), tendered for filing revised standards of conduct procedures in order to reflect: (1) A recent change in organizational structure and (2) the re-configuration of certain transmission system operations facilities.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

8. New England Power Pool

[Docket No. ER99–3832–000]

Take notice that on July 30, 1999, the New England Power Pool Participants Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Merchant Energy Group of the Americas, Inc., (Merchant Energy Group). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of Merchant Energy Group's signature page would permit NEPOOL to expand its membership to include Merchant Energy Group. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Merchant Energy Group a member in NEPOOL.

The Participants Committee requests an effective date of August 1, 1999, for commencement of participation in NEPOOL by Merchant Energy Group.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER99–3833–000]

Take notice that on July 30, 1999, the New England Power Pool (NEPOOL) Participants Committee tendered for filing a Service Agreement for Through or Out Service or In Service pursuant to Section 205 of the Federal Power Act and 18 CFR 35.12 of the Commission's Regulations.

Acceptance of this Service Agreement will recognize the provision of Firm In Service transmission to TransCanada Power Marketing Ltd., in conjunction with Regional Network Service, in accordance with the provisions of the NEPOOL Open Access Transmission Tariff filed with the Commission on December 31, 1996, as amended and supplemented.

A retroactive effective date of July 1, 1999 for commencement of transmission service has been requested.

Copies of this filing were sent to all NEPOOL members, the New England public utility commissioners and all parties to the transaction.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Pool

[Docket No. ER99–3834–000]

Take notice that on July 30, 1999, the New England Power Pool Participants Committee filed for acceptance a signature page to the New England Power Pool (NEPOOL) Agreement dated September 1, 1971, as amended, signed by Richard Silkman (Mr. Silkman). The NEPOOL Agreement has been designated NEPOOL FPC No. 2.

The Participants Committee states that the Commission's acceptance of Mr. Silkman's signature page would permit NEPOOL to expand its membership to include Mr. Silkman. The Participants Committee further states that the filed signature page does not change the NEPOOL Agreement in any manner, other than to make Mr. Silkman a member in NEPOOL.

The Participants Committee requests an effective date of August 1, 1999, for commencement of participation in NEPOOL by Mr. Silkman.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

11. Wisconsin Electric Power Company

[Docket No. ER99–3835–000]

Take notice that on July 30, 1999, Wisconsin Electric Power Company (Wisconsin Electric), tendered for filing a long term firm transmission service agreement between itself and Madison Gas & Electric Company (MG&E). The Transmission Service Agreement allows MG&E to receive firm transmission service for 11 MW of wind power, under Wisconsin Energy Corporation Operating Companies FERC Electric Tariff, Volume No. 1.

Also submitted were umbrella firm and non-firm transmission service agreements establishing Consumers Energy Company (Consumers) as a customer under the Tariff.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

12. FirstEnergy System

[Docket No. ER99–3836–000]

Take notice that on July 30, 1999, FirstEnergy System filed a Service Agreement to provide Firm Point-to-Point Transmission Service for FirstEnergy Wholesale Energy Transactions, the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is July 22, 1999

for the above mentioned Service Agreement in this filing.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

13. The Montana Power Company

[Docket No. ER99–3837–000]

Take notice that on July 30, 1999, The Montana Power Company (Montana) tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13 an executed Firm Point-To-Point Transmission Service Agreement with Arizona Public Service under Montana's FERC Electric Tariff, Fourth Revised Volume No. 5 (Open Access Transmission Tariff), replacing a previously filed unexecuted service agreement.

A copy of the filing was served upon Arizona Public Service.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

14. FirstEnergy System

[Docket No. ER99–3845–000]

Take notice that on July 30, 1999, FirstEnergy System filed a Service Agreement to provide Non-Firm Point-to-Point Transmission Service for FirstEnergy Wholesale Energy Transactions, the Transmission Customer. Services are being provided under the FirstEnergy System Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. ER97–412–000.

The proposed effective date under this Service Agreement is July 22, 1999.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

15. Mountain West Independent System Administrator

[Docket No. ER99–3719–000]

Take notice that on July 23, 1999, Sierra Power Company (Sierra), and Nevada Power Company (Nevada Power) tendered for filing pursuant to Section 205 of the Federal Power Act, a number of filings intended to put into effect the Mountain West Independent System Administrator (Mountain West). These filings include the Mountain West Tariff, the Transmission Owner's Tariff, and *pro forma* versions of several related agreements. Sierra and Nevada Power are making the filing on behalf of Mountain West, which only recently has been formed and has no employees. Included with the filing is a letter from Mountain West's Board of Directors and Advisory committee indicating their support of the filing and their intent to adopt the filing in the future.

The Applicants request that the commission make the filing effective as of March 1, 1999, the date of retail access in the State of Nevada.

Comment date: August 18, 1999, in accordance with Standard Paragraph E at the end of this notice.

16. Southwestern Electric Power Company

[Docket No. ER99–3784–000]

Take notice that on July 28, 1999, Southwestern Electric Power Company (SWEPCO) filed an Interconnection Agreement between SWEPCO and Lone Star Steel Sales Company (Lone Star).

SWEPCO requests an effective date for the Interconnection Agreement of July 29, 1999. Accordingly, SWEPCO requests waiver of the Commission's notice requirements.

SWEPCO states that a copy of the filing was served on Lone Star and the PUCT.

Comment date: August 17, 1999, in accordance with Standard Paragraph E at the end of this notice.

17. Southern Energy Canal, L.L.C.

[Docket No. ER99–3838–000]

Take notice that on July 30, 1999, Southern Energy Canal, L.L.C. (Southern Canal), tendered for filing the following agreements as long-term service agreements under its Market Rate Tariff accepted by the Commission in the Docket No. ER98–4115–000:

1. Amended and Restated Power Sales Contract by and between Southern Energy Canal, L.L.C. and Cambridge Electric Light Company and Commonwealth Electric Company, dated December 18, 1998, as reinstated by Reinstatement Agreement dated July 6, 1999;
2. Amended and Restated Power Sales Contract by and between Southern Energy Canal, L.L.C. and Montaup Electric Company, dated December 18, 1998, as reinstated by Reinstatement Agreement dated July 6, 1999;
3. Amended and Restated Power Sales Contract by and between Southern Energy Canal, L.L.C. and Boston Edison Company, dated December 18, 1998, as reinstated by Reinstatement Agreement dated July 6, 1999; and
4. Amended and Restated Power Sales Contract by and between Southern Energy Canal, L.L.C. and New England Power Company, dated June 30, 1999.

Comment date: August 19, 1999, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

Linwood A. Watson, Jr.,

Acting Secretary.

[FR Doc. 99–20813 Filed 8–11–99; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6418–6]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Standards of Performance for Primary and Secondary Emissions From Basic Oxygen Process Furnace at Steel Plants

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: NSPS, Subparts N and Na—Primary and Secondary Emissions from Basic Oxygen Process Furnaces at Steelmaking Facilities; OMB Control No. 2060–0029; expiration date is September 30, 1999. The ICR describes the nature of the information collection and its expected burden and cost.

DATES: Comments must be submitted on or before September 13, 1999.

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No.1069.06.

SUPPLEMENTARY INFORMATION:

Title: (OMB Control No. 2060–0029; EPA ICR No.1069.06) expiring

September 30, 1999. This is an extension of a currently approved collection.

Abstract: Sources are required to meet monitoring, recordkeeping and reporting requirements under NSPS, Subparts N and Na. Specifically, the standards require that a source conduct the following activities:

- Keep records of: startups, shutdowns, malfunctions, periods where the continuous monitoring system is inoperative (60.7(b)); time and duration of each steel production cycle (60.143(a)); time and duration of the rates or levels of any diversion of exhaust gases from the main stack servicing the BOPF (60.143(a)); the various rates or levels of exhaust ventilation at each phase of the cycle through each duct of the secondary emission capture system (60.143a(a)); time and duration of the visible emission data sets (60.145a(d)); particulate matter concentration (i.e., opacity levels) exiting the control device and discharged into the atmosphere (60.142(a–b)); pressure loss through the venturi constriction of the scrubber continuously (60.143(a)(1)); and water supply pressure to the venturi scrubber control equipment continuously (60.143(a)(2)). Industry is required to maintain records at the facility for a minimum of two years.
- Provide notification of: construction/reconstruction (60.7(a)(1)); anticipated startup (60.7(a)(2)); actual startup (60.7(a)(3)); initial and any other performance tests (60.8(d)); demonstration of continuous monitoring system (60.7(a)(5)); and physical or operational change (60.7(a)(4) and 60.145(a)).
- Report on: initial performance test results (60.8 (a)); and monitoring results (e.g., opacity) that average more than 10 % below the average level maintained during the most recent performance test on a semiannual basis (60.7(c), 60.143(c) and 60.143a(d)).

An owner or operator could elect to reduce operating expenses by not installing, maintaining, or otherwise operating the control technology required by the standards. In the absence of the information collection requirements, compliance with the standards could be ensured only through continuous on-site inspections by regulatory agency personnel. Consequently, not collecting the information would result in either greatly increased expenditures of resources, or the inability to ensure compliance with the standards.

The information collected from recordkeeping and reporting requirements is also used for targeting inspections, and is of sufficient quality to be used as evidence in court. The enforcement personnel may elect to conduct an inspection to ensure that the equipment is properly installed and operated, as was indicated in the performance test report. They may also conduct periodic inspections to obtain additional data on source operation and maintenance and to make compliance determinations.

All reports are sent to the delegated State or Local Agency. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published in the **Federal Register** (63 FR 47280) on September 4, 1998; no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 18.0 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners and Operators of Iron and Steel Plants.

Estimated Number of Respondents: 11.33.

Frequency of Response: Initial and semiannual.

Estimated Total Annual Hour Burden: 1,795 hours.

Estimated Total Annualized Cost Burden: $34,400.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No 1069.06 and OMB Control No. 2060–0029 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 (or E-Mail Farmer.Sandy@epamail.epa.gov); and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 6, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–20863 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6418–5]

Agency Information Collection Activities: Submission for OMB Review; Comment Request, Registration of Fuels and Fuel Additives—Health-Effects Research Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Registration of Fuels and Fuel Additives: Health-effects Research Requirements for Manufacturers (40 CFR part 79—subpart F) (OMB Control Number 2060–0297, expiration date: October 31, 1999). The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before September 13, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by E-Mail at Farmer.Sandy@epamail.epa.gov or download a copy of the ICR off the Internet at *http://www.epa.gov/icr* and refer to EPA ICR No. 1696.03.

SUPPLEMENTARY INFORMATION:

Title: Registration of Fuels and Fuel Additives: Health-effects Research Requirements for Manufacturers (40 CFR part 79—subpart F), (OMB Control Number 2060–0297, EPA ICR Number 1696.03) expiring October 31, 1999. This is a request for an extension of a currently approved collection.

Abstract: In accordance with the Clean Air Act regulations at 40 CFR part 79, manufacturers (including importers) of gasoline, diesel fuel, and additives for gasoline or diesel fuel, are required to have their products registered by the EPA prior to their introduction into commerce. Registration involves providing a chemical description of the fuel or additive, and certain technical, marketing, and health-effects information. The health-effects research is the subject of this ICR. The other information collection requirements at 40 CFR part 79 are covered by a separate ICR (EPA ICR Number 309.09, OMB Control Number 2060–1050). The health-effects research is divided into three tiers of requirements for specific categories of fuels and additives. Tier 1 requires an emissions characterization and a health-effects literature search for those emissions. Tier 1 data were submitted in 1997 and 1998 and will be applicable for most new products seeking registration. Tier 2 requires short-term inhalation exposures of laboratory animals to emissions to screen for adverse health effects, unless comparable data are already available. Alternative Tier 2 testing can be required in lieu of the standard Tier 2 if EPA concludes that such testing would be more appropriate. EPA reached that conclusion with respect to baseline gasoline, oxygenated gasoline additives, and Ethyl Corporation's manganese gasoline additive MMT. Certain small businesses are exempt from some or all of the Tier 1 and Tier 2 requirements. Tier 3 provides for follow-up research, if necessary. However, no Tier 3 requirements have been established. Thus, it is not covered in this document. This information will be used to determine if there are any products whose evaporative or combustion emissions may pose an unreasonable risk to public health, thus meriting further investigation and potential regulation. In accordance with the Clean Air Act, the results of this research shall not be considered confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on April 7, 1999 (64 FR 16960); one comment was received. It was a brief statement from the Ethyl Corporation referencing the continuing dialogue over the appropriate testing for MMT.

Burden Statement: It is likely that only limited additional Tier 1 research will be done. New fuels and additives subject to Tier 1 will almost exclusively be those that can group with existing Tier 1 data, and come from manufacturers that have already paid for the Tier 1 data. Thus, over the next three years only one Tier 1 submission is anticipated. Standard Tier 2 activity will also be very limited. The EPA has concluded that existing data cover Tier 2 for baseline diesel. Alternative Tier 2 testing will be conducted over the next five years and covers baseline gasoline, the six major nonbaseline gasoline oxygenates, and the atypical gasoline additive MMT. Thus, only up to four standard Tier 2 submissions are anticipated over the next three years. The annual public reporting and recordkeeping burden for this collection is estimated to average 20,695 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Manufacturers of gasoline, diesel fuel, and fuel additives.

Estimated Number of Respondents: 6.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 67,467 hours.

Estimated Total Annualized Capital, O & M Cost Burden: $6.5 million.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including the use of automated collection techniques, to the following addresses. Please refer to EPA ICR Number 1696.03 and OMB Control Number 2060–0297 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 6, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–20864 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6419–2]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Information Collection Activities Associated With EPA's Energy Star Buildings Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Information Collection Activities Associated with EPA's Energy Star Buildings Program, OMB# 2060–0347, expires September 30, 1999. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before Sepember 13, 1999.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA by phone at (202) 260–2740, by email at farmer.sandy@epamail.epa.gov, or download a copy of the ICR off the Internet at http://www.epa.gov/icr and refer to EPA ICR No. 1772.02.

SUPPLEMENTARY INFORMATION:

Title: Information Collection Activities Associated with EPA's Energy Star Buildings Program, OMB# 2060–0347, ICR# 1772.02, expires September 30, 1999. This is a request for an

extension of a currently approved collection.

Abstract: The Energy Star Buildings and Green Lights programs are voluntary programs aimed at preventing pollution. These programs focus on reducing utility-generated emissions by reducing the demand for energy. EPA first created the Green Lights program to encourage corporations, state and local governments, colleges and universities, and other organizations to adopt energy efficient lighting as a profitable means of preventing pollution and improving lighting quality. With the success of the Green Lights program, EPA developed the Energy Star Buildings program to encourage business of all sizes, state and local governments, Federal Agencies, academic and other non-profit organizations to make more comprehensive energy efficiency improvements in their buildings. In designing the Energy Star Buildings program, EPA made the energy efficient lighting upgrades of the Green Lights program the first stage of the Energy Star Buildings' five-stage upgrade program. Both of these programs need to collect initial information to establish participation in them, monitor progress in completing energy efficiency upgrades, and measuring reductions in energy usage. EPA will use information requested from participants to further evaluate the overall results of the program and make adjustments, if necessary. Participation in the Energy Star Buildings and Green Lights programs is voluntary and may be terminated by Partners, Allies, Endorsers or EPA at any time. EPA does not expect that organizations will deem any information collected under the program to be confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** document required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 4/19/99 (FR Vol 64., No. 74); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information will vary depending on the type of participant, and the specific collection activity. For example: the total estimated respondent burden for completing a Memorandum of Understanding (MOU) is 5.1 hour per respondent. The burden for collection requirements associated with applying for the Energy Star label is estimated to be 3.8 hours per respondent. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Participants in EPA' Energy Star Buildings (Green Lights, Energy Small Business) voluntary program.

Estimated Number of Respondents: 4,318.

Frequency of Response: One-time, annually, and/or periodically, dependent upon type of respondent.

Estimated Total Annual Hour Burden: 217,714 hours.

Estimated Total Annualized Capital, Operating/Maintenance Cost Burden: $14,716.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1772.02 and OMB Control No. 2060–0347 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, Office of Policy, Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460;

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: August 6, 1999.

Richard T. Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 99–20867 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[Region VII Tracking No. 081–1081; FRL–6418–8]

Inadequacy Status of Submitted State Implementation Plans for Transportation Conformity Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of inadequacy status.

SUMMARY: In this document, Region VII is augmenting the national list of submitted State Implementation Plans (SIP) with motor vehicle emissions budgets that have been reviewed for adequacy for transportation conformity purposes as identified in 64 FR 31217–31219 (June 10, 1999). This document describes a finding of inadequacy for the emissions budget for St. Louis, Missouri.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess, U.S. EPA, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101; (913) 551–7213 or hess.christopher@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

Transportation conformity is required by section 176(c) of the Clean Air Act. EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs, and projects conform to state air quality implementation plans and establishes the criteria and procedures for determining whether or not they do.

Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The criteria by which we determine whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4).

On March 2, 1999, the D.C. Circuit Court of Appeals ruled that submitted SIPs cannot be used for conformity determinations unless EPA has affirmatively found the conformity budget adequate. Where EPA finds a budget inadequate, it cannot be used for further conformity determinations.

The new process for determining the adequacy of submitted SIP budgets is contained in a May 14, 1999, memo titled ''Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.'' EPA will be revising the conformity rule to codify this guidance. You can obtain this guidance at *http://www.epa.gov/oms/transp.htm*.

Status of Submitted Budgets

In Region VII, the only submitted budgets for transportation conformity purposes pertain to the St. Louis metropolitan area and that area's 15% plan and attainment demonstration for the pollutant ozone.

In a letter dated May 27, 1999, from EPA to the Missouri Department of Natural Resources, Region VII determined that the area's budgets are inadequate and we are publishing that finding in this document. As stated in the May 14, 1999, guidance, EPA's adequacy review is not to be used to prejudge EPA's ultimate approval or disapproval of the submitted SIPs. Approvability of the SIPs will be addressed in a future rulemaking.

Because the area has performed certain other emissions analyses, its transportation programs may continue despite this finding of inadequacy regarding submitted budgets. Furthermore, the state is anticipated to submit new budgets by November 15, 1999.

Dated: July 30, 1999.

William Rice,

Acting Regional Administrator, Region VII.

[FR Doc. 99–20866 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6419–3]

Clean Air Act Operating Permit Program; Petition for Objection to Proposed State Operating Permit for Monroe Electrical Generating Plant Entergy Louisiana, Inc.; Monroe, Ouachita Parish, Louisiana

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of final order on petition to object to State operating permit.

SUMMARY: This document announces that the EPA Administrator has partially granted and partially denied a petition to object to a proposed State operating permit issued by the Louisiana Department of Environmental Quality (LDEQ) to the Monroe Electrical Generating Plant, Entergy Louisiana, Inc., Monroe, Ouachita Parish, Louisiana. Pursuant to section 505(b)(2) of the Clean Air Act (Act), petitioner may seek judicial review of those portions of the petition which EPA denied in the United States Court of Appeals for the appropriate circuit within 60 days of this decision under section 307 of the Act.

ADDRESSES: You may review copies of the final order, the petition, and other supporting information at the EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733. If you wish to examine these documents, you should make an appointment at least 24 hours before visiting day. The final order is also available electronically at the following address: http:www.epa.gov/ ttn/ oarpg/ramain.html.

FOR FURTHER INFORMATION CONTACT: Jole Luehrs, Chief, Air Permitting Section, Multimedia Planning and Permitting Division, EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 665–7250, or electronic mail at luehrs.jole@epa.gov.

SUPPLEMENTARY INFORMATION: The Act affords EPA a 45-day period to review, and object to as appropriate, operating permits proposed by State permitting authorities. Section 505(b)(2) of the Act authorizes any person to petition the EPA Administrator within 60 days after the expiration of this review period to object to State operating permits if EPA has not done so. Petitions must be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided by the State, unless the petitioner demonstrates that it was impracticable to raise these issues during the comment period or the grounds for the issues arose after this period.

Ms. Merrijane Yerger, Managing Director of the Citizens for Clean Air and Water (Petitioner), submitted a petition to the Administrator on February 9, 1999, seeking EPA's objection to the proposed title V operating permit to be issued to the Monroe Electrical Generating Plant (Monroe plant) owned and operated by Entergy Louisiana, Inc. (Entergy) and located in the city of Monroe, Ouachita Parish, Louisiana. The petition objects to issuance of the proposed permit on five grounds: (1) LDEQ failed to subject the Monroe plant to prevention of significant deterioration (PSD) review, (2) the maximum capacity of the Monroe plant may have been increased by some unknown method at some time between 1976 and the time of the title V application without being subject to PSD review and New Source Performance Standards, (3) the proposed permit fails to incorporate enforceable one-hour maximum emission rate limitations for sulfur dioxide and other criteria pollutants, (4) the proposed permit includes apparent annual emissions increases that suggest PSD review should be conducted for the sulfur dioxide emissions, and (5) sufficient information has not been provided in Entergy's permit application to ensure compliance with the Resource Conservation and Recovery Act disposal requirements.

In addition, the Petitioner requested the following: (1) that EPA issue an information request letter to Entergy and the City of Monroe under section 114 of the Act, requiring them to disclose all matters raised by this petition; and (2) that EPA conduct an on-site inspection of the Monroe plant to determine whether PSD and NSPS have been triggered.

On June 11, 1999, the Administrator issued an order partially granting and partially denying the petition. The order explains the reasons behind EPA's conclusion that the proposed title V operating permit fails to assure compliance with applicable PSD requirements as set forth in the Louisiana State Implementation Plan. The order also explains the reasons for denying Petitioner's remaining claims.

Dated: July 30, 1999.

W. B. Hathaway,

Acting Regional Administrator, Region 6.

[FR Doc. 99–20868 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6419–8]

Request for Applications for the National Environmental Education Advisory Council

Due Date: September 24, 1999.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 9(a) and (b) of the National Environmental Education Act of 1990 (PL–101–619) mandates a National Environmental Education Advisory Council. The Advisory Council provides advice, consults with, and makes recommendations to the Administrator of the U.S. Environmental Protection Agency (EPA) on matters relating to the activities, functions, and policies of EPA under the Act. EPA is requesting nominations of candidates for membership on the Council. The Act requires that the Council be comprised of eleven (11) members appointed by the Administrator of EPA, after consultation with the Secretary of U.S. Department of Education. Members represent a balance of perspectives, professional qualifications, and experience. The Act

specifies that members must represent the following:

- Primary and secondary education (one of whom shall be a classroom teacher)—two members.
- Colleges and universities—two members.
- Not-for-profit organizations involved in environmental education—two members.
- State departments of education and natural resources—two members.
- Business and industry—two members.
- Senior Americans—one member.

Members are chosen to represent the various geographic regions of the country, and the Council shall have minority representation. The professional backgrounds of Council members include scientific, policy, and other appropriate disciplines. Each member of the Council shall hold office for a one (1) to three (3) year period, which runs from November to November of each calender year. Members are expected to participate in up to two (2) meetings per year and monthly or more conference calls per year. Members of the Council shall receive compensation and allowances, including travel expenses, at a rate fixed by the Administrator.

There are currently five (5) vacancies on the Advisory Council that must be filled.

- Business and Industry—one vacancy (Nov. 1999–Nov. 2002).
- College and University—one vacancy (Nov. 1999–Nov. 2002).
- State Department of Education—one vacancy (Nov. 1999–Nov. 2002).
- Non-Profit Organization—one vacancy (Nov. 1999–Nov. 2002).
- Primary/Secondary Education (must be an in-service classroom teacher)—one vacancy (Nov. 1999–Nov. 2002).

EPA particularly seeks candidates with demonstrated experience and/or knowledge in any of the following environmental education issue areas:

- Integrating environmental education into state and local education reform and improvement;
- State, local and tribal level capacity building;
- Cross-sector partnerships; leveraging resources for environmental education;
- Design and implementation of environmental education research
- Professional development for teachers and other education professionals; and
- Targeting under-represented audiences, including low-income and multi-cultural audiences, senior citizens, and other adults.

Additional Considerations:

The Council is looking for individuals who demonstrate the following:

- Ability to make the time commitment.
- Strong leadership skills.
- Strong analytical and writing skills.
- Ability to stand apart and evaluate programs in an unbiased fashion.
- Team players.
- Conviction to follow through and to meet deadlines.
- Ability to review items on short notice.

DATES: Applications to fill the existing vacancies on the Council must be submitted no later than September 24, 1999. The application must include the following:

- Name/address/phone/e-mail of applicant.
- 1–2 page resume (Please do not exceed 2 pages.)
- Two (2) letters of support for the applicant.
- One (1) page statement of ''How the candidate is qualified.'' This must not exceed one (1) page.
- One (1) page statement by the applicant on his/her personal perspective on environmental education. This must not exceed one (1) page.

ADDRESSES: Submit nominations to Ginger Keho, Advisory Council Coordinator, Office of Environmental Education, Office of Communications, Education and Media Relations (1704), U.S. EPA, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Ginger Keho at the above address, or call (202) 260–4129. E-mail address: keho.ginger@epamail.epa.gov

SUPPLEMENTARY INFORMATION: The Council provides the Administrator with advice and recommendations on EPA implementation of the National Environmental Education Act. In general, the Act is designed to increase public understanding of environmental issues and problems, and to improve the training of environmental education professionals. EPA will achieve these goals, in part, by awarding grants and/or establishing partnerships with other Federal agencies, state and local education and natural resource agencies, not-for-profit organizations, universities, and the private sector to encourage and support environmental education and training programs. The Council is also responsible for preparing a national biennial report to Congress that will describe and assess the extent and quality of environmental education, discuss major obstacles to improving environmental education, and identify the skill, education, and training needs for environmental professionals.

Dated: July 30, 1999.

David L. Cohen,

Acting Associate Administrator, Office of Communications, Education and Media Relations.

[FR Doc. 99–20870 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–51926; FRL–6077–2]

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 March 1, 1999, to March 19, 1999, consists of the PMNs and TMEs, 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.

These notices were inadvertently excluded when the Agency announced its receipt of PMNs and TME's for March 1999.

FOR FURTHER INFORMATION CONTACT: Christine Augustyniak, Associate Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; telephone numbers: 202–554–1404 and TDD: 202–554–0551; e-mail address: TSCA-Hotline@epa.gov.

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/homepage/fedrgstr/.

B. *In person*. The Agency has established an official record for this action under docket control number OPPTS–51926. 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 March 1, 1999, to March 19, 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. 99 Premanufacture Notices Received From: 03/01/99 to 03/19/99

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0523	03/01/99	05/30/99	CBI	(G) Surfactants	(G) Substituted polyoxyethylene
P–99–0524	03/01/99	05/30/99	CBI	(S) Polyurethane foam surfactant	(G) Polydimethylsiloxane, hydroxyalkylether-terminated
P–99–0525	03/02/99	05/31/99	CBI	(G) Component of coating with open use	(G) Blocked isocyanate
P–99–0526	03/02/99	05/31/99	CBI	(G) Component of coating with open use	(G) Blocked isocyanate
P–99–0527	03/02/99	05/31/99	CBI	(G) Component of coating with open use	(G) Blocked isocyanate
P–99–0528	03/01/99	05/30/99	Unichema North America	(S) Lubricant base fluid for metal working fluids	(G) Complex Ester*
P–99–0529	03/02/99	05/31/99	CBI	(G) Anaerobic sealant/ threadlocker ingredient, for use on threaded fasteners and flange sealing applications	(G) Polyurethane methacrylate
P–99–0530	03/02/99	05/31/99	CBI	(G) Anaerobic sealant/ threadlocker ingredient, for use on threaded fasteners and flange sealing applications	(G) Polyurethane acrylate
P–99–0532	03/01/99	05/30/99	CBI	(S) Polymer used in coating solution	(G) Partially silylated isocyanate oligomer
P–99–0533	03/01/99	05/30/99	CBI	(S) Polymer used in coating solution	(G) Silylated polyetherisocyanate oligomer
P–99–0536	03/02/99	05/31/99	CBI	(S) Anaerobic bolt threadlocker and/or flange sealant	(G) Polyurethane acrylate
P–99–0537	03/02/99	05/31/99	CBI	(S) Anaerobic bolt threadlocker and/or flange sealant	(G) Epoxy acrylate oligomer
P–99–0538	03/03/99	06/01/99	First Chemical Corporation	(S) Photoinitiator for polymer system	(S) Methanone, bis[4-(ethylmethylamino)phenyl]-*

I. 99 Premanufacture Notices Received From: 03/01/99 to 03/19/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0539	03/02/99	05/31/99	Dystar L. P.	(S) Dyestuff for coloration of polyester fiber	(G) Propanenitrile, 3-[[4-[(substituted)azo]phenyl](substituted)amino]-*
P–99–0540	03/03/99	06/01/99	The Dow Chemical Company	(G) Prepolymer for isocyanate polyurethane	(G) Experimental mdi prepolymer
P–99–0541	03/03/99	06/01/99	The Dow Chemical Company	(G) Polymer for thin films	(G) Water dispersable polyurethane polymer
P–99–0542	03/05/99	06/03/99	Dow Corning Corporation	(S) Water repellent for masonary	(S) Silicic acid, diethoxyoctylsilyl trimethylsilyl ester*
P–99–0543	03/03/99	06/01/99	The Dow Chemical Company	(G) Chemical intermediate	(G) Alkali salt of polyalkylene glycol
P–99–0544	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Fatty acids, tall-oil, compounds with 2-(2-aminoethoxy)ethanol*
P–99–0545	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Octadecanoic acid, compound with 2-(2-aminoethoxy) ethanol (1:1)*
P–99–0546	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Isooctadecanoic acid, compound with 2-(2-aminoethoxy) ethanol (1:1)*
P–99–0547	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Fatty acids, soya, compounds with 2-(2-aminoethoxy) ethanol*
P–99–0548	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Fatty acids, castor-oil, compounds with 2-(2-aminoethoxy) ethanol*
P–99–0549	03/09/99	06/07/99	CBI	(G) Adhesive for flexible substrates	(G) Polyester urethane polymer
P–99–0550	03/08/99	06/06/99	CBI	(G) Softener/debonding agent	(G) Acid salts of ester of amine ethoxylates
P–99–0551	03/08/99	06/06/99	CBI	(G) Softener/debonding agent	(G) Acid salts of ester of amine ethoxylates
P–99–0552	03/08/99	06/06/99	H. B. Fuller Company	(S) Adhesive/sealant for window construction	(G) Polyester isocyanate polymer
P–99–0553	03/08/99	06/06/99	H. B. Fuller Company	(S) Adhesive/sealant for window construction	(G) Polyester isocyanate polymer
P–99–0554	03/08/99	06/06/99	CBI	(G) Softener/debonding agent	(G) Mono, diester amines, ethoxylate
P–99–0555	03/08/99	06/06/99	Imation Enterprises Corp.	(G) Compound in color dispersion	(G) Acrylate copolymer
P–99–0556	03/08/99	06/06/99	CBI	(G) Extractant modifier	(G) Mixed diesters
P–99–0557	03/09/99	06/07/99	First Chemical Corporation	(G) Destructive use intermediate for the production of a polymer additive	(S) Benzenamine, 4,4′-methylenebis[n-ethyl-n-*methyl-**
P–99–0558	03/10/99	06/08/99	CBI	(G) A component of photoresist	(G) Phenolic resin
P–99–0559	03/10/99	06/08/99	CBI	(G) Softener/ debonding agent	(G) Ester quaternary ammonium compound
P–99–0560	03/08/99	06/06/99	CBI	(G) Open, non-dispersive use	(G) Maleinized oil
P–99–0561	03/09/99	06/07/99	CBI	(G) Hydroxyl-terminated polyester; intermediate for polyurethane polymer	(G) Hydroxyl terminated polyester
P–99–0562	03/08/99	06/06/99	CBI	(S) Acid donor for polyamide dyeing	(G) Diethylene glycol disubstituted organic acid
P–99–0563	03/08/99	06/06/99	CBI	(S) Acid donor for polyamide dyeing	(G) Diethylene glycol disubstituted organic acid
P–99–0564	03/10/99	06/08/99	CBI	(G) Additive for conductive paste	(G) Alkyl substituted succinic acid salt
P–99–0565	03/10/99	06/08/99	Purac America	(S) Solvent; cleaner; degreaser	(S) Propanoic acid, 2-hydroxy-, methyl ester, (2*s*)-*
P–99–0566	03/10/99	06/08/99	Purac America	(S) Solvent; cleaner; degreaser	(S) Propanoic acid, 2-hydroxy- ethyl ester, (2*s*)-*
P–99–0567	03/10/99	06/08/99	Purac America	(S) Solvent; cleaner; degreaser	(S) Propanoic acid, 2-hydroxy- butyl ester, (2*s*)-*
P–99–0568	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(G) Paper processing chemical	(G) Fatty amide amphoteric
P–99–0569	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(G) Paper processing chemical	(G) Fatty imidazolium amphoteric
P–99–0570	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(G) Paper processing chemical	(G) Fatty amide amphoteric

I. 99 Premanufacture Notices Received From: 03/01/99 to 03/19/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0571	03/03/99	06/01/99	Huntsman Petrochemical Corporation	(G) Paper processing chemical	(G) Fatty imidazolium amphoteric
P–99–0572	03/09/99	06/07/99	CBI	(S) Leather dyeing	(G) Polysubstituted bis phenylazonapthalene disulfonic acid
P–99–0573	03/12/99	06/10/99	CBI	(G) Additive, open, non-dispersive use	(G) Carboxylic acid alkyl ester modified polyalkylene amine
P–99–0574	03/12/99	06/10/99	CBI	(G) Additive, open, non-dispersive use	(G) N-alkyl modified polyisocyanate, reaction products with diamine
P–99–0575	03/12/99	06/10/99	Arizona Chemical	(G) Open, non-dispersive use	(G) Maleic modified rosin ester
P–99–0576	03/12/99	06/10/99	CBI	(S) Laminating adhesive	(G) Polyester polyurethane
P–99–0577	03/12/99	06/10/99	CBI	(S) Moisture curing adhesive or coating for metal panel and laminating wood	(G) Isocyanate terminated urethane polymer
P–99–0578	03/15/99	06/13/99	CBI	(G) Open non dispersive (injection molding plastic)	(G) Aliphatic thermoplastic polyurethane resin
P–99–0579	03/15/99	06/13/99	CBI	(G) Lubricants for plastics	(G) Fatty acid esters
P–99–0580	03/17/99	06/15/99	KOSA	(S) Reactant in manufacture of rigid polyurethane foam	(G) Aromatic polyester polyol
P–99–0581	03/16/99	06/14/99	CBI	(S) Acid dye for the coloring of leather	(G) Chromate, bis[[[[[(substituted)azo]phenyl]sulfonyl]amino]-hydroxy-[(substituted)azo]-naphthalenesulfonato]-, pentasodium*
P–99–0582	03/15/99	06/13/99	CBI	(G) Fiber spinning	(G) Thermoplastic polyester polyurethane polymer
P–99–0583	03/15/99	06/13/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Fatty acids, coco, compds. with 2-(2-aminoethoxy) ethanol*
P–99–0584	03/15/99	06/13/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Dodecanoic acid, compd. with 2-(2-aminoethoxy)ethanol (1:1)*
P–99–0585	03/15/99	06/13/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Neodecanoic acid, compd. with 2-(2-aminoethoxy)ethanol (1:1)*
P–99–0586	03/15/99	03/15/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Decanoic acid, compd. with 2-(2-aminoethoxy)ethanol (1:1)*
P–99–0587	03/15/99	03/15/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Nonaanoic acid, compd. with 2-(2-aminoethoxy)ethanol (1:1)*
P–99–0588	03/15/99	03/15/99	Huntsman Petrochemical Corporation	(S) Metal working fluid - corrosion inhibition and ph control	(S) Boric acid (h3bo3), compd. with 2-(2-aminoethoxy)ethanol (1:1)*
P–99–0589	03/15/99	06/13/99	CBI	(G) Component in manufacturing processes; catalyst manufacture	(G) Phosphorus chloride derivative
P–99–0590	03/18/99	06/16/99	CBI	(G) Dyestuff for inkjet printer ink	(G) Naphthalene sulfonic acid derivative
P–99–0591	03/16/99	06/14/99	CBI	(G) Isolated polymer intermediate	(G) Polyanhydride
P–99–0592	03/15/99	06/13/99	CBI	(S) Light absorbing dye for imaging media such as photographic films	(G) Substituted napthalene sulfonic acid
P–99–0593	03/15/99	06/13/99	CBI	(S) Paraffin & asphaltene dissolving agent in tertiary oil recovery; gas compressor wash oil; carrier solvent for polyurethane foam synthesis	(G) Polyethylbenzene bottoms, middle fraction, reaction products, distillation heavies
P–99–0594	03/15/99	06/13/99	CBI	(S) Paraffin & asphaltene dissolving agent in tertiary oil recovery; gas compressor wash oil; carrier solvent for polyurethane foam synthesis	(G) Polyethylbenzene bottoms, middle fraction, reaction products, distillation heavies
P–99–0595	03/17/99	06/15/99	Loctite Corporation	(S) Site limited intermediate used in the manufacture of ts990104	(S) 3-cyclohexene-1-carboxylic acid, 1-methyl-1-(4-methyl-3-cyclohenen-1-yl) ethyl ester*
P–99–0596	03/17/99	06/15/99	Loctite Corporation	(S) Site limited intermediate used in the manufacture of ts990104	(S) 3-cyclohexene-1-carbonyl chloride*
P–99–0597	03/17/99	06/15/99	Loctite corporation	(S) Site limited intermediate used in the manufacture of ts990104	(S) 3-cyclohexene-1-carboxylic acid*

I. 99 Premanufacture Notices Received From: 03/01/99 to 03/19/99—Continued

Case No.	Received Date	Projected Notice End Date	Manufacturer/Importer	Use	Chemical
P–99–0598	03/17/99	06/15/99	Loctite corporation	(S) A component of novel adhesives/ sealant formulations	(S) 7-oxabicyclo [4.1.0]heptane-3-carboxylic acid, 1-methyl-1-(6-methyl-7-oxabicyclo [4.1.0]hept-3-yl) ethyl ester*
P–99–0599	03/16/99	06/14/99	CBI	(G) Fragrance	(S) Benzoic acid, 2-hydroxy-4-methyl, ethyl ester*
P–99–0600	03/18/99	06/16/99	CBI	(S) Coating for plastics sheet	(S) Carbonic acid, diphenyl ester, polymer with 5-amino-1,3,3-trimethylcyclohexanemethanamine, 1,4-butanediol, 1,2-ethanediamine, 1,6-hexanediol and 1,1′-methylenebis[4-isocyanatocyclohexane], morpholine-blocked*
P–99–0601	03/18/99	06/16/99	CBI	(G) Laminating adhesive	(G) A polymer of an aromatic diisocyanate, aliphatic diols, a diepoxide and an aliphatic amine
P–99–0602	03/18/99	06/16/99	Cook Composites & Polymers Co.	(S) Crosslinking polymer resin for coatings	(G) Acrylic polymer resin
P–99–0603	03/18/99	06/16/99	Cook Composites & Polymers Co.	(S) Crosslinking polymer resin for coatings	(G) Acrylic polymer resin
P–99–0604	03/18/99	06/16/99	Cook Composites & Polymers Co.	(S) Oil free alkyd for printing inks	(G) Oil-free alkyd
P–99–0605	03/18/99	06/16/99	Cook Composites & Polymers Co.	(S) Pigment grinding vehicle	(G) Unsaturated polyester resin
P–99–0606	03/18/99	06/16/99	CBI	(S) Surfactant for extinguishing fires	(G) Perfluoroalkylethyl amphoteric
P–99–0607	03/18/99	06/16/99	CBI	(S) Anionic surfactant for foaming agent	(G) Anionic surfactant
P–99–0608	03/18/99	06/16/99	CBI	(S) Intermediate for surfactant manufac.	(G) Perfluoroalkylethyl amine
P–99–0609	03/18/99	06/16/99	CBI	(S) Intermediate for surfactant manufac.	(G) Perfluoroalkylethyl ester
P–99–0610	03/18/99	06/16/99	CBI	(G) Photoresist component	(G) Polyhydroxystyrene compound
P–99–0611	03/18/99	06/16/99	Engelhard Corporation	(S) Pigment for industrial coatings	(G) Azo red pigment
P–99–0612	03/19/99	06/17/99	CIBA Specialty Chemicals Corp. - Colors Div.	(G) Textile dye	(G) 2-anthracenesulfonic acid, 4-[[4-(acetylamino)phenyl]amino]-1-amino-9,10-dihydro-9,10-dioxo-, compd. with alkanol amine-alkylene oxide polymer
P–99–0613	03/18/99	06/16/99	CBI	(S) Coatings for plastic sheet	(S) Carbonic acid, diphenyl ester, polymer with 1,6-diisocyanatohexane, 1,6-hexanediol and 1,1′ -methylenebis[4-isocyanatocyclohexane]*
P–99–0614	03/17/99	06/15/99	CBI	(G) Polyurthane intermediate	(G) Polyester modified isocyanate polymer
P–99–0617	03/19/99	06/17/99	CBI	(S) Uv light stabilizer for plastics	(G) Substituted cyano acrylate
P–99–0623	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0624	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0625	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0626	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0627	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0628	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0629	03/18/99	06/16/99	CBI	(G) Additive for manufacture of articles	(G) Modified vinyl polymer
P–99–0630	03/18/99	06/16/99	CBI	(G) Intermediate for chemical manufacture	(G) Modified biopolymer
P–99–0631	03/18/99	06/16/99	CBI	(G) Intermediate for chemical manufacture	(G) Modified biopolymer

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. 38 Notices of Commencement Received From: 03/01/99 to 03/19/99

Case No.	Received Date	Commencement/Import Date	Chemical
P–91–1224	03/11/99	01/05/98	(G) Modified maleated rosin, calcium, magnesium and zinc salts.
P–92–1053	03/16/99	02/26/99	(G) Polyethanolamine diester with fatty acids dialkyl sulfate salts
P–93–0209	03/01/99	02/18/99	(G) Substituted phenol ester
P–94–0583	03/01/99	02/24/99	(G) Modified methyl methacrylate/ethyl acrylate polymer
P–94–1238	03/18/99	03/05/99	(S) Propanenitrile, 3-[amino, *n*-(tallowalkyl)] dipropylenetri-*
P–94–2072	03/01/99	05/09/98	(G) Ethoxysilane
P–96–0713	03/03/99	02/17/99	(G) Hydrogenated petroleum resin
P–97–0104	03/10/99	02/18/99	(G) Polyisocyante adduct based on toluenediisocyanate
P–97–0711	03/11/99	03/02/99	(G) Crosslinking stoving urethane resin
P–97–0813	03/09/99	02/24/99	(G) Diphenol tars
P–97–0919	03/18/99	06/01/98	(G) Polyisobutylene succinimide molybdenum inhibitor
P–98–0551	03/10/99	02/02/99	(G) Substance (1) polyether succinate
P–98–0567	03/15/99	03/04/99	(G) Styrene acrylic polymer
P–98–0619	03/16/99	03/09/99	(G) Acrylic polymer
P–98–0840	03/08/99	03/03/99	(G) Polyester resin
P–98–0865	03/16/99	03/04/99	(G) Acrylic resin
P–98–0883	03/08/99	02/05/99	(G) Quarternary ammonium functional acrylic polymer
P–98–0925	03/08/99	02/25/99	(G) Modified hydrocarbon resin
P–98–1121	03/10/99	02/23/99	(G) Methacrylic and acrylic ester copolymer
P–98–1122	03/10/99	02/23/99	(G) Alkyl methacrylate, morpholinylethyl methacrylate copolymer
P–98–1123	03/10/99	02/23/99	(G) Methacrylic and acrylic esters copolymer
P–98–1125	03/01/99	02/23/99	(G) Adduct of polyamide and polyamine
P–98–1137	03/08/99	02/16/99	(S) Hexanoic acid, 6-[[(4-methylphenyl)sulfonyl]amino]-*
P–98–1157	03/01/99	01/29/99	(G) Acetal blocked phs
P–98–1167	03/15/99	02/11/99	(G) Epoxidized styrene-butadien copolymer
P–98–1174	03/08/99	02/24/99	(G) Amine fatty acid salt
P–99–0008	03/03/99	02/10/99	(G) Cationic epoxy resin
P–99–0017	03/18/99	03/06/99	(G) Alkenes, maleic anhydride polymer
P–99–0047	03/01/99	02/24/99	(G) B-alanine, *n*-(substituted)phenyl)azo-3-alkyl(phenyl)-*n*-ethyl-, alkoxy ester
P–99–0048	03/15/99	03/03/99	(G) Naphthalenedisulfonic acid, substituted triazine, substituted naphthalenyl azo-, mixed salts
P–99–0085	03/10/99	02/23/99	(G) Bisphenol a-type polyester resin
P–99–0090	03/09/99	02/07/99	(G) Aluminum organometallic compound
P–99–0097	03/01/99	02/02/99	(G) Heavy aromatic solvent
P–99–0098	03/01/99	02/02/99	(G) Heavy aromatic solvent
P–99–0105	03/01/99	02/19/99	(G) Soduim salt of substituted copper phthalocyanine derivative
P–99–0136	03/02/99	02/18/99	(G) Saturated copolyester resin
P–99–0161	03/02/99	02/24/99	(G) Blocked polyisocyanate
P–99–0177	03/18/99	02/26/99	(G) Acrylate functional polyester
Y–94–0060	03/01/99	01/23/99	(G) Alkyd resin

Environmental protection, Premanufacture notices.

Dated: August 4, 1999.

Oscar Morales,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 99–20872 Filed 8-11-99; 8:45 am]

BILLING CODE 6560–50–F

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6418–7]

Proposed Administrative Penalty Assessments and Opportunity to Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Proposed Assessment of Clean Water Act Class I Administrative Penalty and opportunity to comment.

SUMMARY: EPA is providing notice of a proposed administrative penalty for alleged violations of the Clean Water Act. EPA is also providing notice of opportunity to comment on the proposed penalty.

EPA is authorized under section 309(g) of the Act, 33 U.S.C. 1319(g), to assess a civil penalty after providing the person subject to the penalty notice of the proposed penalty and the opportunity for a hearing, and after providing interested persons notice of the proposed penalty and a reasonable opportunity to comment on its issuance. Under section 309(g), any person who without authorization discharges a pollutant to a navigable water, as those terms are defined in section 502 of the Act, 33 U.S.C. 1362, may be assessed a penalty in a ''Class I'' administrative penalty proceeding. Class I proceedings under section 309(g) are conducted in accordance with proposed consolidated rules of practice governing the administrative assessment of civil

penalties, published at 63 FR 9464 (Feb. 25, 1998).

EPA is providing notice of the following proposed Class I penalty proceeding initiated by the Water Division, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105:

In the Matter of Arizona Dairy Co., Docket No. CWA–09–99–0002, filed July 14, 1999; proposed penalty, $18,000; for unauthorized discharge from Arizona Dairy Co., 19135 E. Elliot Rd., Higley, AZ 85236, on March 31 and April 14, 1998, to Warner Road Alignment Wash and the Eastern Maricopa Floodway.

Procedures by which the public may comment on a proposed Class I penalty or participate in a Class I penalty proceeding are set forth in the proposed consolidated rules.

DATES: The deadline for submitting public comment on a proposed Class I penalty is on or before September 13, 1999. The Regional Administrator of EPA, Region 9 may issue an order upon default if the respondent in the proceeding fails to file a response within the time period specified in the proposed consolidated rules.

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of the proposed consolidated rules, review the complaint, proposed consent order, or other documents filed in the proceeding, comment upon the proposed penalty, or participate in any hearing that may be held, should contact Danielle Carr, Regional Hearing Clerk, U.S. EPA, Region 9, 75 Hawthorne St., San Francisco, CA 94105, (415) 744–1391. Documents filed as part of the public record in the proceeding are available for inspection during business hours at the office of the Regional Hearing Clerk.

In order to provide opportunity for public comment, EPA will not take final action in the proceeding prior to thirty days after issuance of this document.

Dated: July 30, 1999.

John Ong,

Director, Water Division, Region 9.

[FR Doc. 99–20865 Filed 8–11–99; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

DATE & TIME: Tuesday, August 17, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.

Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, August 19, 1999 at 10:00 a.m.

PLACE: 999 E Street, N.W., Washington, D.C. (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 1999–19: Andrea Ellis.

Notice of Availability—Petition for Rulemaking Filed by James Bopp, Jr., on Behalf of the Iowa Right to Life Committee, Inc.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 99–20987 Filed 8–10–99; 11:42 am]

BILLING CODE 6715–01–M

FEDERAL HOUSING FINANCE BOARD

[99–N–10]

Pilot Mortgage Program Proposed by the Federal Home Loan Banks of Cincinnati, Indianapolis, and Seattle

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

Background

Pursuant to the procedures set forth in Federal Housing Finance Board (Finance Board) Resolution 97–70 (November 12, 1997), the Finance Board is publishing notice of receipt of an application from the Federal Home Loan Banks (FHLBanks) of Cincinnati, Indianapolis, and Seattle to initiate a pilot program. As specified in the procedures, the Finance Board will not act on the application during the 30-day notice period and will consider any comments received during the notice period before taking action.

SUMMARY: The Finance Board has under consideration a proposal submitted jointly by the FHLBanks of Cincinnati, Indianapolis and Seattle to initiate a pilot program to purchase mortgage loans from member financial institutions under a credit risk sharing arrangement. Under the proposed Mortgage Purchase Program, or MPP, the FHLBanks could purchase fixed-rate, single family mortgages from member financial institutions subject to the establishment of a risk-sharing account designed to transfer a substantial portion of the credit risk to the member financial institution. In addition to the risk-sharing account, the member would further credit enhance the mortgage loans by providing supplemental mortgage insurance. The MPP is designed to provide member financial institutions with another alternative to selling mortgages in the secondary market, and the FHLBanks with a means to increase mission-related activities.

FOR FURTHER INFORMATION CONTACT: Scott Smith, Deputy Director, Office of Policy, Research and Analysis, (202) 408–2991, Federal Housing Finance Board, 1777 F Street, NW, Washington, DC 20006.

Dated: August 6, 1999.

Bruce A. Morrison,

Chairman.

[FR Doc. 99–20797 Filed 8–11–99; 8:45 am]

BILLING CODE 6725–01–P

FEDERAL MARITIME COMMISSION

[Docket No. 99–14]

Global Transporte Oceanico S.A. v. Coler Ocean Independent Lines Co.; Notice of Filing of Complaint and Assignment

Notice is given that a complaint filed by Global Transporte Oceanico S.A. (''Complainant'') against Coler Ocean Independent Lines Co. (''Respondent'') was served August 3, 1999. Complainant alleges that Respondent violated section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. §§ 1709(a)(1) by failing to remit full payment of ocean freight and other charges, issuing a bank draft for payment which was returned for insufficient funds, and subsequently agreeing to a schedule of payments but failing to make the scheduled payments.

This proceeding has been assigned to the office of Administrative Law Judges and Complainant has requested that this proceeding be conducted under shortened procedure. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the presiding officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer

only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the presiding officer in this proceeding shall be issued by August 3, 2000, and the final decision of the Commission shall be issued by December 1, 2000.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 99–20789 Filed 8–11–99; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 1999.

A. Federal Reserve Bank of Boston (Richard Walker, Community Affairs Officer) 600 Atlantic Avenue, Boston, Massachusetts 02106-2204:

1. Provident Bancorp, Amesbury, Massachusetts; to become a bank holding company by acquiring 100 percent of the voting shares of The Provident Bank, Amesbury, Massachusetts.

B. Federal Reserve Bank of New York (Betsy Buttrill White, Senior Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. Popular, Inc., Popular International Bank Inc., both of Hato Rey, Puerto Rico., and Popular North America, Inc., Mount Laurel, Pennsylvania; to acquire 100 percent of the voting shares of Aurora National Bank, Aurora, Illinois.

Board of Governors of the Federal Reserve System, August 6, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–20819 Filed 8-11-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Nonbanking Activities or to Acquire Companies that are Engaged in Nonbanking Activities

Bank of Nova Scotia, Toronto, Canada (Notificant) has applied for Board approval pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and section 225.24 of the Board's Regulation Y (12 C.F.R. 225.24), to engage as principal in forward contracts, swap transactions, and similar derivative contracts based on the equity and debt securities of a single issuer through its wholly-owned subsidiary, Scotiabanc Inc., Atlanta, Georgia. This activity will be conducted worldwide.

The Board has previously authorized bank holding companies under section 4(c)(8) of the BHC Act to underwrite and deal, to a limited extent, in all types of debt and equity securities, except interests in open-end investment companies (''bank-ineligible securities'') (*see Canadian Imperial Bank of Commerce, et al.*, 76 Fed. Res. Bull. 158 (1990); *J.P. Morgan & Co. Incorporated*., 75 Fed. Res. Bull. 192 (1989)). The Board has determined that such activities are consistent with section 20 of the Glass-Steagall Act (12 U.S.C. 377) provided that the company engaged in underwriting and dealing in bank-ineligible securities does not derive more than 25 percent of its revenues from such activities. Section 4(c)(8) of the BHC Act also provides that a bank holding company may, with Board approval, engage in any activity that the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. A particular activity may be found to meet the ''closely related to banking'' test if it is demonstrated that banks generally have provided the proposed activity, that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity, or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 *Federal Register* 794, 806 (1984).

In order to approve the proposal, the Board must determine that the proposed activities to be conducted by Notificant ''can reasonably be expected to produce benefits to the public, such as grater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices.'' 12 U.S.C. 1843(c)(8). Notificant believes that the proposal would produce public benefits that outweigh any potential adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely to seek the views of interested persons on the issues presented by the notice and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act. Any comments or requests for hearing should be submitted in writing and received by Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than September 7, 1999. Any request for a hearing on this application must, as required by section 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party

commenting would be aggrieved by approval of the proposal.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Board of Governors of the Federal Reserve System, August 6, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–20818 Filed 8-11-99; 8:45 am]

BILLING CODE 6210-01-F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225), to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than September 7, 1999.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. First Busey Corporation, Urbana, Illinois; to acquire Eagle BancGroup, Inc., Bloomington, Illinois, and thereby indirectly acquire First Federal Savings and Loan of Bloomington, Bloomington, Illinois, and FFS Investment Services, Bloomington, Illinois, and thereby engage in operating a savings association, pursuant to § 225.25(b)(4)(ii) of Regulation Y; providing securities brokerage services with respect to all types of securities, both alone and in combination with investment advisory services, including securities clearing and/or securities execution services on an exchange and incidental activities such as securities credit activities and custodial services, pursuant to § 225.25(b)(7)(i) of Regulation Y.

Board of Governors of the Federal Reserve System, August 6, 1999.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 99–20817 Filed 8-11-99; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–2553]

Agency Information Collection Activities: Proposed Collection; Comment Request; Citizen Petition

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 reporting requirements contained in existing FDA regulations relative to a participant's right to petition for issuance amendment or repeal of a rule.

DATES: Submit written comments on the collection of information by October 12, 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: JonnaLynn P. Capezzuto, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–4659.

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 an existing 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 in this document.

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.

Citizen Petition—21 CFR 10.30 (OMB Control Number 0910–0183—Extension)

The Administrative Procedures Act (5 U.S.C. 553(e)) provides that every agency shall accord any interested person the right to petition for issuance, amendment, or repeal of a rule. Section 10.30 (21 CFR 10.30) provides that any person may submit to the agency a citizen petition requesting the Commissioner of Food and Drugs to issue, amend, or revoke a regulation or order, or to take or refrain from taking any other form of administrative action.

The information is used by the agency to determine the need or desirability of the requested action and also to determine if the submitted information is sufficient to support the action. FDA determines if the submitted information is sufficient to support the action. FDA determines whether or not to grant the petition based on the information submitted.

The affected respondents are individuals or households, State or local governments, nonprofit institutions and

businesses or other for-profit institutions or groups.

FDA estimates the burden of this collection of information as follows:

TABLE 1.—ESTIMATED ANNUAL REPORTING BURDEN[1]

21 CFR Section	No. of Respondents	Annual Frequency per Response	Total Annual Responses	Hours per Response	Total Hours
10.30	120	1	120	12	1,440

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 6, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–20794 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–0926]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Regulations Under the Federal Import Milk Act; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of July 26, 1999 (64 FR 40379). The document announced an opportunity for public comment on a collection of information that had been submitted to the Office of Management and Budget for review and clearance.

DATES: August 12, 1999.

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: In FR Doc. 99–18927, appearing on page 40379 in the **Federal Register** of Monday, July 26, 1999, the following correction is made:

1. On page 40379, in the third column, in the first full paragraph, beginning in the fourth line, ''No comments were received.'' is corrected to read ''One comment was received that was supportive of the Federal Import Milk Act and encouraged FDA to continue this information collection request.''

Dated: August 5, 1999.

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning and Legislation.

[FR Doc. 99–20793 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 99N–1010]

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Investigational New Drug Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the proposed collection of information listed below has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Submit written comments on the collection of information by September 13, 1999.

ADDRESSES: Submit written comments on the collection of information to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., rm. 10235, Washington, DC 20503, Attn: Wendy Taylor, Desk Officer for FDA.

FOR FURTHER INFORMATION CONTACT: Karen L. Nelson, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1482.

SUPPLEMENTARY INFORMATION: In compliance with section 3507 of the PRA (44 U.S.C. 3507), FDA has submitted the following proposed collection of information to OMB for review and clearance.

Investigational New Drug (IND) Regulations—21 CFR Part 312 (OMB Control Number 0910–0014)— Renewal

FDA is requesting OMB approval for the reporting and recordkeeping requirements contained in FDA's regulation ''Investigational New Drug Application'' part 312 (21 CFR part 312). This regulation implements provisions of section 505(i) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 355(i)) to issue regulations under which the clinical investigation of the safety and effectiveness of unapproved new drugs and biological products can be conducted.

FDA is charged with implementing statutory requirements that drug products marketed in the United States be shown to be safe and effective, properly manufactured, and properly labeled for their intended uses. Section 505(a) of the act provides that a new drug may not be introduced or delivered for introduction into interstate commerce in the United States unless FDA has previously approved a new drug application (NDA). FDA approves an NDA only if the sponsor of the application first demonstrates that the drug is safe and effective for the conditions prescribed, recommended, or suggested in the product's labeling. Proof must consist, in part, of adequate and well-controlled studies, including studies in humans, that are conducted by qualified experts. The IND regulations establish reporting requirements that include an initial application as well as amendments to that application, reports on significant revisions of clinical investigation plans, and information on a drug's safety or effectiveness. In addition, the sponsor is required to give FDA an annual summary of the previous year's clinical experience. Submissions are reviewed by medical officers and other agency scientific reviewers assigned responsibility for overseeing the specific study. The IND regulations also contain recordkeeping requirements that pertain to the responsibilities of sponsors and investigators. The detail and complexity of these requirements are dictated by the

scientific procedures and human subject safeguards that must be followed in the clinical tests of investigational new drugs.

The IND information collection requirements provide the means by which FDA can: (1) Monitor the safety of ongoing clinical investigations; (2) determine whether the clinical testing of a drug should be authorized; (3) ensure production of reliable data on the metabolism and pharmacological action of the drug in humans; (4) obtain timely information on adverse reactions to the drug; (5) obtain information on side effects associated with increasing doses; (6) obtain information on the drug's effectiveness; (7) ensure the design of well-controlled, scientifically valid studies; (8) obtain other information pertinent to determining whether clinical testing should be continued and information related to the protection of human subjects. Without the information provided by industry in response to the IND regulations, FDA cannot authorize or monitor the clinical investigations which must be conducted prior to authorizing the sale and general use of new drugs. These reports enable FDA to monitor a study's progress, to assure subject safety, to assure that a study will be conducted ethically, and to increase the likelihood that the sponsor will conduct studies that will be useful in determining whether the drug should be marketed and available for use in medical practice.

There are two forms that are required under part 312: Form FDA–1571—''Investigational New Drug Application.''A person who intends to conduct a clinical investigation submits this form to FDA. It includes: (1) A cover sheet containing background information on the sponsor and investigator, (2) a table of contents, (3) an introductory statement and general investigational plan, (4) an investigator's brochure describing the drug substance, (5) a protocol for each planned study, (6) chemistry, manufacturing, and control information for each investigation, (7) pharmacology and toxicology information for each investigation, and (8) previous human experience with the investigational drug.

Form FDA–1572— ''Investigator Statement.'' Before permitting an investigator to begin participation in an investigation, the sponsor must obtain and record this form. It includes background information on the investigator and the investigation, and a general outline of the planned investigation and the study protocol.

FDA is requesting OMB approval for the following reporting and recordkeeping requirements in part 312:

TABLE 1.—REPORTING REQUIREMENTS

21 CFR Section	Explanations
312.7(d)	Applications for permission to sell an investigational new drugs.
312.10(a)	Applications for waiver of requirements under part 312. Only emergency requests are estimated under this section; other requests are included under §§ 312.23 and 312.31.
312.20(c)	Applications for investigations involving an exception from informed consent under § 50.24 (21 CFR 50.24). Estimates for this requirement are included under § 312.23.
312.23	IND's (content and format).
312.23(a)(1)	Cover sheet FDA–1571.
312.23(a)(2)	Table of contents.
312.23(a)(3)	Investigational plan for each planned study.
312.23(a)(5)	Investigator's brochure.
312.23(a)(6)	Protocols—Phase 1, 2, and 3.
312.23(a)(7)	Chemistry, manufacturing, and control information.
312.23(a)(7)(iv)(*a*), (*b*), and (*c*)	A description of the drug substance, a list of all components, and any placebo used.
312.23(a)(7)(iv)(*d*)	Labeling—copies of labels and labeling to be provided each investigator.
312.23(a)(7)(iv)(*e*)	Environmental impact analysis regarding drug manufacturing and use.
312.23(a)(8)	Pharmacological and toxicology information.
312.23(a)(9)	Previous human experience with the investigational drug.
312.23(a)(10)	Additional information.
312.23(a)(11)	Relevant information.
312.23(f)	Identification of exception from informed consent.
312.30	Protocol amendments.
312.30(a)	New protocol.
312.30(b)	Change in protocol.
312.30(c)	New investigator.
312.30(d)	Content and format.
312.30(e)	Frequency.
312.31	Information amendments.
312.31(b)	Content and format.
	Chemistry, toxicology, or technical information.
312.32	Safety reports.
312.32(c)(1)	Written reports to FDA and to investigators.
312.32(c)(2)	Telephone reports to FDA for fatal or life-threatening experience.
312.32(c)(3)	Format or frequency.
312.32(d)	Followup submissions.
312.33	Annual reports.
312.33(a)	Individual study information.
312.33(b)	Summary information.
312.33(b)(1)	Adverse experiences.
312.33(b)(2)	Safety report summary.
312.33(b)(3)	List of fatalities and causes of death.
312.33(b)(4)	List of discontinuing subjects.

TABLE 1.—REPORTING REQUIREMENTS—Continued

21 CFR Section	Explanations
312.33(b)(5)	Drug action.
312.33(b)(6)	Preclinical studies and findings.
312.33(b)(7)	Significant changes.
312.33(c)	Next year general investigational plan.
312.33(d)	Brochure revision.
312.33(e)	Phase I protocol modifications.
312.33(f)	Foreign marketing developments.
312.35	Treatment use of investigational new drugs.
312.35(a)	Treatment protocol submitted by IND sponsor.
312.35(b)	Treatment IND submitted by licensed practitioner.
312.36	Requests for emergency use of an investigational new drugs.
312.38(b) and (c)	Notification of withdrawal of an IND.
312.44(c) and (d)	Opportunity for sponsor response to FDA when IND is terminated.
312.45(a) and (b)	Sponsor request for or response to inactive status determination of an IND.
312.47(b)	''End-of-Phase 2'' meetings and ''Pre-NDA'' meetings.
312.53(c)	Investigator information. Investigator report (Form FDA–1572) and narrative; Investigator's background information; Phase 1 outline of planned investigation; and Phase 2 outline of study protocol; financial disclosure information.
312.54(a) and (b)	Sponsor submissions concerning investigations involving an exception from informed consent under § 50.24.
312.55(b)	Sponsor reports to investigators on new observations, especially adverse reactions and safe use. Only ''new observations'' are estimated under this section; investigator brochures are included under § 312.23.
312.56(b), (c), and (d)	Sponsor monitoring of all clinical investigations, investigators, and drug safety; notification to FDA.
312.58(a)	Sponsor's submission of records to FDA on request.
312.64	Investigator reports to the sponsor.
312.64(a)	Progress reports.
312.64(b)	Safety reports.
312.64(c)	Final reports.
312.64(d)	Financial disclosure reports.
312.66	Investigator reports to Institutional Review Board. Estimates for this requirement are included under § 312.53.
312.70	Investigator disqualification; opportunity to respond to FDA. Estimates for this requirement are not included in the estimates for part 312.
312.83	Sponsor submission of treatment protocol. Estimates for this requirement are included under §§ 312.34 and 312.35.
312.85	Sponsors conducting phase 4 studies. Estimates for these post-marketing studies are not included in the estimates for part 312.
312.110(b)	Request to export an investigational drug.
312.120(b) and (c)(2)	Sponsor's submission to FDA for use of foreign clinical study to support an IND.
312.120(c)(3)	Sponsor's report to FDA on findings of independent review committee on foreign clinical study.
312.130(d)	Request for disclosable information for investigations involving an exception from informed consent under § 50.24.

TABLE 2.—RECORDKEEPING REQUIREMENTS

21 CFR Section	Explanations
312.52(a)	Transfer of obligations to a contract research organization.
312.57(a) and (b)	Sponsor recordkeeping.
312.59	Sponsor recordkeeping of disposition of unused supply of drugs. Estimates for this requirement are included under § 312.57.
312.62(a)	Investigator recordkeeping of disposition of drugs.
312.62(b)	Investigator recordkeeping of case histories of individuals.
312.160(a)	Records maintenance—shipment of drugs for investigational use in laboratory research animals or in vitro tests.
312.160(c)	Shipper records of alternative disposition of unused drugs.

In the **Federal Register** of May 6, 1999 (64 FR 24402), the agency requested comments on the proposed collections of information. No comments were received.

TABLE 3.—ESTIMATED ANNUAL REPORTING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	No. of Respondents	No. of Responses Per Respondent	Total Annual Responses	Hours per Response	Total Hours
312.7(d)	7	1	7	24	168
312.10(a)	0	0	0	0	0
312.23(a) and (f)	1,601	1.25	1,996	1,600	3,193,600
312.30(a) through (e)	918	14.85	13,629	284	3,870,636
312.31(b)	760	8.87	6,738	100	673,800
312.32(c) and (d)	459	14.33	6,576	32	210,432
312.33(a) through (f)	1,841	2.35	4,318	350	1,511,300
312.35(a) and (b)	1	1	1	300	300
312.36	643	1.2	720	16	11,520
312.38(b)	621	1.24	773	28	21,644
312.38(c)	621	1.24	773	160	123,680
312.44(c) and (d)	710	1.10	780	16	12,480
312.45(a) and (b)	294	1.32	389	12	4,668
312.47(b)	252	1	252	160	40,320
312.53(c)	4,500	1	4,500	80	360,000
312.54(a) and (b)	4	1	4	48	192
312.55(b)	4,500	1	4,500	48	216,000
312.56(b), (c), and (d)	5	1	5	80	400
312.58(a)	337	1	337	8	2,696
312.64(a) through (d)	8,200	1	8,200	24	196,800
312.110(b)	150	2	303	75	22,725
312.120(b) and (c)(2)	100	2	200	168	33,600
312(c)(3)	100	2	200	40	8,000
312.130(d)	4	1	4	8	32
Total Reporting Burden					10,514,993

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 4.—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR HUMAN DRUGS[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
312.52(a)	360	1	360	2	720
312.57(a) and (b)	4,000	2.05	8,200	100	400,000
312.62(a)	8,200	1	8,200	40	328,000
312.62(b)	8,200	12.2	100,000	40	328,000
312.160(a)	3,400	7.35	25,000	30 min	1,700
312.160(c)	3,400	2.35	8,000	30 min	1,700
Total Recordkeeping Burden					1,060,120
Human Drugs Total Burden Hours					11,575,113

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 5.—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS[1]

21 CFR Section	No. of Respondents	No. of Responses Per Response	Total Annual Responses	Hours per Response	Total Hours
312.7(d)	9	1.3	12	24	288
312.10(a)	1	1	1	40	40
312.23(a) and (f) and 312.120(b), (c)(2), and (c)(3)	278	1.8	492	1,600	787,200
312.30(a) and (e)	975	6.5	6,411	284	1,820,724
312.31(b)	975	9.2	9,005	100	900,500
312.32(c) and (d) and 312.56(c)	602	6.7	4,034	32	129,088
312.33(a) and (f) and 312.56(c)	1,253	1.6	1,989	350	696,150
312.35(a) and (b)	1	1	1	300	300
312.36	22	5.5	122	16	1,952
312.38(b)	128	1.7	212	28	5,936
312.38(c)	128	1.7	212	160	33,920
312.44(c) and (d)	55	1.9	107	16	1,712
312.45(a) and (b)	74	1.4	105	12	1,260
312.47(b)	150	1.8	274	160	43,840
312.53(c)	672	6.6	4,421	80	353,680
312.54(a) and (b)	4	1	4	48	192
312.55(b)	374	6.1	2,288	48	109,824
312.56(b) and (d)	12	1.6	20	80	1,600
312.58(a)	10	1	10	8	80
312.64(a) and (d)	5,014	1	5,014	24	120,336

TABLE 5.—ESTIMATED ANNUAL REPORTING BURDEN FOR BIOLOGICS[1]—Continued

21 CFR Section	No. of Respondents	No. of Responses Per Response	Total Annual Responses	Hours per Response	Total Hours
312.110(b)	10	1.3	13	75	975
312.130(d)	1	1	1	0.5	0.5
Total Reporting Burden					5,009,597.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 6.—ESTIMATED ANNUAL RECORDKEEPING BURDEN FOR BIOLOGICS[1]

21 CFR Section	No. of Recordkeepers	Annual Frequency per Recordkeeping	Total Annual Records	Hours per Recordkeeper	Total Hours
312.52(a)	27	2.5	67	5	135
312.57(a) and (b)	1,253	2	2,506	100	125,300
312.62(a)	5,014	1	5,014	40	200,560
312.62(b)	8,200	12.2	100,000	40	328,000
312.160(a)	3,400	7.35	25,000	30 min	1,700
312.160(c)	320	1	320	0.5	160
Total Biologics Recordkeeping Hours					655,855
Total Biologics Burden Hours					5,665,452.5
Total Human Drugs Burden Hours					11,575,113
Total Combined Burdens					17,240,565.5

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: August 6, 1999

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–20846 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Criteria for Safety and Efficacy Evaluation of Oxygen Therapeutics as Red Cell Substitutes; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

The Food and Drug Administration (FDA) is announcing a public workshop entitled ''Criteria for Safety and Efficacy Evaluation of Oxygen Therapeutics as Red Cell Substitutes.'' This public workshop is intended to examine the current status of the safety of red cell substitutes at both the basic and preclinical science levels and review the clinical experiences gained by manufacturers in the course of the development of these products. The public workshop also is intended to address problems of efficacy evaluation and risk/benefit assessments in trauma and surgery.

Date and Time: The public workshop will be held on September 27, 1999, 8 a.m. to 5 p.m., and on September 28, 1999, 8 a.m. to 12:30 p.m.

Location: The public workshop will be held at the National Institutes of Health, Natcher Conference Center, Bldg. 45, Balconies A, B, and C, 45 Center Dr., Bethesda, MD.

Contact: Joseph Wilczek, Center for Biologics Evaluation and Research (HFM–350), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852–1448, 301–827–6129, FAX 301–827–2843.

Registration and Requests for Oral Presentations: Early registration by Friday, September 10, 1999, is recommended. Mail or fax registration information (including name, title, firm name, address, telephone, and fax number) to Joseph Wilczek (address above). On-site registration, which will begin at 7 a.m., will be done on a space available basis on the day of the workshop. There is no registration fee for the workshop. Space is limited, therefore, interested parties are encouraged to register early. If you need special accommodations due to disability, please contact Joseph Wilczek at least 7 days in advance. Requests for oral presentations should be sent by September 13, 1999, to Abdulilah Alayash, Center for Biologics Evaluation and Research, Division of Hematology, Bldg. 29, rm. 112, 8800 Rockville Pike, Bethesda, MD 20892, 301–827–3813, FAX 301–435–4034, or e-mail ''Alayash@cber.fda.gov''.

Agenda: The public workshop is intended to discuss a variety of issues concerning the safety and efficacy of red blood cell substitutes. The goals of the public workshop are to: (1) Review current understanding of toxicity issues, (2) define clinical endpoints for clinical trials in hemorrhagic shock and elective surgery, (3) consider whether physiological endpoint(s) could be used as surrogates in lieu of mortality and/or morbidity, and (4) discuss the therapeutic ''risk vs. benefit'' in using hemoglobin and fluorochemical-based products in trauma and surgery.

Transcripts: Transcripts of the public workshop may be requested in writing from the Freedom of Information Office (HFI–35), Food and Drug Administration, 5600 Fishers Lane, rm. 12A– , Rockville, MD 20857, approximately 15 working days after the public workshop at cost of 10 cents per page. The public workshop transcript will also be available on the Center for Biologics Evaluation and Research website at ''http://www.fda.gov/cber/minutes/workshop-min.htm''.

Dated: August 6, 1999

William K. Hubbard,

Senior Associate Commissioner for Policy, Planning, and Legislation.

[FR Doc. 99–20845 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98D–0449]

''Draft Compliance Program Guidance Manual: Inspection of Medical Devices;'' Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a revised draft guidance document entitled ''Draft Compliance Program Guidance Manual: Inspection of Medical Devices.'' This revised draft compliance program provides guidance to FDA staff for the enforcement of four medical device postmarket regulations: The quality system (QS) regulation, which includes coverage of sterilization process validation and the use of the guidance on quality systems inspections technique (QSIT); medical device reporting (MDR); medical device corrections and removals; and medical device tracking requirements. This revised draft guidance is intended to represent the agency's current thinking on the inspection of medical device manufacturers, and it is neither final nor in effect at this time.

DATES: Written comments concerning this revised draft guidance must be submitted by November 10, 1999.

ADDRESSES: See the **SUPPLEMENTARY INFORMATION** section for information on electronic access to the revised draft guidance. Submit written requests for single copies on a 3.5″ diskette of the draft guidance entitled ''Draft Compliance Program Guidance Manual: Inspection of Medical Devices'' 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 one self-addressed adhesive label to assist that office in processing your request, or fax your request to 301–443–8818. Submit written comments concerning the revised draft guidance 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.

FOR FURTHER INFORMATION CONTACT: Allen T. Wynn, Center for Devices and Radiological Health (HFZ–306), Food and Drug Administration, 2094 Gaither Rd., Rockville, MD 20850, 301–594–4695.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a revised draft guidance entitled ''Draft Compliance Program Guidance Manual: Inspection of Medical Devices'' (CP 7382.845). A notice of availability of the draft guidance was published in the **Federal Register** of July 30, 1998 (63 FR 40720). The draft guidance provides guidance to the FDA field and center staff on the inspection and enforcement activities related to the QS/good manufacturing practices (GMP's) regulation (21 CFR part 820), the MDR regulation (21 CFR part 803), the medical device corrections and removals regulation (21 CFR part 806), and the medical device tracking requirements (21 CFR part 821).

The revised draft document contains the following three major differences from the previous draft guidance. First, the QSIT should be used to conduct QS/GMP inspections, including inspections for sterilization processes, to evaluate a firm's manufacturing and QS. Second, part V of the draft guidance document has been revised so that an official action is indicated based on evidence of QS or subsystem(s) deviations that constitute major nonconformities. Third, three inspection programs have been added to cover the requirements of the MDR, medical device corrections and removals, and the medical device tracking regulations.

Inspection of MDR, medical device corrections and removals, and medical device tracking requirements should be conducted during initial or comprehensive inspections. If a subsequent routine or followup inspection of a firm's corrective and preventive action subsystem suggests a potential QS problem, then these three related regulatory requirements should be assessed.

The agency has adopted GGP's, which set forth the agency's policies and procedures for the development, issuance, and use of guidance documents (62 FR 8961, February 27, 1997). This revised draft guidance document is issued as a level 1 guidance consistent with GGP's.

This guidance document represents the agency's current thinking on inspection of medical device manufacturers. 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 applicable statute, regulations, or both.

II. Electronic Access

In order to receive the ''Draft Compliance Program Guidance Manual: Inspection of Medical Devices'' (CP7382.845) via your fax machine, call the CDRH Facts-On-Demand (FOD) system at 800–899–0381 or 301–827–0111 from a touch-tone telephone. At the first voice prompt press 1 to access DSMA Facts, at the second voice prompt press 2, and then enter the document number (1702), followed by the pound sign (#). Then follow the remaining voice prompts to complete your request.

Persons interested in obtaining a copy of the revised draft guidance may also do so using the World Wide Web (WWW). CDRH maintains an entry on the WWW for easy access to information including text, graphics, and files that may be downloaded to a personal computer with access to the Web. Updated on a regular basis, the CDRH home page includes the ''Draft Compliance Program Guidance Manual: Inspection of Medical Devices'' (CP7382.845), device safety alerts, **Federal Register** reprints, information on premarket submissions (including lists of approved applications and manufacturers' addresses), small manufacturers' assistance, information on video conferencing and electronic submissions, mammography matters, and other device-oriented information. The CDRH home page may be accessed at '' http://www.fda.gov/cdrh''.

III. Comments

Interested persons may, on or before November 10, 1999, submit to Dockets Management Branch (address above) written comments regarding this revised draft guidance. Two copies of any comments are to be submitted, except individuals may submit one copy. Comments should be identified with the docket number found in brackets in the heading of this document. A copy of the revised draft 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: July 28, 1999.

Linda S. Kahan,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 99–20885 Filed 8-11-99; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 98N–0222]

Order Granting Summary Judgment and Permanent Injunction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is publishing in its entirety an order entitled ''Final Amended Order Granting Summary Judgment and Permanent Injunction.''

On July 28, 1999, United States District Judge Royce C. Lamberth entered an order and directed that it be published in the **Federal Register**. The agency is publishing this document to comply with that order.

FOR FURTHER INFORMATION CONTACT:

Regarding biological products and devices regulated by the Center for Biologics Evaluation and Research: Toni M. Stifano, Center for Biologics Evaluation and Research (HFM–602), Food and Drug Administration, 1401 Rockville Pike, Rockville, MD 20852, 301–827–3028;

Regarding human drug products: Laurie B. Burke, Center for Drug Evaluation and Research (HFD–40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–2828;

Regarding medical devices: Byron L. Tart, Center for Devices and Radiological Health (HFZ–302), Food and Drug Administration, 2098 Gaither Rd., Rockville, MD 20850, 301–594–4639.

Dated: August 9, 1999.

Margaret M. Dotzel,

Acting Associate Commissioner for Policy.

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

BILLING CODE 4160–01–F

The order reads as follows:

BILLING CODE 1160–01–F–

FILED

JUL 28 1999

NANCY MAYER WHITTINGTON, CLERK
U.S. DISTRICT COURT

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

WASHINGTON LEGAL FOUNDATION,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action 94-1306 (RCL)
	)	
JANE E. HENNEY, in her official capacity as Commissioner, Food and Drug Administration,	)	
	)	
and	)	
	)	
DONNA SHALALA, in her official capacity as Secretary, Department of Health and Human Services,	)	
	)	
Defendants.	)	

FINAL AMENDED ORDER GRANTING SUMMARY JUDGMENT AND PERMANENT INJUNCTION

This action is before the Court on the Cross-Motions for Summary Judgment filed by Plaintiff Washington Legal Foundation ("WLF") and defendants Jane E. Henney and Donna Shalala.

Having reviewed the memorandum and other materials submitted, having heard oral argument and otherwise being fully advised;

THE COURT FINDS that there are no genuine issues of material fact and that WLF is entitled to judgment as a matter of law; accordingly,

THE COURT GRANTS WLF's Motion for Summary Judgment;

THE COURT DENIES Defendants' Cross-Motion for Summary Judgment;

THE COURT FINDS AND DECLARES that the policies, rules and regulations of the United States Food and Drug Administration ("FDA") set forth in the Guidance to Industry on Dissemination of Reprints of Certain Published, Original Data, 61 Fed. Reg. 52800 (Oct. 8, 1996) (the "Reprint Guidance"), Guidance for Industry Funded Dissemination of Reference Texts,, 61 Fed. Reg. 52800 (Oct. 8, 1996) (the "Textbook Guidance"), and Final Guidance on Industry Supported Scientific and Educational Activities, 62 Fed. Reg. 64074 (Dec. 3, 1997) (the "Final CME Guidance"), are contrary to rights secured by the United States Constitution and therefore must be set aside pursuant to 5 U.S.C. § 706(2)(B) except insofar as they are consistent with the injunctive provisions below.

THE COURT FURTHER FINDS AND DECLARES that the policies, rules and regulations of the United States Food and Drug Administration ("FDA") set forth in the Food and Drug Administration Modernization Act, 21 U.S.C. §§ 360aaa through 360aaa-6, and in the FDA's Final Rule on the Dissemination of Information on Unapproved/New Uses for Marketed Drugs, Biologics, and Devices, 21 C.F.R. Part 99, are contrary to rights secured by the United States Constitution and therefore must be set aside pursuant to 5 U.S.C. § 706(2)(B) except insofar as they are consistent with the injunctive provisions below.

THE COURT HEREBY ENJOINS Defendants, their successors, and all persons acting in concert with them or otherwise purporting to act on behalf of the United States (collectively "Defendants") from application or enforcement of any regulation, guidance, policy, order or other official action , as follows:

1. Defendants SHALL NOT in any way prohibit, restrict, sanction or otherwise seek to limit any pharmaceutical or medical device manufacturer or any other person:

a) from disseminating or redistributing to physicians or other medical professionals any article concerning prescription drugs or medical devices previous published in a bona fide peer-reviewed professional journal, regardless of whether such article includes a significant or exclusive focus on unapproved uses for drugs or medical devices that are approved by FDA for other uses and regardless of whether such article reports the original study on which FDA approval of the drug or device in question was based;

b) from disseminating or redistributing to physicians or other medical professionals any reference textbook (including any medical textbook or compendium) or any portion thereof published by a bona fide independent publisher and otherwise generally available for sale in bookstores or other distribution channels where similar books are normally available, regardless of whether such reference textbook or portion thereof includes a significant or exclusive focus on unapproved uses for drugs or medical devices that are approved by FDA for other uses;

c) from suggesting content or speakers to an independent program provider in connection with a continuing medical education seminar program or other symposium regardless of whether unapproved uses for drugs or medical devices that are approved by FDA for other uses are to be discussed.

2. For purposes of this injunction, a "bona fide peer-reviewed journal" is a journal that uses experts to objectively review and select, reject, or provide comments about proposed articles. Such experts should have demonstrated expertise in the subject of the article under review, and be independent from the journal.

3. For purposes of this injunction, a "bona fide independent publisher" is a

publisher that has no common ownership or other corporate affiliation with a pharmaceutical or medical device manufacturer and whose principal business if the publication and distribution of books through normal distribution channels.

4. For purposes of this injunction, an "independent program provider" is an entity that has no common ownership or other corporate affiliation with a pharmaceutical or medical device manufacturer, that engages in the business of creating and producing continuing medical education seminars, programs or other symposia and that is accredited by a national accrediting organization pertinent to the topic of the seminars, programs or symposia.

5. Nothing herein shall be construed to limit Defendants' application or enforcement of any rules, regulations, guidances, statutes or other provisions of law that sanction the dissemination or redistribution of any material that is false or misleading. In addition, Defendants may require any pharmaceutical or medical device manufacturer that sponsors or provides financial support for the dissemination or redistribution of articles or reference textbooks or for seminars that include references to unapproved uses for drugs or medical devices that are approved by FDA for other uses to disclose (i) its interest in such drugs or devices, and (ii) the fact that the use discussed has not been approved by FDA.

6. Defendants shall cause this injunction to be published in the Federal Register within 15 days of the date hereof.

IT IS SO ORDERED on this 28th day of July, 1999.

Royce C. Lamberth

THE HONORABLE ROYCE C. LAMBERTH
United States District Judge

[FR Doc. 99–20993 Filed 8–11–99; 8:45 am]
BILLING CODE 4160–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–1537]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Extension of a currently approved collection; *Title of Information Collection:* Medicare/Medicaid Hospital Survey Report Form and Supporting Regulations in 42 CFR 482.2 through 482.57; *Form No.:* HCFA–1537 (OMB# 0938–0382); *Use:* Section 1861(e) of the Social Security Act (the Act) provides that hospitals participating in Medicare under the Act must meet specific requirements. These requirements are presented as Condition of Participation. State agencies must determine compliance with these conditions through the use of this report form.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 1,123; *Total Annual Responses:* 1,123; *Total Annual Hours:* 3,650.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: August 5, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–20914 Filed 8–11–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–0283]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Health Care Financing Administration, HHS.

ACTION: Comment request.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection; *Title of Information Collection:* Market Survey of Fraud, Waste and Abuse Detection Software; *Form No.:* HCFA–R–0283 (OMB# 0938–new); *Use:* This information collection tool is essential to providing the Health Care Financing Administration (HCFA) a vehicle to ascertain cutting edge fraud, waste, and abuse detection products. HCFA and its contractors presently use a number of these tools, as do other segments of government, the health care industry, and industry generally. New products taking advantage of new technologies are in continuous development. This completely voluntary survey will ensure that HCFA is vigilant in identifying new advances to help fight the scourge of Medicare fraud and abuse.; *Frequency:* Annually; *Affected Public:* Business or other for profit, and Not for profit institutions; *Number of Respondents:* 400; *Total Annual Responses:* 450; *Total Annual Hours:* 1,350.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 60 days of this notice directly to the HCFA Paperwork Clearance Officer designated at the following address: HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards, Attention: Louis Blank, Room N2–14–26, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: July 29, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–20915 Filed 8–11–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0282, HCFA–0301, and HCFA–0319]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the

Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. Type of Information Collection Request

Extension of a currently approved collection; *Title of Information Collection:* Blood Bank Inspection Checklist and Report and Supporting Regulations in 42 CFR 493.1269–493.1285; *Form No.:* HCFA–0282 (OMB# 0938–0170); *Use:* The Clinical Laboratory Improvement Amendments (CLIA) of 1988 requires the Department of Health and Human Services (HHS) to establish certification requirements for any laboratory that performs tests on human specimens, and to certify through the issuance of a certificate that those laboratories meet the requirements established by HHS. The law provides for inspections on an announced or unannounced basis during regular hours of operation. All records and information having a bearing on whether the laboratory is being operated in accordance with the law can be requested by the surveyor. The HCFA–0282 is the Blood Bank Inspection Checklist and Report which is outlined in the CLIA of 1988.; *Frequency:* Biennially; *Affected Public:* Not-for-profit institutions, Business or other for-profit, Federal Government, and State, Local, and Tribal Government; *Number of Respondents:* 1,250; *Total Annual Responses:* 1,250; *Total Annual Hours:* 625.

2. Type of Information Collection Request

Extension of a currently approved collection; *Title of Information Collection:* Certification of Medicaid Eligibility Quality Control (MEQC) Payment Error Rates and Supporting Regulations in 42 CFR 431.800 through 431.865; *Form No.:* HCFA–0301 (OMB# 0938–0246); *Use:* MEQC is operated by the State title XIX agency to monitor and improve the administration of its Medicaid system. The MEQC system is based on State reviews of Medicaid beneficiaries from the eligibility files. The reviews are used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases.; *Frequency:* Semi-annually; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 51; *Total Annual Responses:* 102; Total Annual Hours: 22,515.

3. Type of Information Collection Request

Extension of a currently approved collection; *Title of Information Collection:* State Medicaid Eligibility Quality Control (MEQC) Sample Section Lists and Supporting Regulations in 42 CFR 431.800–431.865; *Form No.:* HCFA–0319 (OMB# 0938–0147); *Use:* At the beginning of each month, State agencies are required to submit sample selection lists which identify all of the cases selected for review in the States' samples. These reviews are conducted to determine whether the sampled cases meet applicable State Title XIX eligibility requirements. The sample selection lists contain identifying information on Medicaid beneficiaries such as: State agency review number; beneficiary's name and address; the name of the county where beneficiary resides; and the Medicaid case number. The reviews are also used to assess beneficiary liability, if any, and to determine the amounts paid to provide Medicaid services for these cases.; *Frequency:* Monthly; *Affected Public:* State, Local or Tribal Government; *Number of Respondents:* 55; *Total Annual Responses:* 660; *Total Annual Hours:* 5,280.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 29, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–20809 Filed 8–11–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–0029/0030 and HCFA–R–0107]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HSS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Request for Certification as Rural Health Clinic and Rural Health Clinic Survey Repot From and Supporting Regulations in 42 CFR 491.1–491.11; *Form No.:* HCFA–0029/0030 (OMB# 0938–0074); *Use:* The Form HCFA–0029 is utilized as an application to be completed by suppliers of RHC services requesting participation in the Medicare/Medicaid programs. This form initiates the process of obtaining a decision as to whether the conditions for certification are met as a supplier of RHC services. It also promotes data reduction or introduction to and retrieval from the Online Survey and Certification and Reporting System (OSCAR) by the HCFA Regional Offices (RO). The Form HCFA–0030 is an

instrument used by the State survey agency to record data collected in order to determine RHC compliance with individual conditions of participation and to report it to the Federal government. The form is primarily a coding worksheet designed to facilitate data reduction (keypunching) and retrieval into OSCAR at the HCFA ROs. The form includes basic information on compliance (i.e., met, not met and explanatory statements) and does not require any descriptive information regarding the survey activity itself.; *Frequency:* Annually; *Affected Public:* State, Local, or Tribal Government; *Number of Respondents:* 470; *Total Annual Responses:* 470; *Total Annual Hours:* 822.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Determining Third Party Liability (TPL) State Plan Preprint and Supporting Regulations in 42 CFR 433.138; *Form No.*: HCFA–R–0107 (OMB# 0938–0502); *Use:* In the past, many third party resources were not diligently pursued by State governments. In an effort to improve program efficiencies and reduce Medicaid expenditures HCFA implemented TPL procedures. The collection of TPL information results in significant program savings to the extent that liable third parties can be identified and payments can be made for services that would otherwise be paid for by the Medicaid program.; *Frequency:* On occasion; *Affected Public:* Individuals or Households, Federal Government, and State, Local, or Tribal Government; *Number of Respondents:* 1,900,000; *Total Annual Responses:* 1,900,000; *Total Annual Hours:* 329,965.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access HCFA's Web Site address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: July 29, 1999.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 99–20811 Filed 8–11–99; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1999.

Name: Advisory Commission on Childhood Vaccines (ACCV)

Date and Time: September 8, 1999; 9:00 a.m.–5:00 p.m.; September 9, 1999; 9:00 a.m.–12:30 noon.

Place: Parklawn Building, Conference Rooms G & H, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

The full Commission will meet on Wednesday, September 8, from 9:00 a.m. to 5:00 p.m. and on Thursday, September 9, from 9 a.m. to 12:30 p.m. Agenda items will include, but not be limited to: A discussion of intussusception and its potential relationship to the rotavirus vaccine, a presentation on thimerosal, updates from the Department of Justice and the National Vaccine Program Office, and routine program reports.

Public comment will be permitted before lunch and at the end of the Commission meeting on September 8, 1999 and before adjournment on September 9, 1999. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation to: Ms. Shelia Tibbs, Committee Management Assistant, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–6593. Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Division of Vaccine Injury Compensation will notify each presenter by mail or telephone of their assigned presentation time.

Persons who do not file an advance request for a presentation, but desire to make an oral statement, may sign-up in Conference Rooms G and H on September 8–9, 1999. These persons will be allocated time as time permits.

Anyone requiring information regarding the Commission should contact Ms. Tibbs, Division of Vaccine Injury Compensation, Bureau of Health Professions, Health Resources and Services Administration, Room 8A–46, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6593.

Agenda items are subject to change as priorities dictate.

Dated: August 5, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination, OMPS.

[FR Doc. 99–20791 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration Advisory Committee; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of September 1999:

Name: Council on Graduate Medical Education.

Date and Time: September 8, 1999, 8:30 a.m.–5:30 p.m.; September 9, 1999, 8:30 a.m.–12:00 p.m.

Place: The Latham Hotel, 3000 M Street, N.W., Georgetown-Presidential Ballroom, Washington, D.C. 20007, (202) 726–5000.

This meeting is open to the public.

Agenda: The agenda will include: Welcome and opening comments from the Administrator, Health Resources and Services Administration, the Associate Administrator for Health Professions and the Acting Executive Secretary of COGME; a panel on What Changes are Expected in Medicare GME; and a panel on Where Do We Go from Here in GME. There will be presentations on BHPR Physician workforce Modeling Activities and California Physician Workforce Activities. The Council will hear the reports of its work groups on Ambulatory Programs and Financing, and Physician Workforce. There will be a presentation on the National Advisory Council on Nurse Education and Practice—Strategic Plan and Activities, and comments from the Senate Committee on Health, Education, Labor, and Pensions.

Anyone requiring information regarding the subject should contact Stanford M. Bastacky, D.M.D., M.H.S.A., Executive Secretary, telephone (301) 443–6326, Council on Graduate Medical Education, Division of Medicine, Bureau of Health Professions, Room 9A–27, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

Agenda items are subject to change as priorities dictate.

Dated: August 6, 1999.

Jane M. Harrison,

Director, Division of Policy Review and Coordination, OMPS.

[FR Doc. 99–20792 Filed 8–11–99; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed 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 the following 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 applicants 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 Cancer Institute Special Emphasis Panel; Primary Care Resident Rotation in Cancer Prevention.

Date: August 16, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6130 Executive Boulevard, EPN, Room 635, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Michael B. Small, PhD., Scientific Review Administrator, National Cancer Institute, Division of Extramural Activities, 6130 Executive Blvd., Room 643, Bethesda, MD 20892, 301/496–7929.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower, 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20830 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–10–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed 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 the following 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 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 Cancer Institute Special Emphasis Panel. Detailed Drug Evaluation & Development of Treatment Strategies for Chemotherapeutic agents.

Date: August 25, 1999.

Time: 1:00 PM to 5:00 PM.

Agenda: To review and evaluate contract proposals.

Place: 6130 Executive Blvd., Room 635, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: C.M. Kerwin, PhD., Scientific Review Administrator, Special Review, Referral and Resources Branch, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6130 Executive Boulevard/EPN–630, Rockville, MD 20892–7405, 301/496–7421.

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. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394; Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397; Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: August 5, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20835 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of 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 meetings of the National Advisory Research Resources Council.

The meetings 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 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 grant applications and/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Research Resources Council Executive Subcommittee.

Date: September 9, 1999.

Open: 8 a.m. to 8:45 a.m.

Agenda: To discuss policy issues.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 3B31, Building 31, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, PhD, Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

Name of Committee: National Advisory Research Resources Council.

Date: September 9, 1999.

Open: 9 a.m. to 2 p.m.

Agenda: Report of Center Director and other issues related to Council business.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.

Closed: 2 p.m. to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Conference Room 10, Building 31C, Bethesda, MD 20892.

Contact Person: Louise E. Ramm, PhD, Deputy Director, National Center for Research Resources, National Institutes of Health, Building 31, Room 3B11, Bethesda, MD 20892, 301–496–6023.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333; 93.371, Biomedical Technology; 93.389, Research Infrastructure, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20828 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed 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 the following 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 person 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 Eye Institute Special Emphasis Panel.

Date: August 23, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd. Suite 350, Rockville, MD 20892.

Contact Person: Andrew P. Mariani, PhD., Chief, Scientific Review Branch, 6120 Executive Blvd, Suite 350, Rockville, MD 20892, 301/496–5561.

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. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20823 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed 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 the following 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 Eye Institute Special Emphasis Panel.

Date: August 25, 1999.

Time: 2:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: 6120 Executive Blvd. Suite 350, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Andrew P. Mariani, Phd., Chief, Scientific Review Branch, 6120 Executive Blvd., Suite 350, Rockville, MD 20892, 301/496–5561.

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. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20832 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases

The National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK)—in close collaboration with the members of its National Advisory Council, Board of Scientific Counselors, and other external scientific and lay experts—is embarking on the development of a Strategic Plan that will be reflective of the Institute's unique mission, science and culture. As part of the NIH response to recommendations of the Institute of Medicine (IOM) study on NIH priority-setting and public input, the NIDDK is required to send a draft copy of its Strategic Plan to the NIH Director by December 31, 1999. the NIDDK needs and welcomes public input into this process.

The NIDDK wants to develop a process that considers the views of groups and individuals who are concerned about the Institute's research programs aimed at expanding knowledge about and reducing the burden of the diseases within the NIDDK mission. The development of the NIDDK Strategic Plan will be a continuous, iterative process, during which draft documents will be shared with the scientific and lay community to solicit comments and input at steps along the way. The NIDDK's new Strategic Plan will build upon many existing planning processes that are already in place within the Institute, as well as upon the plans of constituent organizations.

The NIDDK expects to develop its Strategic Plan using *cross-cutting scientific themes* that unite and underpin the disease-oriented programs of the Institute. These cross-cutting themes include genetics, cell biology, mechanisms of disease injury, prevention and treatment of disease, and research infrastructure. Expert Working Groups will provide advice to the Institute on these themes. In the NIDDK Strategic Planning document, disease-oriented research will be used, *by way of example,* to highlight these unifying scientific themes. While the Plan *will not contain budget estimates,* it should include *scientific implementation strategies* for capitalizing on cross-cutting research opportunities and needs. This conceptual framework for developing the NIDDK Strategic Plan was presented to and generally endorsed by the statutory NIDDK National Advisory Council on June 1, 1999.

As one means of gaining public input, the Institute will hold an ''Open Meeting for Public Comment on the NIDDK Strategic Planning Process'' on Monday, October 18, 1999, from 9 a.m. to 4 p.m., with a one-hour break for attendees to purchase lunch. This meeting will be held in Conference Room 10 in Building 31, ''C'' Wing, at the National Institutes of Health in Bethesda, Maryland. The purpose of this meeting is to enable individuals representing voluntary health and professional organizations, as well as private citizens, to provide oral comment on the process and on an

expanded outline of a working draft document. Members of the NIDDK National Advisory Council and Senior Staff will be in attendance. Prior to the public comment, brief presentations will be made by NIDDK Senior Staff on the different sections of the working draft document.

In an effort to achieve representation across the many diseases within the mission of the NIDDK, oral presentations at the October 18 meeting will be strictly limited to three minutes in length. In order to have a written public record of all comments, transcription services will be available for those who cannot provide a typed copy of their comments. If you do not wish to or are unable to make an oral presentation, the NIDDK encourages the submission of written statements of unspecified length.

Requests for time to give oral presentations should be made in writing by *September 15, 1999* to: Ms. Mary Beth Kester, Program Analyst, Office of Scientific Program and Policy Analysis, NIDDK, NIH, 31 Center Drive MSC 2560, Building 31, Room 9A07, Bethesda, MD 20892–2560. Please include in your request any special accommodations that you may require. Written statements may be submitted to the above address until *October 25, 1999.* The NIDDK will assemble a compendium of all comments received and this compendium will be available for public access at the NIDDK Office of Scientific Program and Policy Analysis.

Please visit the NIDDK World Wide Web site (http:///www.niddk.nih.gov), where electronic comments can be made about some of the features, goals and objectives that the Institute would like to incorporate in its Strategic Plan, and the preliminary conceptual framework for developing the document. We are asking that electronic comments be submitted by *October 8, 1999,* so that they can be considered in the development of the Strategic Plan. If you do not have access to a computer, the NIDDK will provide you with a copy of the material that is on the World Wide Web site. You may request this material from: Ms. Mary Beth Kester at the address noted previously.

The NIDDK looks forward to working with the research community and the public to develop its Strategic Plan.

Dated: August 2, 1999.

Ms. Carol Feld,

Associate Director for Scientific, Program and Policy Analysis, NIDDK, NIH.

[FR Doc. 99–20822 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed 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 the following 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 Institute on Aging Special Emphasis Panel Global Burden of Disease 2000 in Aging Population.

Date: August 31–September 1, 1999.

Time: 7:00 PM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Gaithersburg, 2 Montgomery Village Avenue, Gaithersburg, MD 20879.

Contact Person: Paul Lenz, PhD., Office of Extramural Affairs, National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–20825 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of 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 meetings of the National Diabetes and Digestive and Kidney Diseases Advisory Council.

The meetings 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 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 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 Diabetes and Digestive and Kidney Diseases Advisory Council.

Date: Septemer 9–10, 1999.

Open: September 9, 1999, 8:30 AM to 12:00 PM.

Agenda: Grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 10, 1999, 9:45 AM to 10:15 AM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Open: September 10, 1999, 10:15 AM to 12:00 PM.

Agenda: Grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Walter S. Stolz, Ph.D., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Diabetes, Endocrine and Metabolic Diseases Subcommittee.

Date: September 9–10, 1999.

Open: September 9, 1999, 1:30 PM to 2:30 PM.

Agenda: Grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 9, 1999, 2:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 10, 1999, 8:00 AM to 9:30 AM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn-Chevy Chase, Palladian East and Center Rooms, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Walter S. Stolz, PhD., Director for Extramural Activities, National

Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Digestive Diseases and Nutrition Subcommittee.

Date: September 9–10, 1999.

Open: September 9, 1999, 1:30 PM to 2:30 PM.

Agenda: Grant applications.

Place: Holiday Inn—Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 9, 1999, 2:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 10, 1999, 8:00 AM to 9:30 AM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Terrace Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Walter S. Stolz, Phd., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

Name of Committee: National Diabetes and Digestive and Kidney Diseases Advisory Council Kidney, Urologic and Hematologic Diseases Subcommittee.

Date: September 9–10, 1999.

Open: September 9, 1999, 1:30 PM to 2:30 PM.

Agenda: Grant applications.

Place: Holiday Inn—Chevy Chase, Palladian West Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 9, 1999, 2:30 PM to 5:30 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Palladian West Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Closed: September 10, 1999, 8:00 AM to 9:30 AM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn—Chevy Chase, Palladian West Room, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Walter S. Stolz, Phd., Director for Extramural Activities, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, PHS, DHHS, Bethesda, MD 20892.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology, and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 99–20826 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed 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 the following 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 discussion 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 Institute of Mental Health Special Emphasis Panel.

Date: August 26, 1999.

Time: 2:00 PM to 3:00 PM.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Jack D. Maser, PhD, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6150, MSC 9608, Bethesda, MD 20892–9608, 301–443–1340.

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. 93.242, Mental Health Research Grants; 93.281, Scientist Development Award, Scientists Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institute of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Director, OFACP, NIH.

[FR Doc. 99–20827 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences Council.

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 General Medical Sciences Council.

Date: September 23–24, 1999.

Closed: September 23, 1999, 8:30 a.m. to 11 a.m.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Open: September 23, 1999, 11 a.m. to 5 p.m.

Agenda: For the discussion of program policies and issues, opening remarks, report of the Director, NIGMS, and other business of Council.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Closed: September 24, 1999, 8:30 a.m. to adjournment.

Agenda: To review and evaluate grant applications.

Place: Natcher Building, 45 Center Drive, Conference Rooms E1/E2, Bethesda, MD 20892.

Contact Person: W. Sue Shafer, PhD, Deputy Director, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 2AN–32C, Bethesda, MD 20892, (301) 594–4499.

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry

Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–20829 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; 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 for Nursing Research.

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 for Nursing Research.

Date: September 14, 1999.

Open: 9:00 AM to 1:00 PM.

Agenda: For discussion of program policies and issues.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Closed: 2:00 PM to Adjournment.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31C, Conference Room 6, Bethesda, MD 20892.

Contact Person: Mary Leveck, PhD, Associate Director for Scientific Programs, NINR, NIH, Building 31, Room 5B05, Bethesda, MD 20892, (301) 594–5693.

(Catalogue of Federal Domestic Assistance Program Nos. 93.361, Nursing Research, National Institutes of Health, HHS)

Dated: August 5, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20833 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed 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 the following 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 Institute of General Medical Sciences Special Emphasis Panel Genetics.

Date: August 17, 1999.

Time: 8:00 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: Standford Terrace Inn, 531 Stanford Avenue, Palo Alto, CA 94306.

Contact Person: Carole H. Latker, PhD., Scientific Review Administrator, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 1AS–13, Bethesda, MD 20892, (301) 594–3663.

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. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: August 5, 1999.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy, NIH.

[FR Doc. 99–20834 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of Imaging and Biological Markers for Diagnosis and Progression of Alzheimer's Disease

Notice is hereby given of the Meeting Imaging and Biological Markers for Diagnosis and Progression of Alzheimer's Disease, September 27 and 28, 1999, to be held at the Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, Maryland 20814. This meeting will be open to the public from 8:00 a.m. to 5:00 p.m. both days.

The meeting will focus on the potential usefulness of various neuroimaging modalities (e.g. MRI, MRS, fMRI, PET, SPECT) and biological markers (e.g. beta—amyloid, tau, inflammatory, oxidative) in the initial diagnosis of Alzheimer's disease and in assessing disease progression and response to treatments. This particular workshop will not address genetic markers.

Ms. Paula Nesmith, MultiConsultant Associates, Inc., 8484 Georgia Avenue, Suite 320, Silver Spring, MD 20910, Phone: 301–650–7430, Fax: 301–587–4138, will provide a list of speakers and their topics, and the Registration (no fee) Form, upon request.

A block of rooms has been reserved at the Bethesda Marriott at a Group Rate of $145 per person per night for the first 100 industry attendees to make reservations. Twelve percent (12%) State and Local taxes will be added to this rate. Please contact Ms. Paula Nesmith, MultiConsultant Associates, Inc., 8484 Georgia Avenue, Suite 320, Silver Spring, MD 20910, Phone: 301–650–7430, Fax: 301–587–4138, who will provide a list of speakers and their topics, the Registration (no fee) Form, and the Hotel Application Form upon request. Reservations must be received on or before Wednesday, August 25, 1999, to secure the group Rate. All room and hotel expenses are that of the attendee. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Mrs. Rosztoczy at 301–496–9350, in advance of the meeting.

Dated: August 4, 1999.

Ruth L. Kirschstein,

Deputy Director, NIH.

[FR Doc. 99–20937 Filed 8–10–99; 10:36 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; 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 grant applications and the discussions could disclose confidential trade secrets or commercial property such a 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: Center for Scientific Review Special Emphasis Panel ZRG1–ET1–05.

Date: August 9, 1999.

Time: 10:00 AM to 12:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Philip Perkins, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4148, MSC 7804, Bethesda, MD 20892 (301) 435–1718.

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: Center for Scientific Review Special Emphasis Panel.

Date: August 9, 1999.

Time: 10:00 AM to 11:00 AM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anita Miller Sostek, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3176, MSC 7848; Bethesda, MD 20892, (301) 435–0910.

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: Center for Scientific Review Special Emphasis Panel.

Date: August 18, 1999.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, The Chevy Chase Pavilion, 4300 Military Road NW, Wisconsin at Western Avenue, Washington, DC 20015.

Contact Person: Michael J. Kozak, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, (301) 435–0913.

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: Center for Scientific Review Special Emphasis Panel ZRG1 VISB (03).

Date: August 18, 1999.

Time: 2:00 PM to 4:30 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Leonard Jakubczack, PhD., Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5172, MSC 7844, Bethesda, MD 20892, (301) 435–1247.

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: Center for Scientific Review Special Emphasis Panel.

Date: August 18, 1999.

Time: 2:00 PM to 4:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Marcelina B. Powers, DVM, MS, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4152, MSC 7804, Bethesda, MD 20892, (301) 435–1720.

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: Center for Scientific Review Special Emphasis Panel.

Date: August 19, 1999.

Time: 11:00 AM to 1:00 PM.

Agenda: To review and evaluate grant applications.

Place: NIH, Rockledge 2, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ronald Dubois, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, room 4156, MSC 7806, Bethesda, MD 20892, (301) 435–1722, duboisr@drg.nih.gov.

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. 93.306, Comparative Medicine, 93.306; 93.333, Clinical Research, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: August 6, 1999.

Anna Snouffer,

Acting Committee Management Officer, NIH.

[FR Doc. 99–20824 Filed 8–11–99; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4446–N–04]

Notice of Proposed Information Collection: Comment Request; Welfare to Work: A Comprehensive Guide of Welfare to Work Resources and Services

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date October 12, 1999.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Sheila E. Jones, Reports Liaison Officer, Department of Housing & Urban Development, 451 Seventh Street, SW, Room 7230, Washington, DC 20410–7000.

FOR FURTHER INFORMATION CONTACT: Maxine Wallace, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410, telephone (202) 708–2186 ext. 4385. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Ms. Wallace.

SUPPLEMENTARY INFORMATION: The Department is submitting the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the

burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Welfare to Work: A Comprehensive Guide of Welfare to Work Resources and Services.

OMB Control Number, if applicable: 2506–0168.

Description of the need for the information and proposed use: Information collection is required to provide employers in eight (8) cities (New York, Baltimore, Kansas City, St. Louis, Dallas, Seattle, Denver and San Antonio) with helpful information on securing and training welfare recipients as workers.

Agency form numbers, if applicable: n/a.

Members of affected public: Service Providers including Not-for-Profits and State, Local and Tribal Governments will be the primary affected members of the public. Businesses and other for-profit agencies will be affected members as well.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: The estimated number of respondents is 1,200. The proposed frequency of the response to the collection of information is one-time. It is believed that it will take approximately one (1) hour to complete the questionnaire with 1,200 respondents for a total of 1,200 hours.

Status of the proposed information collection:

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

August 3, 1999.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

[FR Doc. 99–20800 Filed 8–11–99; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4511–N–02]

Request for Proposals; Contract Administrators for Project-Based Section 8 Housing Assistance Payments (HAP) Contracts; Amendments

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice of request for proposals; amendment.

SUMMARY: On May 3, 1999, HUD issued a Request for Proposals (RFP) pertaining to Contract Administrators for Project-Based Section 8 Housing Assistance Payments (HAP) Contract. The RFP was published in the **Federal Register** on May 19, 1999, to ensure a wider dissemination. Through the RFP, HUD is seeking sources interested in providing contract administration services for project-based Housing Assistance Payment Contracts under Section 8. The RFP solicitation is not a formal procurement within the meaning of the Federal Acquisition Regulations (FAR) but follows many of those principles.

HUD amended the RFP on August 2, 1999. This notice publishes the amendments already issued, again, for the purpose of wider dissemination.

Offerors must submit technical and cost proposals prior to the RFP deadline. Proposals in response to the RFP are due to the HUD Denver Multifamily Hub at 5:00 pm MDT Wednesday, August 25, 1999. The amendments provide the exact submission location. The amendments to the RFP follow:

Dated August 9, 1999.

William C. Apgar,

Assistant Secretary for Housing, Federal Housing Commissioner.

1. Introduction

a. The second paragraph of the Introduction section is amended to replace the number ''9'' in the last sentence with the number ''8,'' and to add a new sentence to the end of second paragraph.

Paragraph 2 Amended

When HUD renews the expired project-based HAP Contracts that PHAs currently administer, HUD generally expects to transfer contract administration of the renewed HAP Contracts to the Contract Administrator (CA) it selects through this RFP for the service area where the property is located. This RFP does not apply to contract administration of Section 8 projects assisted under the Section 8 moderate rehabilitation program (including the Section 8 moderate rehabilitation single room occupancy program) or the Section 8 project-based certificate program, or to contract administration of Section 8 projects to be assisted under the Section 8 project-based voucher program. In addition, the following projects will not be transferred to contract administrators: HUD-owned projects; projects in foreclosure pipelines; projects classified as MIP (mortgagee-in-possession); projects referred to the Enforcement Center; projects where the owner has advised that they intend to ''opt-out.''

b. The fourth paragraph is amended to add the words ''and the District of Columbia'' at the end of the second sentence, and in the last sentence to remove all language following the word ''other'' and to insert in its place the phrase ''public or private, profit or non-profit entities.''

Paragraph 4 Amended

Proposals in response to this RFP may cover an area no smaller than an individual State (or U.S. Territory). Proposals may cover one or more HUD Multifamily Hubs or one or more States (or U.S. Territory), and the District of Columbia. Geographic Service Area Jurisdiction (Attachment II) describes the jurisdictions of the Multifamily Hubs. HUD encourages proposals through joint ventures and other public or private, profit or non-profit entities.

3. Statement of Work

Additional references are added to the ''references'' sections of each of Section 3.3, Rental Adjustments, and Section 3.4, Opt-Out and Contract Termination as follows:

3.3 Rental Adjustments

References Amended

References:
HUD Handbook 4350.1
Notice: H–98–34
Notice: H–98–3
Notice: H–98–27
Notice: H–99–08
Notice: H–99–13
Notice: H–99–15
Internal Housing Memoranda dated 2/9/99 and 5/7/99

3.4 Opt-Out and Contract Termination

References Amended

References:
Notice: H–98–34
Notice: H–99–08
Notice: H–99–13
Internal Housing Memoranda dated 2/9/99 and 5/7/99

3.7 Section 8 Budgets, Requisitions, Revisions and Year-end Statements

The last sentence in the first paragraph is revised to state that year-end settlements are to be submitted within 45 days of the end of the CA's fiscal year.

Paragraph 1 Amended

To receive monthly ACC payments, Section 8 budgets and requisitions (and revisions as required) must be submitted for each HAP contract at least 90 days before the beginning of the fiscal year. Also to receive monthly ACC payments, Year-end settlement statements must be prepared and submitted within 45 days of the end of the CA's fiscal year.

3.8 Contract Administrator's Audit

a. The fourth ''bullet'' paragraph under the subheading ''Requirements'' is amended to replace ''FMC'' with ''HUD''.

Subparagraph 4 Under ''Requirements'' Amended

Requirements:

* * * * *

• Provide HUD with annual financial audit of the CA's activities the earlier of 30 days after receipt of the auditors report or 9 months after the CA's fiscal year end (FYE) (in accordance with OMB Circular A–133). This audit must be performed by an independent public accountant (IPA).

3.10 Renewals of Expiring Section 8 Contracts

Additional references are added to the ''reference'' section of section 3.10 as follows:

Reference Amended

Reference:

Notice: H–98–34
Notice: H–99–08
Notice: H–99–13
Internal Housing Memoranda dated 2/9/99 and 5/7/99

3.12 Physical Inspection

Additional references are added to the ''reference'' section of Section 3.12 as follows:

Reference Amended

Reference:

HUD Handbook 4350.1
Federal Register, September 1, 1998
Housing Assistance Payments (HAP) Contract

5.1 Service Area Designation

The first paragraph of this section is amended by adding at the end of the second sentence and the end of the third sentence the words ''and the District of Columbia''.

Paragraph 1 Amended

Proposals in response to this solicitation must clearly designate the intended service area. Offerors must bid to provide contract administration services for areas no smaller than an individual State (or U.S. Territory) and the District of Columbia. HUD will accept proposals covering the entire nation, multiple Multifamily Hubs, individual Multifamily Hubs, or any combination of states, but no smaller than an individual State (or U.S. Territory) and the District of Columbia. All multi-state proposals must provide a separate cost proposal for each state within the proposed service area (see Attachment II.B). HUD will evaluate proposals for areas larger than an individual State on a state by state basis.

5.2 Proposal Organization

a. The first numbered subparagraph, following the first paragraph, is amended by replacing ''20'' with the number ''30''.

Subparagraph #1 Amended

1. Understanding and Technical Approach—30 pages.

b. A new paragraph is added to this section to read as follows:

New Paragraph Added

The proposal shall include an additional page placed before the appendix. This page does not count toward the page limitation. This page shall state whether or not any member of the Offeror Bidding Team has or is currently serving as a Contract Administrator. If the answer is yes, identify the team member or members.

5.3 Proposal Due Date

The first paragraph is amended to provide for a new deadline date and location for submission. The second and third paragraphs of this section are not changed.

Paragraph 1 Amended

Offerors must submit proposals no later than 5:00 PM MDT, Wednesday, August 25, 1999. Offerors must submit proposals to: U.S. Department of Housing and Urban Development, Attention: Denver Multifamily Hub, 633 17th Street, 11th Floor, Denver, CO 80202–3607.

7.1 Understanding and Technical Approach—50 Points

The second paragraph of this section is revised to change the number ''60'' to ''120.''

Paragraph 2 Amended

The proposal must provide a proposed plan for the transfer of responsibility for contract administration from HUD to the CA that includes, but need not be limited to, how the offeror will be prepared to begin operations within 120 calendar days after award of the ACC.

7.1.1 Data Systems

The first paragraph is amended by adding a new sentence at the end.

Paragraph 1 Amended

Offerors must demonstrate their ability to comply with all processing and reporting requirements applicable to CA functions contained in this RFP, including requirements for contract administrators outlined in Section 108 of 24 CFR, Part 208—Electronic Transmission of Required Data for Certification and Recertification and Subsidy Billing Procedures for Multifamily Subsidized Projects (a/k/a the Automation Rule). CAs are expected to have Internet Service Provider access for communication with HUD. (At this time, HUD plans for most data entry and data transfer with CAs to occur over the Internet). CAs must ensure that all systems are virus free.

[FR Doc. 99–20933 Filed 8–11–99; 8:45 am]
BILLING CODE 4210–27–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Prt—835640

Applicant: Cat Dancers Ranch, Alachua, FL

The applicant requests a permit to re-export and re-import leopard (*Panthera pardus*), and progeny of the animals currently held by the applicant, and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

PRT–015807

Applicant: D. Barry Lederach, Telford, PA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

PRT–015933

Applicant: Clark S. Ullom, Marietta, GA

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species

PRT–815482, 835802, 012984

Applicant: Randy Miller, Big Bear City, CA

The applicant requests a permit to re-export and re-import tigers (*Panthera tigris*), African leopard (*Panther pardus*), and progeny of the animals currently held by the applicant and any animals acquired in the United States by the applicant to/from worldwide locations to enhance the survival of the species through conservation education. This notification covers activities conducted by the applicant over a three-year period.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The following applicants have applied for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 et seq.), and the regulations governing marine mammals (50 CFR 18).

PRT–015398

Applicant: Ron Watson, Hamilton, OH

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

PRT–014012

Applicant: Joe T. Lock, Laneville, TX

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Canada for personal use.

Applicant: David Rain, Cedarville, NJ

PRT–015154

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the M'Clintock Channel polar bear population, Canada for personal use.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act*, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: August 9, 1999.

Kristen Nelson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 99–20853 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–0777–30–24–1A; HAG 99–0279]

Emergency Closure of Public Lands: Josephine County, OR

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Josephine County, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Josephine County, Oregon, are hereby temporarily closed to all public use, including vehicle operation and sightseeing from August 3, 1999 until this notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(l) and 8364.1(a).

The public lands affected by this emergency closure are specifically identified as follows:

Section 27, Section 29, Section 31, Section 33, Section 34, Section 35; T. 37 S., R. 7 W., Willamette Meridian. Section 2, Section 3, Section 5, Section 7 and Section 11, and Section 15; T. 38 S., R. 7 W., Willamette Meridian.

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state, local and federal law enforcement and fire protection personnel; and the holders of Bureau of Land Management (BLM) permits and/or contracts. Access by additional parties may be allowed, but must be approved by the Authorized Officer or their representative.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public land is temporarily closed to unauthorized public use under this order and will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm and protect valuable public property from unauthorized abuse.

This closure is effective from August 3, 1999 until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Ron Wenker, District Manager, Medford District Office, at (541) 770–2200.

Dated: August 3, 1999.

Ron Wenker,

District Manager.

[FR Doc. 99–20810 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–0777–30–24–1A; HAG 99–0280]

Emergency Closure of Public Lands: Jackson and Josephine Counties, Oregon

AGENCY: Bureau of Land Management, Interior.

ACTION: Emergency closure of public lands and access roads in Jackson and Josephine Counties, Oregon.

SUMMARY: Notice is hereby given that certain public lands in Jackson and Josephine Counties, Oregon, are hereby temporarily closed to all public use, including vehicle operation and sightseeing from August 5, 1999 until this notice is rescinded. The closure is made under the authority of 43 CFR 9268.3(d)(1)(1) and 8364.1(a).

The public lands affected by this emergency closure are specifically identified as follows:

Sections 20, 29, 30, 31: T. 38 S., R. 4 W., Willamette Meridian, Jackson County
Sections 6, 7: T. 39 S., R. 4 W., Willamette Meridian, Jackson County
Sections 1, 12, 13: T. 39 S., R. 5 W., Willamette Meridian, Josephine County

The following persons, operating within the scope of their official duties, are exempt from the provisions of this closure order: Bureau employees; state,

local and federal law enforcement and fire protection personnel; and the holders of Bureau of Land Management (BLM) permits and/or contracts. Access by additional parties may be allowed, but must be approved by the Authorized Officer or their representative.

Any person who fails to comply with the provisions of this closure order may be subject to the penalties provided in 43 CFR 8360.0–7, which include a fine not to exceed 12 months, as well as the penalties provided under Oregon State law.

The public land is temporarily closed to unauthorized public use under this order and will be posted with signs at points of public access.

The purpose of this emergency temporary closure is to protect persons from potential harm and protect valuable public property from unauthorized abuse.

This closure is effective from August 5, 1999 until this notice is rescinded.

FOR FURTHER INFORMATION CONTACT: Ron Wenker, District Manager, Medford District Office at (541) 770–2200.

Dated: August 5, 1999.

Aaron Horton,

Acting District Manager.

[FR Doc. 99–20913 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–3809]

Notice of Availability; Environmental Impact Statement; South Pipeline Project; Proposed Expansion of Existing Gold Mining/Processing Operations; Lander County, Nevada

AGENCY: Bureau of Land Management, Interior.

COOPERATING AGENCIES: Nevada Division of Wildlife, U.S. Army Corps of Engineers.

ACTION: Notice of availability of the Draft Environmental Impact Statement for the South Pipeline Project, Lander County, Nevada.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969 and 40 Code of Federal Regulations 1500–1508 Council on Environmental Quality Regulations, notice is hereby given of the availability for comment of the Draft Environmental Impact Statement, prepared by the Battle Mountain BLM, which analyzes the environmental effects of the South Pipeline Project, the No Action Alternative, and the Pipeline Backfill Alternative.

DATES: Written comments must be post-marked or otherwise delivered by 4:30 p.m. on October 5, 1999. Comments may also be presented at public meetings to be held:

August 30, 1999 (7–9 pm) BLM office, Battle Mountain, NV

August 31, 1999 (7–9 pm) Crescent Valley, NV Community Center

A limited number of copies of the Draft EIS may be obtained at the Battle Mountain BLM Field Office.

ADDRESSES: Written comments should be addressed to the Bureau of Land Management, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, Nevada 89820. Comments, including names and street addresses of respondents, will be available for public review at the above address during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except holidays, and may be published in the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirely.

FOR FURTHER INFORMATION CONTACT: Gary Foulkes, Battle Mountain BLM at (775) 635–4060.

SUPPLEMENTARY INFORMATION: Cortez Gold Mines, Inc. (CGM) proposes to extend gold mining operations at the Pipeline Mine within the Gold Acres Mining District in Lander County, approximately 30 miles southeast of Battle Mountain, Nevada. The South Pipeline Project (Proposed Action) would include an expansion of the existing open pit and waste rock disposal sites, and the development of heap leach and ancillary facilities. The Proposed Action would require surface disturbance of 4,450 acres, all of which is public land administered by the Bureau of Land Management. Mining operations are expected to occur seven-days-a-week, 24-hours-a-day, for an additional 10 years (total life of 18 years).

Gerald M. Smith,

Field Manager, Battle Mountain Field Office.

[FR Doc. 99–20812 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–99–1020–24–1 A]

Sierra Front/Northwest Great Basin Resource Advisory Council-Subgroup Meeting, Notice of Meeting Location and Time, Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Resource Advisory Council Subgroup meeting locations and times.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), the Department of the Interior, Bureau of Land Management (BLM) Council Subgroup meeting will be held as indicated below. The topic for discussion will be the draft Black Rock Management Plan.

All meetings are open to the public. The public may present written comments to the council. Time will be allocated for public comments. The public comment period for the council meeting is listed below. Individuals who plan to attend and need further information about the meeting or need special assistance such as sign language interpretation or other reasonable accommodations, should contact Robert Stewart at the Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701, telephone (775) 885–6000.

DATE & TIME: The council will meet on Friday, August 27, 1999 from 8:00 a.m. to 12:00 noon, at the Bureau of Land Management Winnemucca Field Office, 5100 East Winnemucca Boulevard, Winnemucca, NV, in the main conference room. If due to unforeseeable problems this site is not available, the meeting will be rescheduled. Public comment will be received during the course of the meeting, as determined by the subgroup leader.

FOR FURTHER INFORMATION CONTACT: Terry Reed, Field Office Manager, Winnemucca Field Office, telephone (775) 623–1500.

Dated: August 6, 1999

Terry A. Reed,

Field Office Manager.

[FR Doc. 99–20919 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–HC–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–4214–010; COC–61627]

Notice of Meeting on Proposed Withdrawal; Mt. Emmons Iron Bog/Fen; Colorado

August 3, 1999.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and agenda for a forthcoming meeting on the Forest Service withdrawal application for the Mt. Emmons Iron Bog/Fen for protection of natural resource and scientific research values near Crested Butte, Colorado. This meeting will provide the opportunity for public involvement in this proposed action as required by regulation. All comments will be considered when a final determination is made on whether this land should be withdrawn.

DATES: Meeting will be held on September 15, 1999, at 7:00 p.m. All comments or requests to be heard should be received by close of business on September 3, 1999, at the Colorado State Office.

ADDRESSES: The meeting will be held at the Gunnison County Commissioners' Office, 200 East Virginia (Second Floor), Gunnison, Colorado 81230.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, (303) 239–3706.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal for the Mt. Emmons Bog/Fen which was published in the **Federal Register** on November 16, 1998, (63 FR 63745), is hereby modified to schedule a public meeting as provided by 43 U.S.C. 1714, and 43 CFR 2310.

This meeting will be open to all interested persons; those who desire to be heard in person and those who desire to submit written comments on this subject. All comments and requests to be heard should be submitted to the Colorado State Director, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215–7093, by September 3, 1999.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 99–20917 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of a currently approved information collection (OMB Control Number 1010–0057).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to extend the currently approved collection of information discussed below. The Paperwork Reduction Act of 1995 (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 Office of Management and Budget (OMB) control number.

DATES: Submit written comments by October 12, 1999.

ADDRESSES: Mail or hand carry 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 C, Pollution Prevention and Control (1010–0057).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS. This must be done in a manner that is 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 the 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. The OCS Lands Act Amendments of 1978 also gave the Secretary the responsibility to minimize or eliminate conflicts among the exploration, development, and production of oil and natural gas and the recovery of other resources such as fish and shellfish. The OCS Lands Act at 43 U.S.C. 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, 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.'' The OCS Lands Act at 43 U.S.C. 1334(a)(8) also requires the Secretary to administer the provisions of this subchapter relating to the leasing of the OCS, and prescribe such rules and regulations as may be necessary ''for compliance with the national ambient air quality standards pursuant to the Clean Air Act (42 U.S.C. 7401 *et seq.*), to the extent that activities authorized under this Act significantly affect the air quality of any State.'' The OCS Lands Act Amendments at 43 U.S.C. 1843(b) direct the Secretary to ''establish regulations requiring all materials, equipment, tools, containers, and all other items used on the Outer Continental Shelf to be properly color coded, stamped, or labeled, wherever practicable, with the owner's identification prior to actual use.''

Regulations at 30 CFR 250, subpart C, ''Pollution, Prevention and Control'' implement these statutory requirements. We use the information collected and records maintained under subpart C to ensure:

- There is no threat of serious, irreparable, or immediate damage to the marine environment and to identify potential hazards to commercial fishing caused by OCS oil and gas exploration, development, and production activities;
- The location of items lost overboard is recorded to aid in recovery by the operator during site clearance activities on the lease;
- Operations are conducted according to all applicable regulations, permit conditions and requirements, and conducted in a safe and workmanlike manner;
- OCS oil and gas operations minimize air pollution of the OCS and adjacent onshore areas and comply with the emission levels specified in the MMS Development and Production Plan approval conditions;
- A data baseline is established for the meteorological, oceanographic, and sea-ice conditions in frontier areas of the OCS to determine that offshore facilities and operational practices can withstand the expected environmental forces in an area;

• Emissions from OCS activities are not significantly affecting the air quality of any State adjacent to the OCS facilities/operations;

• Discharge or disposal of drill cuttings, sand, and other well solids, including those containing naturally occurring radioactive materials, are properly handled for the protection of OCS workers and the environment; and

• Facilities are inspected daily for the prevention of pollution and problems observed have been corrected.

We will protect proprietary information submitted according to the Freedom of Information Act; 30 CFR 250.118, ''Data and information to be made available to the public'; and 30 CFR Part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected. Responses are mandatory.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS sulphur or oil and gas lessees.

Frequency: The frequency of reporting is on occasion or monthly.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual hour burden for this collection is 149,510 hours, which averages 1,150 hours per respondent.

This burden includes a data collection effort for respondents to monitor emissions air quality and submit monthly reports for a 1-year study of selected in sites in the Breton National Wildlife Refuge/Wilderness Area (BWA) under §§ 250.303(k) and 250.304(g). OMB previously approved the information collection burden for this, however, the project has been on hold. We have now scheduled the effort to begin on January 1, 2000, as announced in the Gulf of Mexico OCS Region's Notice to Lessees and Operators (NTL) No. 99–G14.

In addition, we will be requesting an increase in the annual burden for a 1-year data collection effort to monitor ozone and regional haze air quality of facilities in the Gulf of Mexico west of 87° 30′ West longitude also beginning January 1, 2000. As announced in NTL No. 99–G15, monitoring will be monthly, with an annual report due the following March in 2001. We estimate 285 additional annual burden hours per respondent for this data collection effort.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: OMB previously approved the burden on lessees and operators of each lease within 100 kilometers of the BWA to collect and report meteorological data under §§ 250.303(l) and 250.304(h), although this collection effort has also been on hold. NTL No. 99-G03 announced the start of this project on January 1, 2000. The Offshore Operators Committee (OOC) has agreed to undertake this project. The OOC estimates this one-time data collection effort will cost approximately $750,000.00, which will be expensed to the affected OCS lessees.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. All comments will become a matter of public record. As a result of your comments and our consultations with a representative sample of respondents, we will make any necessary adjustments to the burden in our submission to OMB. In calculating the burden, we assumed that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

(1) We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: August 6, 1999.

John V. Mirabella,

Acting Chief, Engineering and Operations Division.

[FR Doc. 99–20798 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of extension of a currently approved information collection (OMB Control Number 1010–0059).

SUMMARY: As part of its continuing effort to reduce paperwork and respondent burden, MMS invites the public and other Federal agencies to comment on a proposal to extend the currently approved collection of information discussed below. The Paperwork Reduction Act of 1995 (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 Office of Management and Budget (OMB) control number.

DATES: Submit written comments by October 12, 1999.

ADDRESSES: Mail or hand carry 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 H, Oil and Gas Production Safety Systems (1010–0059).

Abstract: The Outer Continental Shelf (OCS) Lands Act, 43 U.S.C. 1331 *et seq.*, gives the Secretary of the Interior (Secretary) the responsibility to preserve, protect, and develop oil and gas resources in the OCS. This must be done in a manner that is 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 the 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. The OCS Lands Act at 43 U.S.C. 1332(6) states that ''operations in the [O]uter Continental Shelf should be conducted in a safe manner by well-trained personnel using technology, precautions, and techniques sufficient to prevent or minimize the likelihood of blowouts, loss of well control, fires, spillages, 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.''

Regulations at 30 CFR 250, subpart H, ''Oil and Gas Production Safety Systems'' implement these statutory requirements. We use the information collected under subpart H to evaluate equipment and/or procedures that lessees propose to use during production operations. Information is also used to verify the no-flow condition of wells to continue the waiver of requirements to install valves capable of preventing backflow. The MMS inspectors review the records maintained to verify compliance with testing and minimum safety requirements.

In addition, in the Pacific OCS Region, MMS reviews copies of the Emergency Action Plans that lessees and operators submit to their local air quality agencies to ensure that abatement procedures do not jeopardize safe platform operations.

We will protect proprietary information submitted according to the Freedom of Information Act; 30 CFR 250.118, ''Data and information to be made available to the public''; and 30 CFR Part 252, ''OCS Oil and Gas Information Program.'' No items of a sensitive nature are collected. Responses are mandatory.

Estimated Number and Description of Respondents: Approximately 130 Federal OCS sulphur or oil and gas lessees.

Frequency: The frequency of reporting is on occasion or annual.

Estimated Annual Reporting and Recordkeeping ''Hour'' Burden: The currently approved annual hour burden for this collection is 2,900 hours, which averages 22.5 hours per respondent.

Estimated Annual Reporting and Recordkeeping ''Non-Hour Cost'' Burden: None identified.

Comments: We will summarize written responses to this notice and address them in our submission for OMB approval. All comments will become a matter of public record. As a result of your comments and our consultations with a representative sample of respondents, we will make any necessary adjustments to the burden in our submission to OMB. In calculating the burden, we assumed that respondents perform many of the requirements and maintain records in the normal course of their activities. We consider these to be usual and customary and took that into account in estimating the burden.

(1) We specifically solicit your comments on the following questions:

(a) Is the proposed collection of information necessary for us to properly perform our functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on respondents, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

(2) In addition, the PRA requires agencies to estimate the total annual reporting and recordkeeping ''non-hour cost'' burden to respondents or recordkeepers resulting from the collection of information. We need to know if you have costs associated with the collection of this information for either total capital and startup cost components or annual operation, maintenance, and purchase of service components. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: (i) Before October 1, 1995; (ii) to comply with requirements not associated with the information collection; (iii) for reasons other than to provide information or keep records for the Government; or (iv) as part of customary and usual business or private practices.

MMS Information Collection Clearance Officer: Jo Ann Lauterbach, (202) 208–7744.

Dated: August 4, 1999.

E.P. Danenberger,

Chief, Engineering and Operations Division.

[FR Doc. 99–20799 Filed 8–11–99; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with the policy of the Department of Justice, 28 U.S.C. 50.7, notice is hereby given that a proposed consent decree in *United States et al.*, v. *County of Muskegon, Michigan, et al.*, Civ. No. 1–97–CV–486, was lodged with the United States District Court for the Western District of Michigan, on July 30, 1999. The action was brought by the United States against the County of Muskegon, Michigan (''Muskegon'') under Section 309(b) and (d) of the Clean Water Act (''the Act''), 33 U.S.C. 1319(b) and (d), for injunctive relief and assessment of civil penalties. The Complaint alleged violations by Muskegon of Section 301 of the Act, 33 U.S.C. 1311, and the terms and conditions of its National Pollutant Discharge Elimination System (''NPDES'') Permits issued pursuant to Section 402 of the Act, 33 U.S.C. 1342, and for violations of two administrative orders issued to Muskegon by the U.S. Environmental Protection Agency pursuant to Section 309(a) of the Act, 33 U.S.C. 1319(a), in connection with two Publicly Owned Treatment Works owned and operated by Muskegon.

Under the proposed consent decree, Muskegon will pay $160,000 in civil penalties for past violations. In addition, Muskegon will implement certain remedial actions to effect compliance with its NPDES permit requirements including: (1) measures to comply with the effluent discharge limits for fecal coliform and total suspended solids from its Metro POTW; and (2) measures

to implement its Michigan-approved industrial pretreatment program.

The Department of Justice will receive comments relating to the proposed consent decree for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States et al.,* v. *County of Muskegon, Michigan, et al.* D.J. Ref. 90–5–1–1–4382.

The proposed consent decree may be examined at : (1) the Office of the United States Attorney for the Western District of Michigan, The Law Building, 330 Ionia Avenue, NW, 5th Floor, Grand Rapids, Michigan 49503, (616–456–2404); (2) The United States Environmental Protection Agency (Region 5), 77 West Jackson Boulevard, Chicago, Illinois 60604–3590 (contact Robert Thompson (312–353–6700)); and, (3) the U.S. Department of Justice, Environment and Natural Resources Division Consent Decree Library, 120 G Street, NW, 3rd Floor, Washington, DC 20005 (202–624–0892). A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW, 3rd Floor, Washington, DC 20005. When requesting a copy, please refer to *United States et al.,* v. *County of Muskegon, Michigan, et al.* D.J. Ref. 90–5–1–1–4382, and enclose a check in the amount of $8.25 for the consent decree only (33 pages at 25 cents per page reproduction costs), or $24.50 for the consent decree and all appendices (98 pages), made payable to the Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20807 Filed 8–11–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Stipulation Pursuant to The Clean Air Act

In accordance with the policy of the Department of Justice, 28 CFR 50.7, notice is hereby given that a proposed Stipulation, Settlement Agreement, and Order in *United States* v. *Strategic Materials, Inc.,* Civ. No. 99–C–0853, was lodged with the United States District Court for the Eastern District of Wisconsin, on July 28th, 1999. That action was brought against defendant pursuant to Sections 110 and 113 of the Clean Air Act (''the Act''), 42 U.S.C. 7410, 7413, for violations at its glass recycling facility, located in Milwaukee, Wisconsin. Specifically, the complaint alleges that SMI has violated the Act and the requirements or prohibitions of the State Implementation Plan for the State of Wisconsin, promulgated pursuant to Section 110 of the Act, 42 U.S.C. 7410. The violations relate to particulate emissions, volatile organic compounds, operating without a permit, and violation of the opacity and record keeping requirements of the permit. The settlement stipulation provides for payment of $276,176, and also requires defendant to erect and maintain fencing to provide a barrier for windblown material associated with defendant's glass recycling operations.

The Department of justice will receive comments relating to the proposed settlement stipulation for a period of 30 days from the date of this publication. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530. All comments should refer to *United States* v. *Strategic Materials, Inc.,* D.J. Ref. 90–5–2–1–2205.

The proposed settlement stipulation may be examined at the office of the United States Attorney for the Eastern District of Wisconsin, 517 East Wisconsin Ave., Milwaukee, Wisconsin 53202; at the Region V office of the Environmental Protection Agency, 77 West Jackson Blvd., Chicago, Illinois 60604; and at the Consent Decree Library, 1120 G Street, NW, 3rd floor, Washington, DC 20005, 202–624–0892. A copy of the proposed settlement stipulation may be obtained in person or by mail from the Consent Decree Library. In requesting a copy, please enclose a check in the amount of $3.0 for the stipulation (25 cents per page reproduction costs) payable to the Consent Decree Library. When requesting a copy, please refer to *United States* v. *Strategic Materials, Inc.,* D.J. Ref. 90–5–2–1–2205.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 99–20808 Filed 8–11–99; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Cargill, Incorporated and Continental Grain Company; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16(b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Cargill, Inc. and Continental Grain Company,* Civil Action No. 99–1875. The Complaint in this case alleged that the proposed acquisition of Continental Grain Company's (Continental) worldwide commodity marketing business by Cargill, Inc. (Cargill) would substantially lessen competition for grain purchasing services to farmers and other suppliers in many areas in the United States, and would increase the concentration of authorized delivery capacity for settlement of Chicago Board of Trade corn and soybean futures contracts, in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint further alleged that the Covenant Not To Compete in the Purchase Agreement between the two companies is an unreasonable agreement in restraint of trade in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

The proposed Final Judgment requires Cargill to divest all of its property rights in its port elevator in Seattle, Washington and its river elevators in East Dubuque and Morris, Illinois. The proposed Final Judgment further requires Continental to divest all of its property rights in its river elevators at Lockport, Illinois and Caruthersville, Missouri, its rail elevators at Salina, Kansas and Troy, Ohio; and its port elevators at Beaumont, Texas, Stockton, California, and Chicago, Illinois. Cargill is also required to enter into a ''throughput agreement'' to make one-third of the loading capacity at its Havana, Illinois river elevator available to an independent grain company. Cargill is prohibited from acquiring any interest in the facilities being divested by Continental, or in the river elevator at Birds Point, Missouri in which Continental previously held a minority interest. The proposed Final Judgment also makes Cargill subject to various restrictions if it seeks to enter into an throughput agreement with the acquirer of the Seattle port facility.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, which will be published in the Federal Register and filed with the Court. Comments, should be directed to: Roger Fones; Chief, Transportation, Energy, and Agriculture Section, Antitrust Division; U.S. Department of Justice, 325 Seventh Street, NW; Room 500; Washington, DC 20530 (telephone: (202) 307–6351).

Constance K. Robinson,

Director of Operations.

Stipulation and Order

It is hereby *stipulated* by and between the undersigned parties, by their respective attorneys, as follows:

1. The Court has jurisdiction over the subject matter of this action and over each of the parties hereto, and venue of this action is proper in the United States District Court for the District of Columbia.

2. The parties stipulate that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act (15 U.S.C. § 16), and without further notice to any party or other proceedings, provided that the plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendants and by filing that notice with the Court.

3. Defendants shall abide by and comply with the provisions of the proposed Final Judgment pending entry of the Final Judgment by the Court, or until expiration of the time for all appeals of any Court ruling declining entry of the proposed Final Judgment, and shall, from the date of the signing of this Stipulation by the parties, comply with all the terms and provisions of the proposed Final Judgment as though the same were in full force and effect as an order of the Court.

4. This Stipulation shall apply with equal force and effect to any amended proposed Final Judgment agreed upon in writing by the parties and submitted to the Court.

5. Defendants shall prepare and deliver reports in the form required by the provisions of Section VI.B of the proposed Final Judgment commencing no later than twenty (20) calendar days after the filing of this Stipulation, and every thirty (30) calendar days thereafter pending entry of the Final Judgment.

6. In the event that the plaintiff withdraws its consent, as provided in paragraph 2 above, or if the proposed Final Judgment is not entered pursuant to this Stipulation, or the time has expired for all appeals of any Court ruling declining entry of the proposed Final Judgment, and the Court has not otherwise ordered continuing compliance with the terms and provisions of the proposed Final Judgment, this Stipulation shall be of no effect whatsoever, and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

7. Defendants represent that the divestitures ordered in the proposed Final Judgment can and will be made, and that defendants will raise no claim of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained therein.

Respectfully submitted,

For Plaintiff United States of America

Robert L. McGeorge,

Attorney, U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W., Suite 500, Washington, D.C. 20530, Telephone: (202) 307–6361, Facsimile (202) 307–2784.

For Defendant Cargill, Incorporated

Marc G. Schildkraut

Howrey & Simon, 1299 Pennsylvania Avenue, N.W., Washington, DC 20004, Telephone: (202) 383–7448, Facsimile: (202) 383–6610.

For Defendant Continental Grain Company

Paul T. Denis,

Swidler, Berlin Shereff Friedman, LLP, 3000 K Street, N.W.; Suite 300, Washington, DC 20007–5116, Telephone: (202) 424–7810, Facsimile: (202) 424–7645.

Jack Quinn,

Arnold & Porter, 555 Twelfth Street, N.W., Washington, DC 20004, Telephone: (202) 942–5000, Facsimile: (202) 942–5999.

Dated: July 8, 1999.

Order

It is *so ordered*, this _____ day of _____, 1999.

_____

United States District Court Judge

Final Judgment

Whereas plaintiff, the United States of America (hereinafter ''United States''), having filed its Complaint herein, and defendants Cargill, Incorporated (''Cargill'') and Continental Grain Company (''Continental''), by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by any party with respect to any issue of law of fact herein;

And whereas, the defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture of certain assets to third parties is the essence of this agreement;

And whereas, the United States requires defendants to maker certain divestitures for the purpose of remedying the loss of competition alleged in the Complaint;

And whereas, defendants have represented to the United States that the divestitures required below can and will be made as provided in this Final Judgment and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the divestiture provisions contained below;

Now, Therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby *ordered, adjudged, and decreed* as follows:

I. Jurisdiction

This Court has jurisdiction over the subject matter of this action and over each of the parties hereto. The Complaint states a claim upon which relief may be granted against the defendants under Section 7 of the Clayton Act, as amended (15 U.S.C. § 18).

II. Definitions

As used in this Final Judgment:

A. ''Acquirer'' means the person or persons to whom defendants shall transfer the Assets (as defined in subsection B).

B. ''Assets'' means all property rights held by Cargill or Continental in the river, rail and port elevators defined in subsections C, F, H, J, L, M, Q, R, T and V.

C. ''Beaumont port elevator'' means the port elevator operated by Continental at or near Beaumont, Texas, and all Related Assets.

D. ''Capacity'' when used in connection with a grain elevator may be based on the maximum number of bushels that can be stored in the facility at any one time (storage capacity), or the maximum number of bushels that can be moved through the facility over the course of a designated unit of time (throughput capacity). When one grain company obtains the right to a certain percentage of the capacity of the storage or loading capacity at another grain company's elevator pursuant to a throughput agreement or other

commercial arrangement, it obtains the right to the stipulated portion of total storage or throughput capacity at the facility, and not necessarily the exclusive right to use a specific area in that facility.

E. ''Cargill'' means defendant Cargill, Incorporated, and includes its successors and assigns, their subsidiaries, divisions, groups, partnerships and joint ventures, affiliates, directors, officers, managers, agents and employees.

F. ''Caruthersville river elevator'' means the river elevator operated by Continental at or near Caruthersville, Missouri, and all Related Assets.

G. ''Continental'' means defendant Continental Grain Company and includes its successors and assigns, their subsidiaries, divisions, groups, partnerships and joint ventures, affiliates, directors, officers, managers, agents and employees.

H. ''Chicago port elevator'' means the river elevator operated by Continental (also known as ''Chicago B'') at or near Chicago, Illinois, and all Related Assets.

I. ''Divest'' means to sell or transfer a defendant's rights in property that it owns, or to assign or sublease a defendant's rights in property that it leases or rents.

J. ''East Dubuque river elevator'' means the river elevator operated by Cargill at or near East Dubuque, Illinois, and all Related Assets.

K. ''Grain'' means corn, wheat and other grains, and soybeans and other oilseeds, in their unprocessed, commodity form.

L. ''Lockport river elevator'' means the river elevator operated by Continental at or near Lockport, Illinois, and all Related Assets.

M. ''Morris river elevator'' means the river elevator operated by Cargill at or near Morris, Illinois, and all Related Assets.

N. ''Person'' means any natural person, corporation, association, firm or other business or legal entity.

O. ''Property rights'' means all legal rights possessed by defendants relating primarily to the use, control or operation of a specific river, rail or port elevator, including but not limited to: fee simple ownership rights, easements and all other real property rights for land, improvements and fixtures owned by that defendant; leasehold and rental rights for facilities that are leased or rented to that defendant, including all renewal or option rights; personal property ownership rights for equipment and other personal property owned by that defendant and used in the operation of those facilities; stockholder interests; and contract rights.

P. ''Related Assets'' means all real, personal and contract rights associated primarily with the operation of a particular river, rail or port elevator, including but not limited to: all bins, silos and other grain storage facilities; all improvements and equipment used for handling, receiving, unloading, weighing, sampling, grading, elevating, storing, drying, conditioning and loading grain; all of the real property on which the facility is located; all inventory, accounts receivable, pertinent correspondence, files, customer lists and information and advertising materials relating to the facility; and all assignable contract rights specific to a facility with suppliers, customers and transportation firms for that specific facility.

Q. ''Salina rail elevator'' means the elevator with outbound rail capability (also known as ''Salina East'') operated by Continental at or near Salina, Kansas, and all Related Assets.

R. ''Seattle port elevator'' means the port elevator operated by Cargill at or near Seattle, Washington (commonly referred to as ''Pier 86''), and all Related Assets.

S. ''Standard Throughput Agreement'' means an agreement that allows one grain company to move its grain through an elevator operated by another person, with unloading, storage, loading and ancillary services provided by the operator pursuant to terms, conditions and rates that are common in the grain industry.

T. ''Stockton port elevator'' means the port elevator operated by Continental at or near Stockton, California, and all Related Assets.

U. ''Tacoma port elevator'' means the port elevator operated by Continental at or near Tacoma, Washington.

V. ''Troy rail elevator'' means the elevator with outbound rail capability operated by Continental at or near Troy, Ohio, and all Related Assets.

III. Applicability

A. The provisions of this Final Judgment apply to the defendants, their successors and assigns, their subsidiaries, affiliates, directors, officers, managers, agents, and employees, and all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

B. The pertinent defendant shall require, as a condition of the divestiture of the Assets, that the Acquirer agree to be bound by the provisions of this Final Judgment.

IV. Divestiture of Assets

A. Cargill is hereby ordered and directed, within five (5) months from the date this Final Judgment is filed with the Court, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest all of its property rights in the East Dubuque river elevator and Morris river elevator to an Acquirer acceptable to the United States in its sole discretion. It is hereby ordered and directed, within six (6) months from the date this Final Judgment is filed with the Court, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest all of its property rights in the Seattle port elevator to an Acquirer acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to an extension of the time period, and shall notify the Court in such circumstances.

B. Notwithstanding Section IV.A, the Acquirer of the Seattle port elevator may enter into a Standard Throughput Agreement with Cargill, or any joint venture involving the Tacoma elevator to which Cargill is a party (the ''Cargill Joint Venture''), provided that: (1) the Acquirer has no interest in Cargill or the Cargill Joint Venture; (2) the throughput agreement gives Cargill or the Cargill Joint Venture no more rights concerning the operations of the facility than are commonly granted to sublessees in Standard Throughput Agreements; (3) and Cargill or the Cargill Joint Venture obtains continuing rights to move no more than 8.5 million bushels of grain and oilseeds combined in any given month through the Seattle port elevator.

C. Notwithstanding Section IV.A and IV.B, Cargill need not divest the Seattle port elevator if it does not buy, lease or otherwise acquire an interest in Continental's port elevator at or near Tacoma, Washington.

D. Continental is hereby ordered and directed, within five (5) months from the date this Final Judgment is filed with the Court, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later, to divest all of its property rights in the Lockport river elevator, Caruthersville river elevator, Salina rail elevator, Troy rail elevator, Beaumont port elevator, Stockton port elevator and Chicago port elevator to an Acquirer acceptable to the United States in its sole discretion. The United States, in its sole discretion, may agree to an extension of the time period, and shall notify the Court in such circumstances.

E. Unless the United States consents in writing, the divestiture pursuant to

Section IV or by trustee appointed pursuant to Section V of this Final Judgment, shall include the entire Assets defined above (as qualified by Section IV.B and IV.C). Divestiture shall be accomplished in such a way as to satisfy the United States, in its sole discretion, that the Assets can and will be operated by the Acquirer as a viable, ongoing business. Divestiture of the Assets, whether pursuant to Section IV or Section V of this Final Judgment, shall be made to an Acquirer for whom it is demonstrated to the sole satisfaction of the United States that: (1) the purchase is for the purpose of using the Asset to compete effectively in the grain business, (2) the Acquirer has the managerial, operational, and financial capability to use the Asset to compete effectively in the grain business; and (3) none of the terms of any agreement between the Acquirer and defendant(s) give defendant(s) the ability unreasonably to raise the Acquirer's costs, to lower the Acquirer's efficiency, or otherwise to interfere in the ability or incentive of the Acquirer to compete effectively. Moreover, the United States must be satisfied, in its sole discretion, that any Standard Throughput Agreement that may be negotiated between Cargill or the Cargill Joint Venture and the Acquirer of the Seattle port elevator: (1) would leave the Acquirer with sufficient capacity for it to be a viable and effective competitor for the purchase of corn and soybeans in the Pacific Northwest draw area; and (2) would not adversely affect the Acquirer's ability or incentives to compete vigorously for the origination of corn and soybeans in the Pacific Northwest draw area, by raising the Acquirer's costs, lowering its efficiency, or otherwise interfering in the ability or incentive of the Acquirer to compete effectively.

F. In accomplishing the divestiture ordered by this Final Judgment, defendants shall make known, by usual and customary means, the availability of the Assets. Defendants shall provide any person making inquiry regarding a possible purchase a copy of the Final Judgment. The pertinent defendant shall also offer to furnish to any prospective purchaser, subject to customary confidentiality assurances, all information regarding the Assets customarily provided in a due diligence process, except such information subject to attorney client privilege or attorney work product privilege. The pertinent defendant shall make available such information to the United States at the same time that such information is made available to any other person. The pertinent defendant shall permit prospective purchasers of the Assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational, or other documents and information customarily provided as part of a due diligence process.

G. Defendants shall not interfere with any negotiations by the Acquirer to employ any employee whose primary responsibility involves the use of the Assets.

H. Defendants shall take all reasonable steps to accomplish the prompt divestitures contemplated by this Final Judgment. Defendants shall not take any action other than in the ordinary course of business that will impede in any way the operation of the Assets.

I. Cargill shall not purchase, lease or acquire any interest in the Lockport river elevator, Caruthersville river elevator, Salina rail elevator, Troy rail elevator, Beaumont port elevator, Stockton port elevator or Chicago port elevator, or any interest in the river elevator at or near Birds Point, Missouri (in which Continental formerly owned a minority interest, and had a right of first refusal to purchase grain). If another firm acquires the Tacoma port elevator pursuant to a right of first refusal (and Cargill therefore retains the Seattle port elevator), Cargill shall not subsequently purchase or lease the Tacoma port elevator. If another firm acquires the Tacoma port elevator pursuant to a right of first refusal, Cargill shall not subsequently acquire any other interest in that facility (including a joint venture interest) without the written consent of the United States.

J. Cargill shall enter into a throughput agreement that makes one-third (⅓) of the daily loading capacity at its river elevator located at or near Havana, Illinois, or one barge-load per day, whichever is greater, to an independent grain company acceptable to the United States in its sole discretion (the ''Havana Throughput Agreement''). Daily loading capacity shall be the capacity registered with the CBOT. The independent grain company that obtains the throughput right from Cargill (the ''third party'') must be qualified under CBOT rules and regulations to make delivery of at least one barge-load of corn and soybeans per day for the settlement of CBOT corn and soybean futures contracts, and must agree to register that capacity at the Havana facility with the CBOT.

The Havana Throughput Agreement shall allow the third party to use its share of the loading capacity at the Havana facility to transload grain from trucks onto barges for commercial purposes unrelated to futures contract deliveries, as well as to make deliveries under CBOT futures contracts. Cargill shall not be obligated by this Final Judgment to provide storage services to the third party in excess of the storage services required to accommodate the transloading of grain shipments from trucks to barges. Cargill's load-out fees, and its fees for any storage services that Cargill elects to provide for storage in excess of twenty-four hours from the time of truck unload to barge loading, may not exceed the load-out fees and daily storage rates published in applicable CBOT tariffs.

As part of the Havana Throughput Agreement, any dispute or disagreement between Cargill and the third party arising from or relating to the throughput agreement or the third party's use of Cargill's loading capacity at Havana shall be submitted, governed, and resolved in accordance with the arbitration rules of the CBOT to the extent such dispute or disagreement falls within the jurisdiction of the CBOT Arbitration Committees. To the extent such dispute or disagreement does not fall within CBOT jurisdiction, such dispute or disagreement shall be submitted, governed and resolved in accordance with the arbitration rules of the National Grain and Feed Association, or other arbitration body that is mutually agreed upon by Cargill and the third party. Cargill shall abide by the decisions of such arbitrators.

Cargill shall enter into the Havana Throughput Agreement within five (5) months from the date this Final Judgment is filed with the Court, or five (5) calendar days after notice of the entry of this Final Judgment by the Court, whichever is later. The United States, in its sole discretion, may agree to an extension of the time period, and shall notify the Court in such circumstances. If Cargill has not entered into a Havana Throughput Agreement within this time period, a trustee shall be appointed to satisfy this requirement pursuant to the same conditions as are set forth in Section V.

V. Appointment of Trustee

A. In the event that Cargill has not divested the East Dubuque river elevator, Morris river elevator or Seattle port elevator, or entered in the Havana Throughput Agreement, to the extent required by Section IV of the Final Judgment within the time period specified therein, or that Continental has not divested the Lockport river elevator, Caruthersville river elevator, Salina rail elevator, Troy rail elevator, Beaumont port elevator, Stockton port elevator or Chicago port elevator, to the

extend required by Section IV of the Final Judgment, within the time period specified, it shall notify the United States of that fact in writing. In that event, and upon application of the United States, the Court shall appoint a trustee selected by the United States to effect the divestiture of the Assets. Until such time as a trustee is appointed, defendants shall continue their efforts to effect the divestiture as specified in Section IV.

B. After the appointment of a trustee becomes effective, only the trustee shall have the right to divest the Assets. The trustee shall have the power and authority to accomplish the divestiture at the best price then obtainable upon a reasonable effort by the trustee, subject to the provisions of Sections IV, V and VIII of this Final Judgment, and shall have such other powers as the Court shall deem appropriate. Subject to Section V.C. of this Final Judgment, the trustee shall have the power and authority to hire at the cost and expense of defendants any investment bankers, attorneys, or other agents reasonably necessary in the judgment of the trustee to assist in the divestiture, and such professionals and agents shall be solely accountable to the trustee. The trustee shall have the power and authority to accomplish the divestiture at the earliest possible time to a purchaser acceptable to the United States in its sole discretion, and shall have such other powers as this Court shall deem appropriate. Defendants shall not object to a sale by the trustee on any grounds other than the trustee's malfeasance. Any such objections by defendants must be conveyed in writing to the United States and the trustee within ten (10) calendar days after the trustee has provided the notice required under Section VI of this Final Judgment.

C. The trustee shall serve at the cost and expense of the pertinent defendant, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from the sale of the Assets sold by the trustee and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services and those of any professionals and agents retained by the trustee, all remaining money shall be paid to the pertinent defendant and the trust shall then be terminated. The compensation of such trustee and that of any professionals and agents retained by the trustee shall be reasonable and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. The pertinent defendant shall use its best efforts to assist the trustee in accomplishing the required divestiture, including their best efforts to effect all regulatory approvals and its best efforts to obtain any necessary consent of any persons from whom they lease the Assets. The trustee and any consultants, accountants, attorneys, and other persons retained by the trustee shall have full and complete access to the personnel, books, records, and facilities of, and relating to, the Assets, and the pertinent defendant shall develop financial or other information relevant to such Assets customarily provided in a due diligence process as the trustee may reasonably request, subject to reasonable protection for trade secret or other confidential research, development, or commercial information. Defendants shall take no action to interfere with or to impede the trustee's accomplishment of the divestiture. The pertinent defendant shall permit any prospective Acquirer of the Assets to have reasonable access to personnel and to make such inspection of physical facilities and any and all financial, operational, or other documents and other information as may be relevant to the divestitures required by this Final Judgment.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish the divestiture ordered under this Final Judgment; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. Such reports shall include the name, address, and telephone number of each person who, during the preceding month, made an offer to acquire, expressed an interest in acquiring, entered into negotiations to acquire, or was contacted or made an inquiry about acquiring, any interest in the Assets, and shall describe in detail each contact with any such person during that period. The trustee shall maintain full records of all efforts made to divest the Assets. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestiture, (2) the reasons, in the trustee's judgment, why the required divestiture has not been accomplished, and (3) the trustee's recommendations; provided, however, that to the extent such reports contain information that the trustee deems confidential, such reports shall not be filed in the public docket of the Court. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the Final Judgment, which may, if necessary, include extending the trust and the term of the trustee's appointment by a period requested by the United States.

VI. Notification

A. Within two (2) business days following execution of a definitive agreement with respect to any of the Assets, the pertinent defendant or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the United States of any proposed divestiture required by Section IV or V of this Final Judgment. If the trustee is responsible, it shall similarly notify the pertinent defendant. The notice shall set forth the details of the proposed transaction and list the name, address, and telephone number of each person not previously identified who offered to, or expressed an interest in or desire to, acquire any ownership interest in the Assets, together with full details of the same. Within fifteen (15) calendar days after receipt of the notice, the United States may request from the pertinent defendant, the proposed purchaser, or any third party additional information concerning the proposed divestiture, the proposed purchaser, and any other potential purchaser. The pertinent defendant or the trustee shall furnish the additional information within fifteen (15) calendar days of the receipt of the request. Within thirty (30) calendar days after receipt of the notice or within twenty (20) calendar days after receipt of the additional information by the United States, whichever is later, the United States shall notify in writing the pertinent defendant and the trustee, if there is one, whether or not it objects to the proposed divestiture. If the United States notifies in writing the pertinent defendant and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to the pertinent defendant's limited right to object to the sale under Section V.B. Absent written notice that the United States does not object to the proposed purchaser or upon objection by the United States, a divestiture proposed under Section IV or V may not be consummated. Upon objection by a defendant under Section V.B., the proposed divestiture under Section V

shall not be accomplished unless approved by the Court.

B. Twenty (20) calendar days from the date of the filing of this Final Judgment, and every thirty (30) calendar days thereafter until the divestiture has been completed under Section IV or V, each defendant shall deliver to the United States a written affidavit as to the fact and manner of compliance with Section IV or V of this Final Judgment. Each such affidavit shall include, for each person who during the preceding thirty (30) calendar days made an offer, expressed an interest or desire to acquire, entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in all or any portion of the Assets, the name, address, and telephone number of that person and a detailed description of each contact with that person during that period. Each such affidavit shall also include a description of the efforts that the pertinent defendant has taken to solicit an Acquirer for the relevant Assets and to provide required information to prospective Acquirers including the limitations, if any, on such information. Assuming that the information set forth in the affidavit is true and complete, any objection by the United States to the information provided by the defendants, including limitations of information, shall be made within fourteen (14) calendar days of receipt of such affidavit. Until one year after each defendant has completed such divestitures, that defendant shall maintain full records of all efforts made to divest all or any portion of the Assets.

VII. Financing

Defendants shall not finance all or any part of any purchase of the Assets made pursuant to Section IV or V of this Final Judgment. With respect to Assets leased by a defendant, however, the pertinent will not violate this condition if: (1) The lessor holds the pertinent defendant responsible for lease payments under an assignment or sublease of the defendant's leasehold interests; or (2) the pertinent defendant makes up any shortfall between its lease payment obligations and the lease payments negotiated by the person to whom it assigns or subleases its leasehold interests.

VIII. Hold Separate and Preservation of Assets Requirements

Unless otherwise indicated, from the date of filing of this proposed Final Judgment with the Court and until the divestitures required by Sections IV.A, IV.D and/or V of the Final Judgment, and the execution of the Havana Throughput Agreement required by Section IV.J, have been accomplished:

A. Subject to *force majeure,* defendants shall: (1) Take all steps necessary to assure that the Assets and Cargill's Havana river elevator are maintained as separate, distinct and salable assets; and extend all reasonable efforts to maintain these facilities in a condition that makes them usable as grain elevators; (2) not sell, assign, transfer, or otherwise dispose of theses facilities, or pledge them as collateral for loans, except in accordance with the Final Judgment; (3) take all steps necessary to preserve these facilities in a state of repair equal to their current state of repair, ordinary wear and tear excepted; (4) take all steps necessary to preserve the documents, books, customers lists and records relating to these facilities; (5) refrain from taking any actions that would jeopardize the sales of these facilities; and (6) continue to operate these facilities as grain elevators. Notwithstanding the foregoing: (a) if Continental's lease of the Salina rail elevator expired on or before April 30, 1999 and was not renewed, that facility shall not be subject to this section of the Final Judgment, and (b) if Cargill's lease of the East Dubuque river elevator expires prior to divestiture, Cargill shall not thereafter be subject to the provisions of this section if it has offered to extend the lease at rates and conditions substantially similar to the rates and conditions in its current lease, and the lessor has rejected that offer.

B. Except in the ordinary course of business or as is otherwise consistent with this Final Judgment, defendants shall not hire and shall not transfer or terminate, or alter, to the detriment of any employee, any current employment or salary agreements for any employees who on June 24, 1999 worked at any of the Assets, unless such individual has a written offer of employment from a third party for a like or better position.

C. Until such time as the Assets are divested: William F. Winnie shall manage the Beaumont port elevator, Caruthersville river elevator, Chicago port elevator, Lockport river elevator, Stockton port elevator and Troy rail elevator; Peter Reed shall manage the East Dubuque river elevator; Sharon Spies shall manage the Morris river elevator; and Donald Vogt shall manage the Seattle port elevator. These individuals shall have complete managerial responsibility for the Assets, subject to the provisions of the Final Judgment. In the event that these individuals are unwilling or unable to perform these duties, defendants shall appoint, subject to the United States' approval, a replacement acceptable to the United States within ten (10) working days. Should defendants fail to appoint a replacement acceptable to the United States within ten (10) working days, the United States may appoint a replacement.

D. Defendants shall take no action that would interfere with the ability of any trustee appointed pursuant to the Final Judgment to complete the divestiture pursuant to the Final Judgment to a suitable Acquirer.

E. Continental shall operate the Lockport river elevator, Caruthersville river elevator, Troy rail elevator, Beaumont port elevator, Stockton port elevator and Chicago port elevator independently from and in competition with Cargill. Defendants shall not implement any non-compete agreements until all of the Assets have been divested. The term of any such non-compete agreement shall not be more than three (3) years.

IX. Compliance Inspection

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the United States, including consultants and other persons retained by the United States, shall, upon the written request of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to defendants made to their principal offices, be permitted:

1. access during office hours to inspect and copy all books, ledgers, accounts, correspondence, memoranda, and other records and documents in the possession or under the control of defendants, which may have counsel present, relating to any matter contained in this Final Judgment; and

2. subject to the reasonable convenience of defendants and without restraint or interference from them, to interview either informally or on the record, directors, officers, employees, and agents of defendants, which may have counsel present, regarding any such matters.

B. Upon the written request of the Assistant Attorney General in charge of the Antitrust Division, made to defendants at their principal offices, defendants shall submit written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

C. No information nor any documents obtained by the means provided in Sections VIII or IX shall be divulged by any representative of the United States to any person other than a duly

authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time information or documents are furnished by a defendant to the United States, such defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and defendant marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure,'' then the United States shall give ten (10) calendar days' notice to defendant prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which defendant is not a party.

X. Retention of Jurisdiction

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction, implementation, or modification of any of the provisions of this Final Judgment, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XI. Termination of Provisions

Unless this Court grants an extension, this Final Judgment will expire on the tenth anniversary of the date of its entry.

XII. Public Interest

Entry of this Final Judgment is in the public interest.

Dated: July ____, 1999.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. § 16.

United States District Judge

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. § 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On July 8, 1999, the United States filed a civil antitrust Complaint alleging that the proposed acquisition by Cargill, Incorporated (''Cargill'') of the Commodity Marketing Group of Continental Grain Company (''Continental'') would violate Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint alleges that Cargill is the second largest grain trader in North America, and that, until recently, Continental was the third largest grain trader in North America. The Complaint alleges that if the acquisition is permitted to proceed, it will substantially lessen competition for grain purchasing services to farmers and other suppliers in a number of areas in the United States in violation of Section 7 of the Clayton Act, 15 U.S.C. § 18. The Complaint further alleges that unless the acquisition is enjoined, many American farmers and other suppliers likely will receive lower prices for their grain and oilseed crops, including corn, soybeans, and wheat (collectively referred to as ''grain''). The request for relief in the Complaint seeks: (1) Preliminary and permanent injunctive relief preventing the consummation of the transaction; and (2) such other relief as is proper.

When the Complaint was filed, the United States also filed a proposed consent decree (''Final Judgment'') that would permit Cargill to complete its acquisition of Continental's commodity marketing business, but requires divestitures and other relief that would preserve competition for grain purchasing services to farmers and other suppliers in a number of areas in the United States.[1] The proposed Final Judgment orders defendant Cargill to divest all of its property rights in the river elevators located in East Dubuque, Illinois and Morris, Illinois within five (5) months after the filing of the proposed Final Judgment or within five (5) calendar days after notice of entry of the Final Judgment, whichever is later. The proposed Final Judgment also orders defendant Cargill to divest all of its property rights in the Seattle port elevator within six (6) months after the filing of the proposed Final Judgment or within five (5) calendar days after notice of entry of the Final Judgment, whichever is later. The proposed Final Judgment orders defendant Continental to divest all of its property rights in the river elevators located at Lockport, Illinois and Caruthersville, Missouri, the rail elevators located at Salina, Kansas and Troy, Ohio, and the port elevators located at Beaumont, Texas, Stockton, California, and Chicago, Illinois within five (5) months after the filing of the proposed Final Judgment or within five (5) calendar days after notice of entry of the Final Judgment, whichever is later. The proposed Final Judgment also requires defendant Cargill to enter into a ''throughput agreement''—an agreement providing for one grain trader to lease elevator capacity from another—to make one-third of the loading capacity at its Havana, Illinois river elevator available to an independent grain company, within five (5) months after the filing of the proposed Final Judgment or within five (5) calendar days after notice of entry of the Final Judgment, whichever is later.

In addition, the proposed Final Judgment prohibits defendant Cargill from acquiring any interest in the facilities to be divested by Continental, or the river elevator at Birds Point, Missouri, in which Continental until recently had held a minority interest. The proposed Final Judgment also makes defendant Cargill subject to various restrictions in the event it seeks to enter into a throughput agreement with the acquirer of the Seattle port facility.

If the defendants should fail to accomplish the divestitures or to enter into a Havana throughput agreement within the prescribed time periods, a trustee appointed by the Court would be empowered to divest these assets or otherwise satisfy the Havana throughput requirement.

The plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and to punish violations thereof.

II. Events Giving Rise to the Alleged Violations

A. The Defendants and the Proposed Transaction

Cargill is a Delaware corporation with its principal place of business in Minnetonka, Minnesota. It is the second largest grain trader in North America. Continental is a Delaware corporation with its principal place of business in New York City, New York. It was, as recently as 1997, North America's third largest grain trader. The defendants are also the first and third largest U.S. grain exporters, collectively exporting approximately 40 percent of all U.S. agricultural commodities. Both Cargill and Continental purchase grain and

[1] Cargill and Continental entered into a Stipulation (filed contemporaneously with the Final Judgment) in which they agreed to be bound by the proposed final Judgment pending final determination by the Court.

other crops from farmers, brokers, and elevator operators throughout the United States.

On October 9, 1998, Cargill and Continental entered into an agreement entitled ''Purchase Agreement'' under which Cargill agreed to purchase Continental's Commodity Marketing Group.

B. The Grain Purchasing Market

Grain traders such as Cargill and Continental operate extensive grain distribution networks, which facilitate the movement of grain from farms to domestic consumers of these commodities and to foreign markets. Country elevators are often the first stage of the grain distribution system, with producers hauling wheat, corn, and soybeans by truck from their farms for sale to the country elevators. Here, the grain is off-loaded, sampled, graded, and put into storage. Sometimes other services are offered by the country elevators, such as grain drying and conditioning services. The grain is then transported by truck, rail, or barge to larger distribution facilities, such as river, rail, or port elevators, which may or may not be affiliated with the country elevators, or to feedlots or processors.

River elevators or rail terminals may receive grain directly from the farm or from country elevators. From the river elevator, grain typically moves outbound by barge to port elevators. From the rail terminal, grain typically moves outbound by rail to port elevators or to domestic feedlots or processors.

The final stage in the grain distribution system for grain intended for export is a port elevator, where it is transferred to ocean vessels for shipment to foreign buyers. Grain normally comes to port elevators from river elevators (via barge) and rail terminals, although some port elevators receive grain directly from farmers and country elevators located within a relatively short distance from the port elevator.

Because the transportation of grain is relatively costly and time-consuming, farmers generally sell their grain within a limited geographic area surrounding their farms, usually to a country elevator—although farmers located near river, rail, or port elevators sometimes bypass the country elevator and ship their grain directly to those facilities. Grain traders purchase grain at these country, rail, river, and port elevators from farmers and from other suppliers, such as brokers and independent elevator operators who have purchased grain from the farmers.

the Complaint alleges that the purchasing of wheat, corn, and soybeans each constitutes a relevant product market and a line of commerce within the meaning of the Clayton Act.

The draw area for a country, river, rail, or port elevator is the geographic area from which the facility receives grain. The draw area of one grain company's country, river, rail or port elevator will overlap the draw area of a competitor's elevator if their facilities are relatively close to each other—and the cost of shipping grain from the producer to both elevators is comparable. Cargill and Continental operate a number of facilities with overlapping draw areas, and therefore compete with one another in a number of markets for the purchase of wheat, corn, and soybeans from the same producers or other suppliers.

Many farmers and other suppliers located within overlapping Cargill/Continental draw areas depend solely on competition among Cargill, Continental, and perhaps a small number of other nearby grain companies to obtain a competitive price for their products. The areas in which these suppliers are located are referred to as ''captive draw areas'' in the Complaint. The Complaint alleges that these captive draw areas are relevant geographic markets and separate sections of the country within the meaning of the Clayton Act.

The following are the overlapping and captive draw areas for competing Cargill and Continental facilities:

- *The Pacific Northwest.* Cargill's port elevator in Seattle competes with Continental's port elevator in Tacoma for the purchase of corn and soybeans. The overlapping draw area for these facilities includes portions of North Dakota, South Dakota, Minnesota, Nebraska, and Iowa. Captive suppliers are located primarily in eastern North Dakota, eastern South Dakota, and western Minnesota.
- *Central California.* Cargill's port elevator in Sacramento competes with Continental's port elevator in Stockton for the purchase of wheat and corn. The overlapping draw area for these facilities is located in the Sacramento/Stockton area, where all suppliers are captive
- *Texas Gulf.* Cargill's port elevator in Houston competes with Continental's port elevator in Beaumont for the purchase of soybeans and wheat. The overlapping draw area for these facilities includes portions of Texas, Louisiana, Oklahoma, Kansas, New Mexico, Colorado, Nebraska, Missouri, Iowa, and Illinois. Captive suppliers are located primarily in eastern Texas and western Louisiana.
- *Rail and River Elevators.* Cargill and Continental compete for the purchase of grain from captive suppliers located near their rail elevators in Salina, Kansas and Troy, Ohio, and their river elevators in the vicinity of Morris, Illinois, Lockport, Illinois, Dubuque, Iowa/East Dubuque, Illinois, and New Madrid/Caruthersville, Missouri.

According to the Complaint, if Cargill were allowed to acquire the Continental facilities that purchase grain in these captive draw areas, it would be in a position unilaterally, or in coordinated interaction with the few remaining competitors, to depress prices paid to farmers and other suppliers, because transportation costs would preclude them from selling to other grain traders or purchasers in sufficient quantities to prevent an anticompetitive price decrease.

The Complaint also alleges that producers of corn, soybeans, and wheat would not switch to an alternative crop in sufficient numbers to prevent a small but significant decrease in price because of the length of growing seasons and of the suitability of those crops to certain climates and regions. Nor are processors or fedlots that purchase grain to manufacture food products or fatten livestock likely to constrain pricing decisions by grain trading companies because their purchasing decisions are based on factors other than small but significant changes in crop prices. Therefore, significant changes in concentration among grain trading companies can have an anticompetitive impact upon prices received by farmers and other suppliers.

C. The Chicago Board of Trade Futures Markets

In addition, Cargill and Continental compete to purchase corn and soybeans from grain sellers seeking to deliver these crops to river elevators on the Illinois River that, beginning in year 2000, will be authorized as delivery points for the settlement of Chicago Board of Trade (CBOT) corn and soybean futures contracts. The provision of authorized delivery points for corn and soybean futures contracts is a relevant product market within the meaning of the Clayton Act. These delivery points are regulated by the Commodities Futures Trading Commission. The authorized delivery points, running the entire length of the Illinois River for soybeans, and from Chicago to Peoria, Illinois for corn, each constitutes a relevant geographic market within the meaning of the Clayton Act; and undue concentration in these markets would increase the possibilities

of anticompetitive manipulations of the futures markets.

D. Harm to Competition as a Consequence of the Acquisition

The Complaint alleges that Cargill's acquisition of Continental's Commodity Marketing Group will substantially lessen competition for the purchase of corn, soybeans, and wheat in each of the relevant geographic markets by enabling Cargill unilaterally to depress the prices paid to farmers and other suppliers. The Complaint further alleges that the proposed transaction will also make it more likely that the few remaining grain trading companies that purchase corn, soybeans, and wheat in these markets will engage in anticompetitive coordination to depress grain prices. Moreover, it is not likely that Cargill's exercise of market power in any of these relevant geographic markets would be thwarted by significantly increased purchases of corn, soybeans, or wheat by processors, feedlots, or other buyers, by new entry, by farmers and other suppliers transporting their products to more distant markets, or by any other countervailing force.

In addition, the Complaint alleges that by consolidating the Cargill and Continental river elevators on the Illinois River, this transaction would give two firms approximately 80% of the authorized delivery capacity for settlement of CBOT corn and soybeans futures contracts. This concentration would increase the likelihood of price manipulation of futures contracts by those firms, resulting in higher risks for buyers and sellers of futures contracts.

Finally, the Complaint alleges that the defendants' Purchase Agreement includes a Covenant Not to Compete that is longer than is reasonably necessary for Cargill to have a fair opportunity to gain the loyalty of Continental's suppliers and customers, and has the effect of unlawfully dividing markets between the two companies in violation of Section 1 of the Sherman Act, 15 U.S.C. § 1.

III. Explanation of the Proposed Final Judgment

The provisions of the proposed Final Judgment are designed to preserve existing competition for grain purchasing services to farmers and other suppliers in numerous areas in the United States, and to prevent anticompetitive manipulation of CBOT corn and soybean futures markets. To preserve existing competition for grain purchasing services, it requires divestitures of Cargill or Continental river elevators at Morris, Illinois, Lockport, Illinois, East Dubuque, Illinois, and Caruthersville, Missouri; rail terminals at Troy, Ohio and Salina, Kansas; and port elevators at Beaumont, Texas, Stockton, California, and Seattle, Washington. This relief is intended to maintain the level of competition that existed preacquisition, and ensures that farmers and other suppliers in the affected markets will continue to have effective alternatives to Cargill when selling their crops. to prevent manipulations of CBOT corn and soybean futures markets, the proposed Final Judgment requires divestitures of Cargill or Continental elevators along the Illinois River at Morris, Lockport and Chicago, Illinois, as well as providing one-third of Cargill's capacity at Havana, Illinois to a new entrant pursuant to a throughput agreement.[2]

A. East Dubuque and Morris River Elevators, and Seattle Port Elevator Provisions

Section IV.A of the proposed Final Judgment provides that, within five (5) months from the filing of the proposed Final Judgment with the Court, or five (5) calendar days after notice of the entry of the Final Judgment by the Court, whichever is later, defendant Cargill must divest all of its property rights in the East Dubuque, Illinois river elevator and the Morris, Illinois river elevator to an acquirer acceptable to the United States. Section IV.A of the proposed Final Judgment also provides that, within six (6) months from the filing of the proposed Final Judgment with the Court, or five (5) calendar days after notice of the entry of the Final Judgment by the Court, whichever is later, defendant Cargill must divest all of its property rights in the Seattle port elevator to an acquirer acceptable to the United States.

Section IV.B of the proposed Final Judgment imposes conditions on Cargill and the acquirer of the Seattle port elevator, should the acquirer decide to enter into a throughput agreement with Cargill or any joint venture involving the Tacoma elevator to which Cargill is a party (''Cargill Joint Venture''). Throughput agreements, which are common in the grain industry, allow one firm to move its grain through another firm's elevator for a fee. Under the terms of the Final Judgment: (a) Cargill may not obtain continuing rights to move more than 8.5 million bushels of grain per month through the Seattle port elevator (which ensures that the acquirer of that facility will have continuing rights to a substantial majority of the facility's throughput capacity); (b) the throughput agreement gives Cargill no more rights concerning the operations of the Seattle facility than are commonly granted to sublessees in standard throughput agreements (which insures that the acquirer will retain overall operational control of the facility); and (c) that, in any event, the throughput agreement will not interfere with the ability or incentive of the acquirer to compete for the purchase of corn and soybeans.

Section IV.C of the proposed Final Judgment provides that Cargill need not divest the Seattle port elevator if it does not buy, lease, or otherwise acquire an interest in Continental's port elevator at or near Tacoma, Washington.

B. Lockport River Elevator, Caruthersville River Elevator, Salina Rail Elevator, Troy Rail Elevator, Beaumont Port Elevator, Stockton Port Elevator, and Chicago Port Elevator Provisions

Section IV.D of the proposed Final Judgment provides that, within five (5) months from the filing of the proposed Final Judgment with the Court, or five (5) calendar days after notice of the entry of the Final Judgment by the Court, whichever is later, defendant Continental must divest all of its property rights in the river elevators located at Lockport, Illinois and Caruthersville, Missouri; the rail terminals located at Salina, Kansas and Troy, Ohio; and the port elevators located at Beaumont, Texas, Chicago, Illinois, and Stockton, California, to an acquirer acceptable to the United States. These facilities were originally part of the defendants' Purchase Agreement. This divestiture requirement will ensure that these facilities are sold to purchasers who will operate these assets as grain elevators; and it is intended to preserve the market structure that existed in those geographic areas prior to the acquisition.

C. General Divestiture Provisions

Sections IV.E through IV.H of the proposed Final Judgment apply to all the divestitures ordered in Sections IV.A and IV.D (as qualified by Sections IV.B and IV.C). Section IV.E provides that unless the United States consents in writing, the divestitures shall include the entire assets defined in Sections IV.A and IV.D. The divestitures must be accomplished in such a way to satisfy the United States, in its sole discretion, that the assets can and will be operated by the acquirer as a viable, ongoing entity capable of competing in the grain business. In addition, any Standard Throughput Agreement that may be

[2] The divestitures of the Morris and Lockport river elevators provide relief for both the grain purchasing markets and the CBOT futures markets.

negotiated between Cargill or the Cargill Joint Venture and the purchaser of the Seattle port elevator must be acceptable to the United States, in its sole discretion.

Under Section IV.F of the proposed Final Judgment, defendants shall make known, by usual and customary means, the availability of the assets and provide any prospective purchasers with a copy of the Final Judgment. The pertinent defendant is required to offer to furnish any prospective purchaser, subject to customary confidentiality assurances, all information regarding the assets customarily provided in a due diligence process, except such information subject to attorney-client privilege or attorney work-product privilege. The pertinent defendant must also permit prospective purchasers to have reasonable access to personnel and to make inspection of physical facilities and financial, operational, or other documents and information customarily provided as part of a due diligence process.

Section IV.G prohibits defendants from interfering with any negotiations by the purchaser to hire any employee whose primary responsibility involves the use of the assets. Under Section IV.H, defendants must take all reasonable steps necessary to accomplish the prompt divestitures contemplated by the proposed Final Judgment, and may not impede the operation of the assets.

Section IV.I of the proposed Final Judgment prohibits Cargill from purchasing, leasing, or acquiring any interest in any of the assests required to be divested by defendant Continental pursuant to Section IV.D, or any interest in the river elevator at or near Bird's Point, Missouri (in which Continental formerly owned a minority interest and had a right of first refusal to purchase grain). Section IV.I also prohibits Cargill from subsequently purchasing or leasing the Tacoma port elevator should another firm acquire that facility, or from acquiring any other interest in that facility (including a joint venture interest) without the written consent of the United States. Section IV.I does not explicitly prohibit Cargill from reacquiring the assets that it will divest, because that prohibition is inherent in the requirement that Cargill divest these assets for the ten-year term of the Final Judgment.

Pursuant to Section IV.J of the proposed Final Judgment, defendant Cargill must enter into a throughput agreement that makes one-third (⅓) of the daily loading capacity at its river elevator located at or near Havana, Illinois, or one barge-load per day, whichever is greater, to an independent grain company acceptable to the United States in its sole discretion (the ''Havana Throughput Agreement'').[3] Unless the United States agrees to an extension, Cargill must enter into the Havana Throughput Agreement within five (5) months from the date the Final Judgment is filed with the Court, or five (5) calendar days after notice of the entry of the Final Judgment by the Court, whichever is later.

D. Trustee Provisions

If the defendants fail to complete any of the divestitures or to enter into the Havana Throughput Agreement within the required time periods, the Court will appoint a trustee, pursuant to Section V of the proposed Final Judgment, to accomplish the divestitures. Once appointed, only the trustee will have the right to sell the divestiture assets or enter into the Havana Throughput Agreement, and the pertinent defendant will pay all costs and expenses of the trustee and any professionals and agents retained by the trustee. The compensation paid to the trustee and any such professionals or agents shall be reasonable and based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished. The proposed Final Judgment also requires the pertinent defendant to use its best efforts to assist the trustee in accomplishing the required divestitures.

Pursuant to Section V.E, the trustee must file monthly reports with the parties and the Court, setting forth the trustee's efforts to accomplish the divestitures ordered under the proposed Final Judgment. If the trustee does not accomplish the divestitures within six (6) months after its appointment, the trustee shall promptly file with the Court a report setting forth (1) the trustee's efforts to accomplish the required divestitures, (2) the reasons, in the trustee's judgment, why the required divestitures have not been accomplished, and (3) the trustee's recommendations. At the same time, the trustee will furnish such report to the United States and defendants, who will each have the right to be heard and to make additional recommendations. The Court shall thereafter enter such orders as appropriate in order to carry out the purpose of the Final Judgment, including extending the term of the trustee's appointment.

E. Notification Provisions

Section VI of the proposed Final Judgment assures the United States an opportunity to review any proposed sale, whether by the pertinent defendant or the trustee, before it occurs. Under this provision, the United States is entitled to receive complete information regarding any proposed sale or any prospective purchaser prior to consummation. Upon objection by the United States to a sale of any of the divestiture assets by the pertinent defendant or the trustee, any proposed divestiture may not be completed. Should a defendant object to a divestiture by the trustee pursuant to Section V.B., that sale shall not be consummated unless approved by the Court.

Section VII of the proposed Final Judgment prohibits defendants from financing all or any part of any purchase of the assets made pursuant to Sections IV or V of the Final Judgment. However, the pertinent defendant will not violate this condition with respect to assets leased by a defendant if: (1) The lessor holds the pertinent defendant responsible for lease payments under an assignment or sublease of the defendant's leasehold interests; or (2) the pertinent defendant makes up any shortfall between its lease payment obligations and the lease payments negotiated by the person to whom it assigns or subleases its leasehold interests.

F. Hold Separate Provisions

Under Section VIII of the proposed Final Judgment, defendants must take certain steps to ensure that, until the required divestitures and the execution of the Havana Throughput Agreement have been accomplished, all the previously defined assets and Cargill's Havana river elevator will be maintained as separate, distinct and saleable assets, and maintained as usable grain elevators. Until such divestitures, the defendants shall continue to operate these facilities as grain elevators. The defendants must maintain all these facilities so that they continue to be saleable, including maintaining all records, loans, and personnel necessary for their operation. Defendant Continental must operate the Lockport river elevator, Caruthersville river elevator, Troy rail elevator, Beaumont port elevator, Stockton port elevator, and Chicago port elevator independently from and in competition with Cargill.

[3] The divestitures of the facilities at Morris, Lockport, and Chicago were sufficient to resolve concerns about consolidation of authorized delivery points for CBOT corn futures markets, which extend from Chicago to Pekin. To resolve concerns about concentration of authorized delivery points for CBOT soybean futures markets, which extend the entire length of the Illinois River, it was necessary to provide delivery capacity for a new entrant on the southern portion of the Illinois River.

G. Non-Compete Provisions

The Cargill/Continental Purchase Agreement contains a five-year non-compete provision. Under the proposed Final Judgment, defendants are prohibited from implementing any non-compete agreements until all of the assets have been divested. Furthermore, the term of any such non-compete agreement may not be more than three (3) years.

H. Compliance Inspection, Retention of Jurisdiction and Termination Provisions

Section IX requires defendants to make available, upon request, the business records and the personnel of its businesses. This provision allows the United States to inspect defendants' facilities and ensure that they are complying with the requirements of the proposed Final Judgment. Section X provides for jurisdiction to be maintained by the Court. Section XI of the proposed Final Judgment provides that it will expire on the tenth anniversary of its entry by the Court.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. § 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorneys' fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust damage action. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. § 16(a), the proposed Final Judgment has no *prima facie* effect in any subsequent private lawsuit that may be brought against defendants.

V. Procedures Available for Modification of the Proposed Final Judgment

The United States and defendants have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides for a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive Impact Statement in the **Federal Register**. The United States will evaluate and respond to the comments. All comments will be given due consideration by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to its entry. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**. Written comments should be submitted to: Roger W. Fones, Chief, Transportation, Energy & Agriculture Section, Antitrust Division, United States Department of Justice, 325 Seventh Street, N.W., Suite 500, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

the United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against Cargill and Continental. The United States is satisfied, however, that the divestitures and other relief contained in the proposed Final Judgment should preserve competition in grain purchasing services as it was prior to the proposed acquisition, and that the proposed Final Judgment would achieve all of the relief that the government would have obtained through litigation, but merely avoids the time and expense of a trial.

VII. Standard of Review Under the APPA for Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' In making that determination, the Court may consider:

(1) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration or relief sought, anticipated effects of alternative remedies actually considered, and any other consideration bearing upon the adequacy of such judgment;

(2) The impact of entry of such judgment upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trail.

15 U.S.C. § 16(e). As the Court of Appeals for the District of Columbia Circuit held, the APPA permits the Court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft*, 56 F.3d 1448 (D.C. Cir. 1995).

In conducting this inquiry, ''the Court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.[4] Rather,

> absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.*, 1977–1 Trade Cas. ¶61,508, at 71,980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.*, 858 F.2d 456, 462 (9th Cir. 1988), *quoting United States* v. *Bechtel Corp.*, 648 F.2d 660, 666 (9th Cir.), *cert. denied*, 454 U.S. 1083 (1981). Precedent requires that

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the

[4] 119 Cong. Rec. 24598 (1973); *see also United States* v. *Gillette Co.*, 406 F. Supp. 713, 715 (D. Mass. 1975). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. § 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. *See* H.R. 93–1463, 93rd Cong. 2d Sess. 8–9, *reprinted* in (1974) U.S.C.C.A.N. 6535, 6538.

effectiveness of antitrust enforcement by consent decree.[5]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' ''.[6]

Moreover, the Court's role under the Tunney Act is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its complaint, and the Act does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft*, 56 F.3d at 1459. Since ''[t]he court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that the court ''is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States might have but did not pursue. *Id.*

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

For Plaintiff United States of America

Dated: July 23, 1999.

Respectfully submitted,

Robert L. McGeorge, D.C. Bar No. 91900,

Trial Attorney, U.S. Department of Justice, Antitrust Division, 325 Seventh Street, N.W.; Suite 500, Washington, DC 20530, Telephone: (202) 307–6361 or (202) 307–6351, Facsimile: (202) 307–2784.

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[5] *United States* v. *Bechtel*, 648 F.2d at 666 (internal citations omitted) (emphasis added); *see United States* v. *BNS Inc.*, 858 F.2d at 463; *United States* v. *National Broadcasting Co.*, 449 F. Supp. 1127, 1143 (C.D. Cal. 1978); *Gillette*, 406 F. Supp. at 716. *See also United States* v. *American Cyanamid Co.*, 719 F. 2d 558, 565 (2d Cir. 1983).

[6] *United States* v. *American Tel. & Tel. Co.*, 552 F. Supp. 131, 150 (D.D.C. 1982) (citations omitted), *aff'd sub nom. Maryland* v. *United States*, 460 U.S. 1001 (1983), *quoting Gillette*, 406 F. Supp. at 716; *United States* v. *Alcan Aluminum, Ltd.*, 605 F. Supp. 619, 622 (W.D. Ky. 1985).

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–289]

GPU Nuclear, Inc.; Notice of Partial Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has partially denied a request by GPU Nuclear, Inc., (licensee) for an amendment to Facility Operating License No. DPR–50 issued to the licensee for operation of the Three Mile Island Nuclear Station, Unit 1, located in Dauphin County, PA.

The purpose of the portion of the licensee's amendment request that is denied was to seek approval from the Commission to allow the licensee to ignore the low temperature overpressure protection provisions related to high pressure injection pumps start and running restrictions during an emergency cooldown without having to invoke 10 CFR 50.54(x).

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by a letter dated August 6, 1999.

By September 13, 1999, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, and to Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts, & Trowbridge, 2300 N Street, NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated March 31, 1997, as supplemented June 3, 1998, and July 13, 1998, and (2) the Commission's letter to the licensee dated August 6, 1999.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Law/Government Publications Section, State Library of Pennsylvania, (Regional Depository) Walnut Street and Commonwealth Avenue, Box 1601, Harrisburg, PA 17105.

Dated at Rockville, Maryland, this 6th day of August 1999.

For the Nuclear Regulatory Commission.

Elinor G. Adensam,

Director, Project Directorate I, Division of Licensing Project Management, Office of Nuclear Reactor Regulation.

[FR Doc. 99–20908 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8584]

Kennecott Uranium Company

AGENCY: Nuclear Regulatory Commission.

ACTION: Final finding of no significant impact; notice of opportunity for hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) proposes to renew NRC Source Material License SUA–1350 to authorize the licensee, Kennecott Uranium Company (KUC), to resume commercial milling operations at the Sweetwater facility, and to approve the plan for future reclamation of the mill facility, existing and proposed new tailings impoundment, and the proposed evaporation ponds, according to the 1997 Reclamation Plan, as amended. The Sweetwater uranium mill site is located in Sweetwater County, approximately 40 miles (64 kilometers) northwest of the town of Rawlins, Wyoming. An Environmental Assessment (EA) was performed by the NRC staff in support of its review of KUC's license renewal for operation and the amendment request, in accordance with the requirements of 10 CFR Part 51. The conclusion of the EA is a Finding of No Significant Impact (FONSI) for the proposed licensing action.

FOR FURTHER INFORMATION CONTACT: Ms. Elaine Brummett, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Mail Stop T7–J9, Washington, D.C. 20555. Telephone 301/415–6606.

SUPPLEMENTARY INFORMATION:

Background

The Sweetwater uranium mill site presently is licensed by the NRC under Materials License SUA–1350 to possess

byproduct material in the form of uranium waste tailings, as well as other radioactive wastes generated by past milling operations. The mill operated from 1981 to 1983, but is currently in standby status. KUC has requested renewal of the license to allow operation of the mill (includes construction of one new impoundment and up to eight evaporation ponds), and the evaluation of that request has been completed. KUC also has requested approval of the reclamation plan to stabilize the existing tailings impoundment. In addition, the plan provides for the future stabilization of proposed new tailings impoundments, reclamation of land, and decommissioning of the mill facility.

Construction of an additional five new impoundments and two evaporation ponds may be requested if the mill operates for 20 years, and the impact of this was considered in the EA. The additional impoundments would be reclaimed according to the NRC-approved plan and any change in design would require review and approval by the NRC staff.

KUC submitted the operations plan, reclamation plan, and associated information by letters dated June 11, July 3, July 23, August 1, August 20, September 18, and October 7, 1997. The mill and land decommissioning plan portion of the reclamation plan was submitted May 28, 1998. Page changes to various submitted documents and responses to NRC staff comments were provided June 10, July 1, and July 20, 1998, as well as February 3, February 25, March 25, April 21, and June 21, 1999.

Summary of the Environmental Assessment

The NRC staff performed an assessment of the environmental impacts associated with the operations plan and reclamation plan, in accordance with 10 CFR Part 51, Licensing and Regulatory Policy Procedures for Environmental Protection. The license renewal would authorize KUC to resume operation of the mill at a maximum production rate of 4,100,000 pounds (1,859,748 kg) of yellowcake per year, and to possess byproduct material in the form of uranium waste tailings and other uranium byproduct wastes generated by the authorized milling operations. The actual resumption of operations will be conditional on: (1) The NRC review of standard operating procedures for mill operation; (2) a 90-day pre-startup notification to NRC; and (3) the completion of a pre-startup NRC inspection and resolution of any safety issues identified by the inspection. The renewed license also would approve KUC's proposed plan to stabilize and cover the tailings impoundments, and decommission the mill facility (including land and evaporation ponds). All conditions in the renewed license and commitments presented in the licensee's renewal documents are subject to NRC inspection.

In conducting its appraisal, the NRC staff considered the following: (1) Information contained in KUC's 1997 license renewal and amendment requests, as revised; (2) previous environmental and safety evaluations of the facility; (3) data contained in land use and environmental monitoring reports; (4) existing license conditions; (5) results of NRC staff site visits and inspections of the Sweetwater facility; and (6) consultations with the U.S. Fish and Wildlife Service, the U.S. Bureau of Land Management, the Wyoming State Historic Preservation Office, and the Wyoming Department of Environmental Quality. The staff evaluation of the Sweetwater operation plan and associated documents is being evaluated in a Safety Evaluation Report, and the technical aspects of the reclamation plan are discussed separately in a Technical Evaluation Report that will accompany the final agency licensing action.

The results of the staff environmental review are documented in an EA placed in the docket file. Based on its review, the NRC staff has concluded that there are no significant environmental impacts associated with the proposed action.

Conclusions

The NRC staff has examined actual and potential impacts associated with the operation of the mill, site decommissioning, and reclamation of the tailings impoundments, and has determined that the requested renewal of Source Material License SUA–1350 will: (1) be consistent with requirements of 10 CFR Part 40, Appendix A; (2) not be inimical to public health and safety; and (3) not have long-term detrimental impacts on the environment. The following statements summarize the conclusions resulting from the staff's environmental assessment, and support the FONSI:

1. An acceptable environmental and effluent monitoring program is in place to monitor effluent releases and to detect if applicable regulatory limits are exceeded. Radiological effluents from facility operations have been and are expected to remain below the regulatory limits;

2. Mill tailings and process liquid effluents from the mill circuit will be discharged to a multi-lined impoundment with a leak detection system;

3. The licensee will conduct site decommissioning and reclamation activities in accordance with NRC-approved plans; and

4. Present and potential health risks to the public and risks of environmental damage from the proposed mill operation, decommissioning, and reclamation were assessed. Given the remote location, requirements in place, licensee's inspection and radiation safety programs, area of impact, and past activities on the site, the staff determined that the risk factors for health and environmental hazards are insignificant.

Because the staff has determined that there will be no significant impacts associated with approval of the license renewal (and associated amendments), there can be no disproportionally high and adverse effects or impacts on minority and low-income populations. Consequently, further evaluation of Environmental Justice concerns, as outlined in Executive Order 12898 and NRC's Office of Nuclear Material Safety and Safeguards Policy and Procedures Letter 1–50, Revision 1, is not warranted.

Alternatives to the Proposed Action

The proposed action is to renew NRC Source Material License SUA–1350, for operation of the mill, subsequent decommissioning of the facility, and reclamation of the tailings impoundments, as requested by KUC. Therefore, the principal alternatives available to NRC are to:

1. Approve the license renewal request as submitted; or

2. Renew the license with such additional conditions as are considered necessary or appropriate to protect public health and safety and the environment; or

3. Deny the renewal request.

Based on its review, the NRC staff has concluded that the environmental impacts associated with the proposed action do not warrant either the limiting of KUC's future operations or the denial of the license amendment. Additionally, in the TER prepared for this action, the staff has reviewed the licensee's proposed action with respect to the criteria for reclamation, specified in 10 CFR Part 40, Appendix A, and has no basis for denial of the proposed action. Therefore, the staff considers that Alternative 1 is the appropriate alternative for selection.

Finding of No Significant Impact

The NRC staff has prepared an EA for the proposed renewal of NRC Source Material License SUA–1350. On the basis of this assessment, the NRC staff has concluded that the environmental impacts that may result from the proposed action would not be significant, and therefore, preparation of an Environmental Impact Statement is not warranted.

The EA and other documents related to this proposed action are available for public inspection and copying at the NRC Public Document Room, in the Gelman Building, 2120 L Street N.W., Washington, DC 20555.

Notice of Opportunity for Hearing

The Commission hereby provides notice that this is a proceeding on an application for a licensing action falling within the scope of Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operators Licensing Proceedings,'' of the Commission's Rules of Practice for Domestic Licensing Proceedings and Issuance of Orders in 10 CFR Part 2 (54 FR 8269). Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for a hearing must be filed within thirty (30) days from the date of publication of this **Federal Register** notice. The request for a hearing must be filed with the Office of the Secretary either:

(1) By delivery to the Rulemakings and Adjudications Staff of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemakings and Adjudications Staff.

Each request for a hearing must also be served, by delivering it personally or by mail to:

(1) The applicant, Kennecott Uranium Company, P.O. Box 1500, Rawlins, WY 82301;

(2) The NRC staff, by delivery to the Executive Director of Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(3) By mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR Part 2 of the Commission's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

Any hearing that is requested and granted will be held in accordance with the Commission's ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings'' in 10 CFR Part 2, Subpart L.

Dated at Rockville, Maryland, this 6th day of August 1999.

For the Nuclear Regulatory Commission.

John J. Surmeier,

Chief, Uranium Recovery and Low-Level Waste Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–20909 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 070–0925]

Finding of No Significant Impact Related to Amendment of Materials License No. SNM–928, Kerr-McGee Corporation, Cimarron Fuel Fabrication Site, Crescent, Oklahoma

The U.S. Nuclear Regulatory Commission (hereafter referred to as NRC) is considering issuing a license amendment to Materials License No. SNM–923, held by the Kerr-McGee Cimarron Corporation (Cimarron or the licensee), to incorporate the licensee's proposed decommissioning plan (DP) for its Cimarron Fuel Fabrication Site (Cimarron site) located in Crescent, Oklahoma. Other proposals being considered include: (1) Establishment of a cleanup standard for the site; (2) revision of Cimarron's Radiation Protection Plan (RPP) that summarizes the overall radiation protection program for the Cimarron facility; and (3) revision of Cimarron's organizational structure.

Summary of Environmental Assessment

Background

Cimarron has environmental responsibility for a fuel fabrication facility site near the city of Crescent, Oklahoma. The Kerr-McGee Corporation (KMC) operated two plants at the Cimarron facility between 1965 and 1975, each under its own separate Atomic Energy Commission license. Radioactive Materials License SNM–928 was issued under 10 CFR Part 70 for the Uranium Fuel Fabrication Facility and Radioactive Materials License SNM–1174 was issued for the Mixed Oxide Fuel Fabrication Facility. In 1983, when KMC was divided into Sequoyah Fuels Corporation (SFC) and Quivera Mining Corporation, SFC became the owner of the Cimarron facility. Subsequently, in 1988, Cimarron Corporation, a subsidiary of KMC, became responsible for the Cimarron facility. Although the Cimarron facility poses no immediate threat to public health and safety, it is listed in the Site Decommissioning Management Plan to ensure timely decommissioning.

Proposed Action

The objectives of the proposed actions are to decontaminate and decommission the Cimarron site to permit release for unrestricted use and to terminate the Radioactive Materials License SNM–928. In accordance with 10 CFR 70.38(g), Cimarron submitted a proposed DP. In conjunction with this proposal, Cimarron has also proposed revisions to the Radioactive Materials License SNM–928, changes to its RPP, and changes to its organizational structure.

Decommissioning activities have been ongoing since 1976 when production activities were terminated. Many of the decommissioning activities at the site have been completed under existing license conditions. Decommissioning activities remaining to be performed at the Cimarron facility include: decontamination and decommissioning of facility structures; onsite disposal of contaminated soil meeting the Option 2 criteria of NRC's 1981 Branch Technical Position (BTP)[1], ''Disposal or Onsite Storage of Thorium or Uranium Wastes from Past Operations;'' offsite disposal of soil or material exceeding the BTP Option 2 criteria; and groundwater remediation.

As previously noted, Cimarron proposed other related revisions to its license:

(1) Amending its license to add a new license condition specifically establishing the BTP Option 1 unrestricted-use, residual-contamination criteria as the cleanup standard for the Cimarron site;

[1] ''Disposal or Onsite Storage of Thorium or Uranium Waste from Past Operations'' (46 FR 52061, October 23, 1981).

(2) Amending license conditions to better delineate the handling of various classifications of contaminated material at the site, and revising License Condition 10 to only reference licensee commitments that pertain to Cimarron's current decommissioning status;

(3) Amending the RPP to clarify statements made in the RPP; incorporate references to a Quality Assurance Plan, and revise its Environmental Sampling Schedule; and

(4) Amending the license to incorporate changes in its organizational structure. These changes were and will continue to be caused by downsizing of staff at the Cimarron site as decommissioning activities are completed.

The Need for Proposed Action

The proposed actions are necessary for Cimarron to complete the remaining decommissioning activities needed for NRC to release the Cimarron site for unrestricted use and to terminate Radioactive Materials License SNM–928. License termination is a separate action that requires an NRC finding that the premises are suitable for release.

Alternative to Proposed Action

The only alternative considered in the Environmental Assessment (EA) was the no-action alternative. No action would mean that: (1) The site would not be approved to remediate now; (2) obsolete license conditions would continue to be in License SNM–928; (3) changes to the RPP would not be effective; and (4) Cimarron's organizational structure would be outdated.

NRC staff has evaluated the no-action alternative and determined that the no-action alternative would conflict with NRC's requirement, 10 CFR 70.38, for timely remediation at sites that have ceased operation. Although there is no immediate threat to the public health and safety from this site, not undertaking remediation at this time does not solve the regulatory and potential long-term health and safety problems associated with storing this waste. No action now would delay remediation until some time in the future, when costs could be much higher than they are today. It is even possible that no disposal option will be available in the future if the current low level waste disposal facilities are closed and no new ones are opened. Therefore, the no-action alternative is not acceptable.

Environmental Impacts of Proposed Action

Radiological impacts on members of the public may result from inhalation and ingestion of releases of radioactivity in air and in water during the remediation operations, direct exposure to radiation from radioactive material at the site during remediation operations, and transport for disposal. Decommissioning workers may receive doses primarily by ingestion, inhalation, and direct exposure during the decommissioning activities. In addition to impacts from routine operations, the potential radiological consequences of accidents were considered.

NRC staff has reviewed the potential impacts of the proposed decommissioning, both beneficial and adverse. NRC staff's conclusions are summarized as follows:

a. Radiation exposures of persons living or traveling near the site because of onsite operations and waste transportation will be well within limits contained in 10 CFR Part 20.

b. The potential radiological impacts off-site of potential onsite accidents are well below the radiation dose limit of 1 mSv/yr (100 mrem/yr) to the public and the radiation dose limit of 0.50 mSv/yr (5 rem/yr) to workers in accordance with 10 CFR Part 20.

c. The potential non-radiological impacts, such as socioeconomic, air quality, land and water use, etc., from decommissioning activities at Cimarron are negligible.

d. For conservatism, the site use is assumed to be equivalent to the resident farmer scenario described in the NRC Policy and Guidance Directive PG–8–08, ''Scenarios for Assessing Potential Doses Associated with Residual Radioactivity.'' Under this scenario, the maximum radiation doses to a hypothetical resident farmer, who might establish a residence on the site, grow and consume food from the site, and consume drinking water from an onsite groundwater well, over a 1000-year period, were calculated assuming both with a cover and without a cover over the disposal cell. The predicted doses for both scenarios are less than 0.09 mSv/yr (9 mrem/yr), which is below NRC's Part 20 radiation dose for the public of 1 mSv/yr (100 mrem/yr).

e. Radiation doses to a remediation worker onsite from direct exposure are estimated to be less than 0.01 mSv (1 mrem) for a 2000-hour exposure period. Inhalation doses from a 2000-hour exposure would be less than 0.03 Sv (3 mrem). These predicted doses are substantially less than the occupation exposure limit of 0.50 mSv/yr (5 rem/yr) in 10 CFR Part 20.

f. The impacts from the transportation of radioactive materials are low and within NRC and Department of Transportation requirements. The potential consequences and probability of a transportation accident are low.

g. The licensee has a radiation protection program that will maintain radiation exposures and effluent releases within the limits of 10 CFR Part 20 and will maintain exposures as low as is reasonably achievable.

h. The population within a 6.5 kilometer (4 mile) radius of the licensee facility has minority and senior citizen populations lower than the county and the State averages, and has a median household income above that of the county and the State. Based on these statistics, there are no significant minorities and low-income households that will be exposed to impacts from the proposed activities at Cimarron. Because there are no significant impacts from the proposed activities, there will be no environmental justice impacts.

i. No reasonably available alternative to the licensee's proposed plan is obviously superior.

Conclusions

On the basis of its EA, NRC staff has concluded that the proposed action would not have any significant effect on the quality of the human environment and does not warrant the preparation of an environmental impact statement (EIS). The action called for, under NEPA and 10 CFR Part 51, is the issuance of a license amendment authorizing the licensee to perform decommissioning of the Cimarron site as proposed by the licensee and make the proposed revisions to the license.

In accordance with the requirements of Subpart L of 10 CFR part 2, an Opportunity for a Hearing[2] was offered on September 6, 1995. No requests for a hearing were received.

Finding of No Significant Impact

Pursuant to 10 CFR part 51, NRC has prepared an EA related to the issuance of a license amendment to Materials License SNM–928, authorizing decommissioning of the Cimarron Site. On the basis of this EA, NRC has concluded that this licensing action would not have any significant effect on the quality of the human environment and does not warrant the preparation of an EIS. Accordingly, it has been determined that a Finding of No Significant Impact is appropriate.

Further Information

For further details with respect to this action, the EA and other documents related to this proposed action are available for public inspection and copying at NRC's Public Document

[2] 60 FR 46315 (September 6, 1995).

Room at the Gelman Building, 2120 L Street NW., Washington, DC.

Dated at Rockville, Maryland, this 8th day of August 1999.

For the U.S. Nuclear Regulatory Commission.

Larry W. Camper,

Chief, Decommissioning Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 99–20907 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Nuclear Waste; Notice of Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold its 112th meeting on September 14–15, 1999, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The schedule for this meeting is as follows:

Tuesday, September 14, 1999—8:30 a.m. until 6:00 p.m.

Wednesday, September 15, 1999—8:30 a.m. until 6:00 p.m.

The following topics will be discussed:

A. *ACNW Planning and Procedures*—The Committee will hear a briefing from its staff on issues to be covered during this meeting. The Committee will also consider topics proposed for future consideration by the full Committee and Working Groups. The Committee will discuss ACNW-related activities of individual members.

B. *Risk Communications*—The Committee will continue to prepare for sessions with the local stakeholders to be held this fall in the Las Vegas, Nevada, area.

C. *Results of the Arthur Andersen Review of the Division of Waste Management Activities*—The Deputy Director, NMSS, will discuss the results of recent strategic planning activities within the Division of Waste Management and potential impacts on ACNW activities.

D. *Progress Report on Waste Management Research Program Plan*—The Office of Research will present its plan to the Committee, which it believes is consistent with the recommendations in NUREG–1635, the most recent joint ACNW/ACRS report on NRC research activities.

E. *Decommissioning Standard Review Plan (SRP) and Dose Modeling*—NMSS will provide a scheduled update of its progress in this area. Included will be a discussion of the draft SRP modules and the status of dose models.

F. *Division of Waste Management Fiscal Year 2000 Budget and Operating Plan Overview*—NMSS managers will present an overview of their priorities as defined by available resources for Fiscal Year 2000.

G. *Preparation of ACNW Reports*—The Committee will discuss planned reports on the following topics: a White Paper on Near-Field Chemistry issues, a joint ACRS/ACNW letter report on an NMSS approach to risk-informed, performance-based regulation in NMSS, and other topics discussed during this and previous meetings as the need arises.

H. *Meeting with the Director, Division of Waste Management*—The Committee will meet with the Director informally to discuss items of mutual interest.

I. *Miscellaneous*—The Committee will discuss miscellaneous matters related to the conduct of Committee and organizational activities and complete discussion of matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on September 29, 1998 (63 FR 51967). In accordance with these procedures, oral or written statements may be presented by members of the public, electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify the Associate Director for Technical Support, ACRS/ACNW, Dr. Richard P. Savio, as far in advance as practicable so that appropriate arrangements can be made to schedule the necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during this meeting will be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for taking pictures may be obtained by contacting the Associate Director for Technical Support, ACRS/ACNW, prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should notify Dr. Savio as to their particular needs.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Dr. Richard P. Savio, Associate Director for Technical Support, ACRS/ACNW (Telephone 301/415–7363), between 8:00 A.M. and 5:00 P.M. EDT.

ACNW meeting notices, meeting transcripts, and letter reports are now available for downloading or reviewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACNW meetings. Those wishing to use this service for observing ACNW meetings should contact Mr. Theron Brown, ACNW Audiovisual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m. EDT at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: August 6, 1999.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 99–20790 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Reactor Safety Chapter of the Strategic Plan Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Request for public comment/notice of meeting.

SUMMARY: The Nuclear Regulatory Commission is requesting public comment on the draft Nuclear Reactor Safety Chapter of the NRC Strategic Plan. The NRC is conducting a workshop on August 20, 1999, to give stakeholders an opportunity to meet with agency representatives to ask questions and comment on the Nuclear Reactor Safety Chapter of the Strategic Plan that the Commission has under consideration. This workshop is open to the public and all interested parties may attend.

DATES: August 20, 1999, from 9:00 a.m. to 1:00 p.m.

ADDRESSES: One White Flint North, NRC Commission Hearing Room, 11555 Rockville Pike, Rockville, Maryland.

FOR FURTHER INFORMATION CONTACT: James L. Blaha, Mail Stop O16-E15, U.S.

Nuclear Regulatory Commission, Washington, D.C. 20555–0001. Telephone: (301) 415–1703; FAX: (301) 415–2162; Internet: JLB@NRC.GOV.

Background

As part of the Government Performance and Results Act, the NRC is required to update its strategic plan triennially. The NRC's first strategic plan was issued in September 1997. Since that time, the NRC has implemented a Planning, Budgeting and Performance Measurement (PBPM) process which focuses on becoming more performance-based and outcome-oriented. The Nuclear Reactor Safety Chapter of the NRC Strategic Plan reflects this approach to long-range planning, as well as institutionalizing regulatory reforms that have been initiated within the last 18 months. The Nuclear Reactor Safety chapter has progressed to a point that further improvement will be enhanced by stakeholder input.

In the Fall of 1997 the agency undertook an effort to review and revise its strategic plan to better align and link the goals and strategies and to improve the logic and functionality of the strategic plan. The revision, however, did not fully consider the issues raised during the NRC's July 30, 1998, hearing before the Senate Subcommittee on Clean Air, Wetlands, Private Property, and Nuclear Safety; the July 17, 1998, Commission meeting with stakeholders; the Chairman's August 7, 1998, tasking memorandum; or the progress achieved to make NRC planning and budgeting more outcome-oriented. Since that time, the agency has begun an internal review to address these issues. This has resulted in a draft of selected portions of the strategic plan.

The draft of the Strategic Plan reflects revisions that focus on the Nuclear Reactor Safety arena and reflects the progress to date. Updates to this plan reflect changes in Commission policy over the past year, stakeholder input, as well as the development of new performance goals and measures. Also included in this package are edits to the front end sections that describe the Agency's mission, strategic goals, management goals, and strategic arenas. The Nuclear Reactor Safety Chapter reflects the new focus on four performance goals and the key strategies to be used to achieve these goals. Once completed, this chapter will be used as a model to revise and finalize the other program arena chapters.

This draft of the strategic plan is intended to reflect the results from the change process which has occurred over the past 18 months and which continues at the NRC. It also describes how this paradigm shift will become an integral part of NRC's future planning, budgeting, and performance management. A schedule to facilitate dialogue among the Commission staff, stakeholders, and Congress is provided below:

Revisions to the Nuclear Reactor Safety (NRS) Chapter of the Strategic Plan

August 3: Issue draft NRS chapter to stakeholders for comment
August 20: Stakeholder Workshop on NRS chapter
Early September: Revised NRS chapter to Commission
Late September: Senate Oversight hearing

The remaining Strategic Plan chapters (Nuclear Materials Safety, Nuclear Waste Safety, International Nuclear Safety Support) will be revised over the next year.

Stakeholder Input to the NRS Chapter of the Strategic Plan

While NRC recognizes work is yet to be finished, further improvements to the draft Strategic Plan will benefit from stakeholder input. The NRC is particularly interested in stakeholder views on the four performance goals and their associated measures and strategies. The draft specifically identifies a number of performance measures for which stakeholder input will be especially useful.

Stakeholder input is requested on the following broad areas:

- Do strategic goals, management goals, and performance goals address the appropriate areas requiring emphasis?
- Are the strategies to achieve these goals adequate to achieve success?
- Are the performance measures adequate to indicate whether we are achieving our goals? Are there better measures?
- Do goals and strategies reflect NRC's commitment to institutionalize change and become more performance based?

August 20, 1999 Workshop

NRC will be conducting a public workshop on August 10, 1999 at 1:00 p.m. in Rockville, Maryland, in the Commission Hearing Room to discuss the Nuclear Reactor Safety Chapter of the Strategic Plan. The NRC staff will answer questions and receive comments. Members of the public are invited to attend. Those wishing to participate in discussions are urged to contact Jim Blaha at 301–415–1703 to facilitate agenda planning.

In addition to participating in the workshop, stakeholders may submit written comments on the draft of the Strategic Plan to the NRC. Comments are requested by August 27, 1999. The draft Strategic Plan, as well as the ability to provide comments electronically, are available on the NRC web site at http://www.nrc.gov/NRC/COMMISSION/INITIATIVES/1999/index.html. Comments may also be provided in writing to the U.S. Nuclear Regulatory Commission, ATTN: Debra J. Corley, Mail Stop O–16E15, Washington, D.C. 20555–0001.

Stakeholder comments will be considered in another update of the draft Nuclear Reactor Safety chapter. This update will be provided to the Commission and made publically available prior to our Senate oversight hearing planned for September 1999. Stakeholders will also have other opportunities to comment on the NRC Strategic Plan which is required to be submitted to Congress by September 2000 in accordance with the Government Performance and Results Act.

The NRC is accessible to the White Flint Metro Station. Visitor parking near the NRC buildings is limited.

Dated at Rockville, Maryland, this 6th day of August, 1999.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Deputy Executive Director for Regulatory Programs, Office of Executive Director for Operations.

[FR Doc. 99–20910 Filed 8–11–99; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF MANAGEMENT AND BUDGET

Proposed Information Collection Activities OMB Circular A–21; Request for Comments

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) invites comment on the proposed information request. This request proposes a standard format for submitting facilities and administrative rate proposals by educational institutions and will be required by OMB Circular A–21, ''Cost Principles for Educational Institutions.'' The standard format would assist institutions in completing their proposals more efficiently and help the

Federal cognizant agency review each proposal on a more consistent basis. OMB proposed the use of and solicited input on the use of such a form in its proposed revision to OMB Circular A–21 on September 10, 1997. OMB received 35 comments from Federal agencies, universities and professional organizations in response to that section of the proposed revision to Circular A–21. All commenters were in favor of the development of such a form. OMB, with assistance from Federal agencies and universities, developed the attached form for inclusion in Circular A–21. OMB also proposes to revise Circular A–21 as shown below, to incorporate the new form.

DATES: Comments are due on or before October 12, 1999.

ADDRESSES: Comments should be mailed to Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, 725 17th Street, NW, Room 6025, Washington, DC 20503. Comments up to three pages in length may be submitted via facsimile to 202–395–4915. Electronic mail comments may be submitted via Internet to Hai—M.—Tran@omb.eop.gov. Please include the full body of electronic mail comments in the text and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Gilbert Tran, Office of Federal Financial Management, Office of Management and Budget, (202) 395–3993.

SUPPLEMENTARY INFORMATION: OMB proposed on September 10, 1997 (62 FR 47721), to develop a standard format for the submission of facilities and administrative (F&A) proposals, that would assist educational institutions in completing their F&A proposals more efficiently and help the Federal cognizant agency review each proposal on a more consistent basis. It would also facilitate the Federal Government's effort to collect better information regarding educational institution F&A costs that could be useful in explaining variations in F&A rates among institutions. In addition, a standard format may allow electronic submission of F&A proposals to the Federal cognizant agency in the future.

Federal agencies, universities and professional organizations, through their submitted comments, favorably support the proposal for the development of a standard format. Accordingly, OMB, with the assistance from Federal agencies and university representatives, developed a standard format that includes two parts:

- A summary schedule of the institution's proposed F&A rates, along with the F&A cost pools and their allocations, and
- A listing of support documentation to be submitted with an F&A proposal.

OMB is proposing, through this notice, to include the standard format as Appendix C of the Circular. This notice is soliciting comments from members of the public and affected entities concerning the proposed information collection to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection technique of other forms of information technology, e.g., permitting electronic submission of responses.

This notice also lists the following information:

Title: Appendix C, ''OMB Circular A–21 Documentation Requirements for Facilities and Administrative (F&A) Proposals Claiming Costs Under the Regular Method''.

Type of review: New collection.

Respondents: Large Universities.

Number of Responses: 282.

Estimated Time Per Response: 4 hours.

Needs and Uses: The proposed form will standardize the documentation requirements for facilities and administrative proposals submitted by large universities to their cognizant agency.

Issued in Washington, DC, August 4, 1999.

Norwood J. Jackson, Jr.,

Acting Controller.

OMB proposes the following revisions to Circular A–21.

1. Add Section G.12 to read as follows:

12. *Standard Format for Submission.* For facilities and administrative (F&A) proposals submitted on or after July 1, 2000, educational institutions shall use the standard format, shown in Appendix C, to submit their F&A rate proposal to the cognizant agency. The cognizant agency may, on an institution by institution basis, grant exceptions from the standard format requirement. This requirement does not apply to educational institutions which use the simplified method for calculating F&A rates, as described in Section H.

2. Add Appendix C (shown below):

Appendix C—OMB Circular A–21 Documentation Requirements for Facilities and Administrative (F&A) Proposals Claiming Costs Under the Regular Method

The documentation requirements for F&A rate proposals consist of two parts. Part I provides a schedule of summary data on the institution's F&A cost pools and their allocations, and the proposed F&A rates. An example of a completed Part I is included. Part II describes the standard documentation to be submitted with the institution's F&A proposal.

Part I—Summary Data Elements for F&A Proposal—Part A

Name of Institution: ____ Organization Number: (*Federal Use Only*)
Address: _____

a. Cognizant Federal Agency Rate Setting: _____ Audit: _____
b. Type of Institution Private ( ) Public/State ( )
c. Fiscal Year _____
d. Population Students: ____ Faculty: ____ Staff: ____
e. Status of Disclosure Statement Required to Submit (Y/N)? ____

Due Dates: Initial: ____ Revised: ____
Date Submitted ____
Approved ( ) Yes ( ) No Date: ____

f. Most Current F&A Rates (i.e., final, predetermined, fixed) (Last three fiscal years)

Type of rate	Fiscal year covered	Date of rate agreement	On-campus instruction	On-campus organized research	On-campus OSA*	Off-campus instruction	Off-campus organized research	Off-campus OSA*

(* OSA = Other Sponsored Activities)

g. Base year costs associated with new buildings placed into service within the last five years (i.e., base year and four preceding years) by major functions proposed (in thousands).

	Instruction	Organized research	OSA
Building Depreciation or Use Allowance Interest Expense Operation and Maintenance			

h. Dollar amounts by major functions proposed—Base Year (in thousands)

	Instruction	Organized research	OSA
Salaries & Wages/Fringes: —Professional/Professorial —Other Labor Non-labor Costs Modified Total Direct Costs			

i. Percentage of cost pool dollars allocated to major functions proposed—Base Year

	Instruction	Organized research	OSA	Other	Total
Building Depreciation or Use Allowance Equipment Depreciation or Use Allowance Interest Expense Operation and Maintenance Library					

j. Proposed methodology for library costs:
Standard Method: ____
Special Study: ____

k. Procedure for claiming fringe benefit costs:
Specific Identification: ____
Negotiated Rate: ____
Other (see attached): ____

Part I—Summary Data Elements for F&A Proposal—Part B

Name of Institution: _____
Base (or Data) Year: _____

BASE YEAR RATE CALCULATION SUMMARY BY MAJOR FUNCTION

[Dollars in thousands]

	Instruction	Organized research	OSA
FACILITIES GROUP			
Depreciation/Use Allowance:			
—Buildings	$_____ ____%	$_____ ____%	$_____ ____%
—Equipment	$_____ ____%	$_____ ____%	$_____ ____%
—Land Improvements	$_____ ____%	$_____ ____%	$_____ ____%
Interest Expense	$_____ ____%	$_____ ____%	$_____ ____%
Operation & Maintenance	$_____ ____%	$_____ ____%	$_____ ____%
Library	$_____ ____%	$_____ ____%	$_____ ____%

BASE YEAR RATE CALCULATION SUMMARY BY MAJOR FUNCTION—Continued

[Dollars in thousands]

	Instruction	Organized research	OSA
ADMINISTRATIVE GROUP			
General	$_____ ____%	$_____ ____%	$_____ ____%
Departmental	$_____ ____%	$_____ ____%	$_____ ____%
Sponsored Projects	$_____ ____%	$_____ ____%	$_____ ____%
Student Services	$_____ ____%	$_____ ____%	$_____ ____%
Adjustment for 26% Limitation	____%	____%	____%
MODIFIED TOTAL DIRECT COST AND F&A RATES			
On-Campus	$_____ ____%	$_____ ____%	$_____ ____%
Off-Campus	$_____ ____%	$_____ ____%	$_____ ____%
Other	$_____ ____%	$_____ ____%	$_____ ____%
Total	$_____ ____%	$_____ ____%	$_____ ____%
COMPOSITION OF RATE BASE			
Federal Awards:			
On-Campus (negotiated rates)	$_____	$_____	$_____
Off-Campus (negotiated rates)	$_____	$_____	$_____
Research Training Awards	$_____	$_____	$_____
Other Awards (not based on negotiated rates)	$_____	$_____	$_____
Non-Federal Sources	$_____	$_____	$_____
Total	$_____	$_____	$_____
MISCELLANEOUS STATISTICS			
Cost Sharing in Rate Base	$_____	$_____	$_____
Assignable Square Feet (ASF) by Major Function	_____	_____	_____
Percent of ASF Financed	____%	____%	____%

Part I—Example–Summary Data Elements for F&A Proposal—Part A

Name of Institution: University of XYZ Organization Number: (*Federal Use Only*)
Address: 100 Main St
Somewhere, ST 12345

a. Cognizant Federal Agency Rate Setting: HHS Audit: HHS
b. Type of Institution Private ( ) Public/State (X)
c. Fiscal Year July 1, 1997–June 30, 1998
d. Population Students: 12,000 Faculty: 1,759 Staff: 2,798
e. Status of Disclosure Statement:

Required to Submit (Y/N)? Yes
Due Dates: Initial: 06/30/98 Revised: 12/31/98
Date Submitted: 12/10/98
Approved: (X) Yes ( ) No Date: 06/13/99

f. Most Current F&A Rates (i.e., final, predetermined, fixed) (Last three fiscal years)

Type of rate	Fiscal year covered	Date of rate agreement	On-campus instruction (percent)	On-campus organized research (percent)	On-campus OSA*	Off-campus instruction	Off-campus organized research	Off-campus OSA*
Pred	1999	09/15/96	78.0	52.5	38.3	26.0	26.0	20.0
Pred	1998	09/15/96	78.0	52.5	35.0	26.0	26.0	20.0
Pred	1997	09/15/96	76.0	53.0	35.0	26.0	26.0	20.0

(* OSA=Other Sponsored Activities)

g. Base year costs associated with new buildings placed into service within the last five years (i.e., base year and four preceding years) by major functions proposed (dollars in thousands).

	Instruction	Organized research	OSA
Building Depreciation or Use Allowance	729	2,639	0
Interest Expense	0	1,794	0
Operation and Maintenance	1,280	4,632	0

h. Dollar amounts by major functions proposed—Base Year (in thousands)

	Instruction	Organized research	OSA
Salaries & Wages/Fringes:			
—Professional/Professorial	27,000	57,750	6,050
—Other Labor	9,400	6,000	5,000
Non-labor Costs	19,600	21,250	1,950
Modified Total Direct Costs	56,000	85,000	13,000

i. Percentage of cost pool dollars allocated to major functions proposed—Base Year

[In percent]

	Instruction	Organized research	OSA	Other	Total
Building Depreciation or Use Allowance	40.0	44.0	2.5	13.5	100.0
Equipment Depreciation or Use Allowance	34.2	27.7	2.1	36.0	100.0
Interest Expense	29.9	32.4	1.9	35.8	100.0
Operation and Maintenance	32.8	35.6	2.1	29.5	100.0
Library	75.3	10.9	0.9	12.9	100.0

j. Proposed methodology for library costs:
Standard Method: Yes
Special Study: No

k. Procedure for claiming fringe benefit costs:
Specific Identification: No
Negotiated Rate: Yes
Other (see attached) ____

Part I—Example—Summary Data Elements for F&A Proposal—Part B

Name of Institution: University of XYZ
Base (or Data) Year: 07/01/97 to 06/30/98

BASE YEAR RATE CALCULATION SUMMARY BY MAJOR FUNCTION

[Dollars in thousands]

	Instruction		Organized research		OSA	
FACILITIES GROUP						
Depreciation/Use Allowance:						
—Buildings	4,861	9.6%	5,278	6.9%	306	2.6%
—Equipment	3,082	6.1%	2,496	3.3%	194	1.7%
—Land Improvements	1,992	4.0%	133	0.2%	17	0.1%
Interest Expense	1,944	3.9%	2,111	2.8%	122	1.0%
Operation & Maintenance	8,532	16.9%	9,264	12.1%	536	4.6%
Library	7,910	15.7%	1,146	1.5%	96	0.8%
ADMINISTRATIVE GROUP						
General	1,535	2.7%	2,330	2.7%	356	2.7%
Departmental	11,991	21.4%	17,239	20.3%	2,797	21.5%
Sponsored Projects	89	0.2%	2,693	3.2%	412	3.2%
Student Services	4,166	7.4%	0	0.0%	0	0.0%
Adjustment for 26% Limitation		−5.7%		−0.2%		−1.4%
MODIFIED TOTAL DIRECT COST AND F&A RATES						
On-Campus	50,400	82.2%	76,500	52.9%	11,700	38.3%
Off-Campus	5,600	26.0%	8,500	26.0%	1,300	26.0%
Other		00.0%		00.0%		00.0%
Total MTDC	56,000		85,000		13,000	
COMPOSITION OF RATE BASE						
Federal Awards:						
On-Campus (negotiated rates)		1,000		46,000		900
Off-Campus (negotiated rates)		120		5,000		400
Research Training Awards		0		0		0
Other Awards (not based on negotiated rates)		1,680		8,500		2,600
Non-Federal Sources		53,200		25,500		9,100

BASE YEAR RATE CALCULATION SUMMARY BY MAJOR FUNCTION—Continued

[Dollars in thousands]

	Instruction	Organized research	OSA
Total	56,000	85,000	13,000
MISCELLANEOUS STATISTICS			
Cost Sharing in Rate Base	(10,000)	10,000	0
Assignable Square Feet (ASF) by Major Function	83,611	90,778	5,256
Percent of ASF Financed (1)	7.0	20.0	30.0

Note (1): Ratio of ASF subject to financing divided by total ASF. If 20% of a building's acquisition cost is financed, then 20% of the ASF is considered ASF financed.

Part II—Introduction

This Part contains the standard documentation requirements that are needed by your cognizant agency to perform a review of your institution's F&A cost proposal. This documentation supports the development of proposed rates shown in Part I and will be submitted with your F&A cost proposal.

This listing contains minimum documentation requirements.

Additional documentation may be needed by your cognizant agency before completing a proposal review.

If there are any questions about these requirements, please contact your cognizant agency.

Documentation requirements would be cross-referenced to appropriate schedule(s) within the submitted F&A cost proposal.

General Information

Reference:

____ 1. Copy of CPA audited certified (or State Auditor) financial statements including any affiliated organizations. The statements must be reconciled to the F&A base year cost calculation. Copy of most recently issued A–133 audit reports

____ 2. Copy of relevant detail supporting the financial statement, including a reconciliation schedule for each cost pool and rate base in the F&A base year cost calculation. A reconciliation schedule will show each reclassification and adjustment to the financial statements to arrive at the cost pools and rate bases in F&A base year cost calculation. Each reclassification and adjustment must be explained in notes to the reconciliation schedule

____ 3. Cost step-down schedule showing allocation of each F&A cost pool to the Major Functions and other cost pools

____ 4. Explanation for each proposed organized research rate component which exceeds 10% of the prior negotiated rate component

____ 5. Schedule by college or school breaking down the organized research base into amounts associated with (a) Federal awards receiving F&A cost based on the negotiated rate agreement, (b) Federal awards receiving less than the negotiated rates, (c) non-Federal awards, and (d) cost sharing

____ 6. Schedules clearly detailing composition and allocation base(s) of each F&A cost pool in base year cost calculation

____ 7. Narrative description of composition of each F&A cost pool and allocation methodology. If the institution has filed a DS–2 submission, specific references (rather than narrative descriptions) from the DS–2 may be used

____ 8. Narrative description of changes in accounting or cost allocation methods made since the institution's last F&A submission

____ 9. Copy of reports on the conduct and results of special studies

____ 10. Copy of the following:

(a) The Certificate of F&A Costs

(b) Lobbying Certification

(c) Description of procedures used to ensure that awards issued by the Federal Government do not subsidize the F&A costs allocable to awards made by non-Federal sources (e.g., industry, foreign governments)

(d) Statement concerning the physical inventory requirement to support claims for depreciation/use allowance charges

(e) Assurance Certification—for those institutions listed on Exhibit A—concerning disposition of Federal reimbursements associated with claims for depreciation/use allowances

(f) Assurance statement that institution is in compliance with Federal awarding agency limitations on compensation (e.g., NIH salary limitation, executive compensation)

____ 11. If applicable, reconciliation of carry-forward amounts from prior years used in the current proposal

____ 12. Transmittal letter stipulating the type(s) of rates proposed, the fiscal year(s) covered by the proposal and the base year used

Rate Proposal Summary by Major Function

____ 1. Summary of F&A base year rates calculated by Major Function and special rates (e.g., vessel rates) if applicable by component. These would be grouped by Administrative Components and Facilities Components. Total base year calculated rates would be disclosed, as well as allowable rates after the 26 percent limitation on Administrative Components

____ 2. Breakout of Modified Total Direct Cost (MTDC) rate base figures for each major function (and special rates, if applicable) by:

(1) On-Campus and Off-Campus amounts

(2) Federal awards

a. Based on Negotiated Rates—On-Campus

b. Based on Negotiated Rates—Off-Campus

c. Research Training Awards

d. Other Awards Not Based on Negotiated Rates

(3) Non-Federal Sources

____ 3. Miscellaneous Statistics including:

(1) Cost Sharing (including Mandatory and Voluntary amounts) in the Rate Base

(2) Assignable Square Feet (ASF) by Major Function

(3) Percentage of ASF which is financed (by Major Function)

(4) Breakout of Direct Salaries and Wages and fringe benefits by Professional/Professorial and Other (by Major Function)

____ 4. Future rate adjustments, if necessary, related to material changes since the base year. A clear description of the justification for each of the following:

(1) Changes by cost pool by year

(2) Changes in MTDC base by year

(3) Changes in F&A rates for future years

____ 5. Summary of future F&A rates, if necessary, by Major Function and special rates (e.g., vessel rates) which lists each administrative and facilities component by year.

Building Use Allowance and/or Depreciation

____ 1. Reconciliation of building cost used to compute use allowance and/or depreciation with the financial statements. If depreciation is claimed in the F&A proposal and disclosed on the financial statements, provide a reconciliation of depreciation amount with the financial statements.

Note: If an institution's financial statements do not disclose depreciation expense (those subject to GASB), a reconciliation of claimed depreciation expense to the financial statements is not possible.

____ 2. Schedule showing amount by building of use allowance and/or depreciation distributed to all functions

____ 3. If a method different from the standard square footage allocation method was used, describe method. Provide justification for its use and a schedule of allocation. If institution has filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

____ 4. If depreciation is claimed, describe what useful lives by group and component have been used

Equipment Use Allowance and/or Depreciation

____ 1. Reconciliation of equipment cost used to compute use allowance and/or depreciation with the financial statements. If depreciation is claimed in the F&A proposal and disclosed on the financial statements, provide a reconciliation of depreciation amount with the financial statements.

Note: If an institution's financial statements do not disclose depreciation expense (those subject to GASB), a reconciliation of claimed depreciation expense to the financial statements is not possible.

____ 2. Schedule showing amount by building of use allowance and/or depreciation distributed to all functions

____ 3. If a method different from the standard square footage allocation method was used, describe the method. Provide a justification for its use and a schedule of allocation. If institution has filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

____ 4. If depreciation is claimed, describe what useful lives by asset class and component have been used

Interest

____ 1. Reconciliation of interest cost used in the F&A base year calculation to the financial statements

____ 2. Schedule showing amount of interest assigned to each building and a distribution to all benefitting functions within each building for each proposed Major Function

Space Survey

____ 1. Summary schedule of square footage by school, department, building and function

____ 2. The same schedule should then be sorted by school, building, department, and function

____ 3. Copy of space inventory instructions, forms, and definitions

Operations and Maintenance (O&M)

____ 1. Summary schedule of each activity in O&M cost pool. It must show the costs by S&W/fringe benefits and all non-labor cost categories

____ 2. Schedule showing amount of O&M costs distributed to all functions

General Administration (G&A)

____ 1. Summary schedule of each activity in the G&A cost pool. It must show the costs by S&W/fringe benefits and all non-labor cost categories

____ 2. Schedule of costs in the modified total costs (MTC) allocation base

____ 3. If a method different from the standard MTC allocation method was used, describe the method. Provide a justification for its use and a schedule of allocation. If institution filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

Departmental Administration (DA)

____ 1. Schedule of the DA summary by school, department and allocated to Major Functions by department

____ 2. Schedule identifying costs by S&W/fringe benefits and non-labor costs by department for the following functions:

(1) Direct (Major Functions)
  a. Instruction
  b. Organized Research
  c. Other Sponsored Activities
  d. Other
(2) Departmental Administration (excluding Deans)
(3) Dean's office
(4) Other, as appropriate

S&W/fringe benefits shall be further identified as follows:
(1) Faculty and other professional
(2) Administrative (e.g., business officers, accountants, budget analysts, budget officers)
(3) Technicians (e.g., lab technicians, glass washers)
(4) Secretaries and clerical

____ 4. Complete description of allocation method, bases and allocation sequences (e.g., direct charge equivalent, 3.6 percent allowance). If a method different from the standard MTC allocation method was used, describe the method. Provide a justification for its use and a schedule of allocation. If institution filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

____ 5. Show a detailed example (i.e., illustration of your Direct Charge Equivalent (DCE) methodology) of the allocation process used for one department which has Instruction and Organized Research functions from each of the following schools: Medicine, Arts & Sciences and Engineering, as applicable

Sponsored Projects Administration (SPA)

____ 1. Summary schedule for each activity included in SPA cost pool. It should show costs by S&W/fringe benefits and all non-labor cost categories

____ 2. Schedule of the sponsored projects direct costs in the MTC allocation base

____ 3. If a method different from the standard sponsored projects MTC allocation method was used, describe method. Provide justification for its use and a schedule of allocation. If school filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

Library

____ 1. Summary schedule for each activity included in library cost pool. It would show costs by salaries and wages, books, periodicals, and all other non-labor cost categories
____ 2. Schedule listing all credits to library costs
____ 3. Schedule of Full Time Equivalents (FTE) and salaries and wages in the bases used to allocate library costs to users of library services
____ 4. If the standard allocation methodology was not used, describe the alternative method and provide justification for its use. Provide schedules of allocation statistics by function. If school filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of the DS–2

Student Services

____ 1. If the proposed allocation base(s) differs from the stipulated standard allocation methodology provide:
(a) Justification for use of a non-standard allocation methodology;
(b) Description of allocation procedure; and
(c) Statistical data to support proposed distribution process
If school filed a DS–2 submission, claimed allocation methodology may be referenced to specific section of approved DS–2

[FR Doc. 99–20699 Filed 8–11–99; 8:45 am]
BILLING CODE 3110–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting; Notice of Public Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on August 18, 1999, 9 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

(1) Occupational Disability—FCE Protocols
(2) Fiscal Year 2001 Budget
(3) Year 2000 Issues

The entire meeting will be open to the public. The person to contact for more information is Beatrice Ezerski, Secretary to the Board, Phone No. (312) 751–4920.

Dated: August 10, 1999.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 99–20947 Filed 8–10–99; 10:10 am]
BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41706; File No. SR–NTSE–98–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change and Amendment Nos. 1 and 2 Thereto by the New York Stock Exchange, Inc., Relating to the Creation of a Floor Audit Trail

August 4, 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 August 4, 1998, the New York Stock Exchange, Inc. (''NYSE'' or Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change relating to the creation of a Floor audit trail. The Exchange submitted Amendment No. 1 to its proposal on December 21, 1998.[3] On June 8, 1999, the NYSE submitted Amendment No. 2.[4] The proposed rule change, as amended, is described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to adopt new provisions In NYSE Rule 123, to provide for the capturing of details of an order systemically on the Floor of the Exchange. The proposed provision would require that the details of all orders be recorded in an electronic system prior to being represented or executed on the Floor. The text of the proposed rule change follows. New text is italicized.

Rule 123—Records of Orders

Paragraphs headed ''Given Out'', ''Receipt of Orders'', ''Cancelled or Executed'', and ''By Accounts'', to be numbered (a), (b), (c) and (d), respectively.

(e) System Entry Required

No Floor member may represent or execute an order on the Floor of the Exchange unless the details of the order have been first recorded in an electronic system on the Floor. Any member organization proprietary system used to record the details of the order must be capable of transmitting these details to a designated Exchange data base within such time frame as the Exchange may prescribe. The details of each order required to be recorded shall include the following data elements, any changes in the terms of the order and cancellations, in such form as the Exchange may from time to time prescribe:

1. Symbol;
2. Clearing member organization;
3. Order identifier that uniquely identifies the order;
4. Identification of member or member organization recording order details;
5. Number of shares or quantity of security;
6. Side of market;
7. Designation as market, limit, stop, stop limit;
8. Any limit price and/or stop price;
9. Time in force;
10. Designation as held or not held;
11. Any special conditions;
12. System-generated time of recording order details, modification of terms of order or cancellation of order;
13. Such other information as the Exchange may from time to time require.

* * * * *

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the NYSE proposes to amend the discussion of the proposal contained in the purpose section of the original filing to provide additional information about the proposed floor audit trail system. *See* Letter from James E. Buck, Senior Vice President and Secretary, NYSE, to Richard Strasser, Assistant Director, Division of Market Regulation (''Division''), Commission, dated December 18, 1998 (''Amendment No. 1'').

[4] In Amendment No. 2, the NYSE proposes to delete from the proposal those portions of the filing relating to proposed amendments to NYSE Rule 134 (error accounts) and the adoption of new NYSE Rule 407A (member account disclosure). The NYSE also proposes, among other things, to revise the proposed rule text to include a list of data elements to be recorded in an electronic system before an order has been represented or executed on the Exchange's trading floor. *See* Letter from Daniel Parker Odell, Assistant Secretary, NYSE, to Richard Strasser, Assistant Director, Division, Commission, dated June 7, 1999 (''Amendment No. 2'').

.20 Orders—For purposes of paragraph (e), an order shall be any written, oral or electronic instruction to effect a transaction.

.21 Orders not subject to paragraph (e) recording requirements—Any order executed by a specialist, Competitive Trader or Registered Competitive Market Maker for his or her own account and any orders which by their terms are incompatible for entry in an Exchange system relied on by a Floor member to record the details of the order in compliance with this rule shall be exempt from the order entry requirements of paragraph (e) above.

.22 Time standards—Any member organization proprietary system used to record the details of an order for purposes of this rule must be synchronized to a commonly used time standard and format acceptable to the Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange has proposed a series of initiatives to strengthen the regulation of activities of members on the Floor. One of the initiatives, proposed here, is the adoption of new provisions in NYSE Rule 123 for recording the details of an order, as well as any modification or cancellation of such order, in an electronic system prior to representing or executing an order on the Floor. The order initiatives, which consist of amendments to NYSE Rule 134 governing error accounts and the adoption of new Rule 407A regarding Floor member account disclosure, have been removed from this filing.[5] These proposed rule changes have been resubmitted in a separate filing.[6]

The proposed amendment to NYSE Rule 123 defines an order as any written, oral or electronic instruction to effect a transaction. Paragraph (e) of the proposed rule requires that, prior to being represented, an order, including any changes in its terms and any cancellations, must be entered into an electronic system that records the order details specified in the rule, and records the time the order details were entered into the system and the time of any modification or cancellation. This will be a system-generated timestamp. If a proprietary system is used, this timestamp will be generated by the proprietary system rather than at the NYSE. This will require that proprietary systems and NYSE systems be synchronized to a commonly used time standard and format, as provided in section .22 of the Supplementary material accompanying the proposed rule.

Members may use either a proprietary or an Exchange system to comply with the proposed rule. If a proprietary system is used, order details must be sent to a designated NYSE data base. The systemic entry requirement would not be applicable to transactions initiated on the floor and executed by a registered competitive market maker, a competitive trader or a specialist[7] for their own account, as such trades may be initiated on the Floor and are already reported to the Exchange.

Other than as noted above, before representing or executing an order on the Floor, a member, whether acting as agent for another member on the Floor or otherwise, is obligated to make sure that the details of such order have been entered in an electronic system in accordance with the requirements of this rule. The details of the order may be entered into the system by an individual or organization other than the member who is representing or executing the order, but this does not relieve such member of the obligation not to represent the order unless such details have been recorded in an electronic system.

This proposed rule change does not replace existing requirements for recording orders contained in Exchange or Commission rules. For example, NYSE Rule 123, under the heading ''Receipt of Orders,'' requires each member to preserve for three years a record of every order received by that member on the Floor from off the Floor, including the time when such order was received. NYSE Rule 410 requires each member or member organization to preserve for three years a record of every order transmitted to the Floor or received and carried to the Floor by such member or member organization, including the name and amount of security, the terms of the order, the time it was transmitted or received, and the time an execution report was received.

Mandatory order details specified in the proposed amendments to NYSE Rule 123 consist of: symbol; clearing member organization; order identifier (as assigned by the member or member organization recording the order details)[8] that uniquely identifies the order; identification of member or member organization recording order details; quantity; side of market (*e.g.*, buy, sell long, sell short, sell short exempt); designation as market, limit, stop or stop limit; limit price, stop price or stop limit price (if applicable); time in force (*e.g.*, day, GTC, GTX);[9] designation as held or not held;[10] special conditions (*e.g.*, rule 10b–18, ''G'' order and any request by a customer that an order not be displayed); and, a system-generated timestamp. The proposed rule would also require the systemic entry of such other details as the Exchange may require from time to time.

Data elements tied to execution, such as executing broker, contra broker, execution time and price are not required to be entered by this rule, as they are not available at the time that order details are entered into the system. NYSE Rule 132, the Exchange's audit trail rule, requires that these items, as well as account type and other items specified in that rule,[11] be submitted for each round lot transaction effected on the Exchange, either directly to the Exchange (for non-regular way trades) or through a qualified clearing agency which has agreed to supply the Exchange with such data (for regular way trades). These requirements for

[5] *See* Amendment No. 2, *supra* note 4.

[6] *See* File No. SR–NYSE–99–25.

[7] See paragraph .20 of Supplementary Material accompanying the proposed rule.

[8] The Broker Booth Support System automatically assigns a unique order identifier to the order, but a member or member organization can choose instead to override this feature and assign its own unique identifier.

[9] NYSE Rule 13 provides that, if not executed, a day order expires at the end of the Exchange's 9:30 a.m. to 4:00 p.m. trading session; an order designated ''GTC'' remains in effect until it is either executed during the Exchange's 9:30 a.m. to 4:00 p.m. trading session or cancelled. An order designated ''GTX'' is similar to a GTC order, but is also eligible for execution during the Exchange's Off-Hours Trading Session. An order designated as good until a specific time would be recorded in a separate memo field (rather than in the time in force field) as a special condition or special instruction.

[10] Also recorded in a separate memo field (or fields) that will allow other special instructions and special conditions to be entered in a free format.

[11] NYSE Rule 132.30 requires the submission of the following trade data elements; (1) Security name or symbol; (2) number of shares or quantity of security; (3) transaction price; (4) time the trade was executed; (5) executing broker badge number or symbol; (6) contra side broker badge number or symbol; (7) clearing firm number or symbol; (8) contra side clearing firm number or symbol; (9) account type; and (10) such other information as the Exchange may require.

audit trail submissions have been in place since 1985 and are separate from the proposed rule change.[12]

The Exchange is proposing to design a data base system that will enable compliance with this rule and enhance its Broker Booth Support System (''BBSS'') to support various trading floor business models, while minimizing the impact on the timely execution of orders. According to the NYSE, these systems are being developed in consultation with various member committees as well as the individuals on the Upstairs Traders Advisory Committee and the Exchange Traders Advisory Committee. In addition, the Exchange has interviewed individual brokers, member firm technology departments, and service bureaus.

In addition to the data elements required by NYSE Rule 123, the Exchange's data base system will be able to record optional order data elements, including special instructions (*e.g.,* go along, percent of volume), account type identifier (this is optional or order entry but mandatory on submission to trade comparison for audit trail), account number and any other information the firm chooses to include in the record, provided it is consistent with the format(s) accepted by the Exchange.

The Exchange also plans to modify the existing BBSS to enable compliance at trading floor booths for firms that choose a NYSE (versus a proprietary) system to comply with the proposed rule. The BBSS enables firms to enter orders that are phoned to the Floor; to receive orders delivered to the booth systemically via a proprietary system/NYSE system interface; and to enter orders from off-floor using a NYSE system. The planned enhancements to BBSS are designed to support entry of all order types and all required information as well as to speed data entry by providing quick entry templates and other data entry enhancements. The BBSS upgrade would also improve order and information management features resulting in operational efficiencies for the firms.

BBSS does not currently accept orders with fractional prices less than 1/64 or integer prices greater than 99,999. However, orders with such prices will be accepted when NYSE systems are converted to decimal format. In the event that BBSS cannot accommodate such orders at the time NYSE Rule 123 becomes effective, brokers relying on BBSS or comply with the Rule would be exempt for orders that could not be entered through BBSS until such time as BBSS is compatible with the entry of such orders. Section .21 of the Supplementary Material to the proposed rule would specify that any orders which by their terms are incompatible for entry in an Exchange system relied on by a Floor member to record the details of the order in compliance with the proposed rule shall be exempt from its order entry requirements. However, if a proprietary system is used, that system must be capable of transmitting details of all orders to the Exchange data base.

The NYSE's system development plan includes building a new database to collect and consolidate records of orders in NYSE systems and orders that are sent to the Exchange Floor for execution through a member firm's proprietary system. The NYSE systems will be designed to provide for member firms' proprietary systems interface to the NYSE data base in Common Message Switch (''CMS''), Financial Information Exchange Protocol (''FIX''), or other NYSE-approved industry standard format. Such systems must submit a copy of the order details to the NYSE data base upon receipt of the order by the member firm's proprietary system on the Floor.[3] An ''as of'' time indicator will be required for orders entered late due to system problems. Member firms would have to notify the Exchange by the end of the following day and provide documentation of the system problem that necessitated the use of an ''as of'' time indicator.

The Exchange intends to communicate its system plan to member firms, then finalize NYSE system specifications, and issue interface specifications to member firms. The effective date of the proposed rule will be based on the implementation of enhancements to NYSE systems as well as the state of readiness of the member firm community. The current target is to complete NYSE systems enhancements by the end of second quarter 2000. However, this is subject to the completion of specification and design work, as well as the finalization of development, testing, and cutover schedules.

The Exchange believes that the implementation of this system will allow the NYSE to track more accurately via systemic records whether an order has been received on the Floor prior to its execution. It also would address the issue of falsification of order entry times. Therefore, the Exchange believes that its ability to surveil for anomalous trading situations—such as on-Floor trading and the creation of inaccurate records, frontrunning of orders, and improper execution of customers' orders—will be enhanced.

If the Exchange, upon investigation, determines that a particular violation of this proposed rule is minor in nature, the Exchange could issue a cautionary letter. The Exchange would consider seeking approval to add the proposed provisions of NYSE Rule 123 to the list of rules contained in NYSE Rule 476A, which provides for the imposition of fines for minor violations of rules. In those instances where investigation reveals a more serious violation or repetitive violations of NYSE Rule 123, the Exchange would commence disciplinary procedures under NYSE Rule 476.[14]

2. Statutory Basis

The Exchange believes that the basis under the Act for the proposed rule change is the requirement under Section 6(b)(5)[15] that an exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. According to the NYSE, the proposed rule change is designed to accomplish these ends by strengthening the Exchange's ability to surveil the Floor activities of members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received any written comments on the proposed rule change.

[12] *See* File No. SR–NYSE–85–34 and Securities Exchange Act Release No. 22444 (September 20, 1985).

[13] ''Upon receipt'' means as soon as practicable, but no later than 60 seconds after receipt. This 60 seconds is intended to provide flexibility in implementation and is not intended to be incorporated into proprietary systems; e.g., a system that was programmed to routinely transmit a copy to the Exchange database system 60 seconds after receipt of an order would not comply with the system requirement.

[14] The Exchange does not include specific reference to disciplinary matters in each rule because it believes the language in NYSE Rules 476 and 476A in all-encompassing.

[15] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. 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 in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR–NYSE–98–25 and should be submitted by September 7, 1999.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20851 Filed 8–11–99; 8:45 am]

BILLING CODE 8010–01–M

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41712; File No. SR–PCX–99–26]

Self-Regulatory Organizations; Pacific Exchange, Inc.; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change and Amendments No. 1 and 2 Thereto Relating to the Minimum Variation for Nasdaq-100 Shares and Disclaimer of Liability With Respect to the Nasdaq-100 Index

August 5, 1999.

Pursuant to Section 19(b) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on July 28, 1999,[3] the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Exchange subsequently filed Amendment No. 2 on July 30, 1999.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons, and simultaneously is approving the filing.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its rules on trading differentials to permit dealings in Nasdaq-100 Shares of the Nasdaq-100 Trust (''Nasdaq-100 Shares'') in increments of 1/64th of $1.00, and to amend its Portfolio Depositary Receipts rules to include a disclaimer of liability with respect to the Nasdaq-100 Index in connection with the trading of the Nasdaq-100 Shares.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The proposal was originally submitted on July 21, 1999, but was not complete. The Exchange subsequently submitted Amendment No. 1, which replaced the original filing in its entirety.

[4] In Amendment No. 2, the Exchange proposes (1) to add a new commentary .03 to PCX Rule 8.300 to state that the Exchange will trade, pursuant to unlisted trading privileges, Nasdaq-100 Shares that will be based on the Nasdaq-100 Index; and (2) to amend proposed PCX Rule 8.300(g) relating to disclaimers of liability of the Nasdaq-100 Index. *See* Letter from Robert P. Pacileo, Attorney, PCX, to Michael A. Walinskas, Associate Director, Division of Market Regulation, Commission, dated July 29, 1999 (''Amendment No. 2'').

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 self-regulatory organization 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 III below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend PCX Rule 5.3(b), on trading differentials, to permit dealings in Nasdaq-100 Shares in increments of 1/64th of $1.00. The Nasdaq-100 Trust is a unit investment trust sponsored by Nasdaq-Amex Investment Product Services, Inc. with a portfolio based on the component stocks of the Nasdaq-100 Index. The Exchange intends to trade the Nasdaq-100 Shares pursuant to unlisted trading privileges under the Exchange's Portfolio Depositary Receipts Rules 8.300 *et seq.*[5] Further, the Exchange proposes to codify language in PCX Rule 8.300, Commentary .03, to reflect that the Exchange will trade Nasdaq-100 Shares pursuant to unlisted trading privileges.[6] These securities are currently traded on the Amex in increments of 1/64th of $1.00,[7] and thus, the Exchange believes that it is appropriate to trade these securities on the Exchange with the same minimum increment of 1/64th of $1.00 as well.

In connection with the Exchange's licensing agreement with the Nasdaq Stock Market (''Nasdaq''), relating to liability for the calculation of the Nasdaq-100 Index in connection with the trading of the Nasdaq-100 Shares, the Exchange proposes to add PCX Rule 8.300(g) to codify a rule governing disclaimers of liability relating to the Nasdaq-100 Index. The Exchange represents that proposed PCX Rule 8.300(g) is consistent with the

[5] The Exchange represents that American Stock Exchange's (''Amex'') PDR Rules 1000 through 1003 and the PCX's PDR rules 8.300(a) through 8.300(f) are substantially the same.

[6] *See* Amendment No. 2, *supra* note 4.

[7] *See* Securities Exchange Act Release No. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR–Amex–98–34).

disclaimer of liability language adopted by the Amex in its Rule 1006.[8]

2. Statutory Basis

The Exchange believes that this proposal is consistent with Section 6(b) of the Act,[9] in general, and furthers the objectives of Section 6(b)(5),[10] in particular, in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, and in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to File No. SR–PCX–99–26 and should be submitted by September 2, 1999.

[8] *See* Amendment No. 2, *supra* note 4.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

IV. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change and Amendment Nos. 1 and 2

The Commission finds that the PCX's proposed rule change and Amendment Nos. 1 and 2 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[11] Specifically, the Commission believes that the proposal is consistent with Section 6(b)(5) of the Act [12] because it will facilitate transactions in securities by permitting the PCX: (1) To trade Nasdaq-100 Shares, on a UTP basis, in increments of 1/64th of $1.00, and (2) to adopt a disclaimer of liability rule relating to the Nasdaq-100 Index, consistent with the license agreement between Nasdaq and the Exchange.

The Exchange has requested that the Commission find good cause pursuant to Section 19(b)(2) of the Act for approving the proposed rule change and Amendment Nos. 1 and 2 prior to the thirtieth day after the publication of the proposal in the **Federal Register**. The Commission believes that such action is appropriate, in that the proposed rule change establishes the same minimum trading variation as the Amex has adopted for Nasdaq-100 Shares. Further, the proposed rule relating to the disclaimer of liability with respect to the Nasdaq-100 Index (as stated in Amendment No. 2 of the proposed rule change) is identical to the disclaimer of liability adopted by the Amex.[13] For the reasons set forth above, the Commission does not believe that this proposal raises any new regulatory issues. Accordingly, the Commission finds that there is good cause for approving the proposed rule change and Amendment Nos. 1 and 2 prior to the thirtieth day after the publication of the proposal in the **Federal Register**.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change is hereby approved on an accelerated basis.

[11] In reviewing the proposed rule change, the Commission considered its potential impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] The Amex disclaimer of liability provision was approved in Securities Exchange Act Release Nos. 41119 (February 26, 1999), 64 FR 11510 (March 9, 1999) (SR–Amex–98–34), and 41562 (June 25, 1999), 64 FR 36057 (July 2, 1999) (SR–Amex–99–22). It was subject to the full notice and comment process in Securities Exchange Act Release No. 41119 and no comments were received with respect to the disclaimer.

[14] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20849 Filed 8–11–99; 8:45 am]

BILLING CODE 8010–01–M

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–41711; File No. SR–PHLX–99–24]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Relating to the Establishment of a Fee to Members for Receiving On-line Options Information

August 5, 1999.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b-4 thereunder, [2] notice is hereby given that on June 29, 1999, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Phlx proposes to adopt a real-time, trade information fee of $.0025 per trade for members receiving option trade information on-line (i.e., electronically) from the Exchange, beginning on July 1, 1999.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with Commission, the Phlx included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Phlx has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Recently, the Exchange implemented an automation enhancement to the options floor that provides option trade information on-line (i.e. electronically) on a real-time basis. Members can now choose to connect and log on to an interface to the options risk management system to receive options (equity and index options) transaction information real-time. Specifically, once transaction information is in the AUTOM System, [3] it becomes available to members such as clearing firms, who may connect to the feature; clearing firms may determine to offer such information to floor traders electronically, but the Exchange is not proposing to do so at this time. The transaction information covered by this feature includes the type of information generally captured in Exchange systems as a trade.[4] Currently, such information is made available to members in hard-copy (paper ticket) form, which can be confirmed against floor trader positions. The Exchange has created this new electronic link to facilitate electronic position monitoring for options. The feature is voluntary and does not replace the current hard-copy printing of transaction information. Members choosing to log on to the feature will be charged $.0025 per trade.[5]

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act [6] in that it provides for the equitable allocation of reasonable dues, fees and other charges among its members and other persons using its facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

[3] AUTOM is the Phlx Automatic Options Market System. *See* Phlx Rule 1080.

[4] This information includes the symbol, volume, price, time and clearing information of the traded security. Telephone conversation between Nandita Yagnik, Council, Phlx, and Heather Traeger, Attorney, Division of Market Regulation (''Division''), SEC, on July 16, 1999.

[5] The Exchange chose to charge a user fee rather than a flat fee to encourage more firms, including small firms, to use the feature because it is an important risk management tool. Telephone conversation between Nandita Yagnik, Council, Phlx, and Heather Traeger, Attorney, Division, SEC, on July 19, 1999.

[6] 15 U.S.C. 78f(b)(4).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change, which establishes or changes a due, fee, or other charge imposed by the Exchange, has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and subparagraph (f)(2) of Rule 19b–4 thereunder.[8] The Exchange implemented the fee on July 1, 1999. At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549–0609. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Phlx. All submissions should refer to File No. SR–PHLX–99–24 and should be submitted by September 2, 1999.

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 99–20850 Filed 8–11–99; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3203; Amendment #1]

State of Minnesota

In accordance with a notice received from the Federal Emergency Management Agency dated August 2, 1999, the above-numbered Declaration is hereby amended to establish the incident period for this disaster as beginning on July 4, 1999 and continuing through August 2, 1999.

All other information remains the same, i.e., the deadline for filing applications for physical damage is September 25, 1999 and for economic injury the deadline is April 28, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 4, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–20795 Filed 8–11–99; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster #3189; Amendment #4]

State of North Dakota

In accordance with a notice received on August 2, 1999 from the Federal Emergency Management Agency, the above-numbered Declaration is hereby amended to extend the deadline for filing applications for physical damage as a result of this disaster from August 6, 1999 to September 7, 1999.

All other information remains the same, i.e., the deadline for filing applications for economic injury is March 8, 2000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: August 4, 1999.

Bernard Kulik,

Associate Administrator for Disaster Assistance.

[FR Doc. 99–20796 Filed 8–11–99; 8:45 am]

BILLING CODE 8025–01–P

[9] 17 CFR 240.30–2(a)(12).

DEPARTMENT OF STATE

[Public Notice No. 3109]

Office of Mexican Affairs; Notice of Issuance of a Finding of No Significant Impact (FONSI) With Regard to the Issuance of a Presidential Permit for the Anzalduas International Crossing, McAllen, Texas

AGENCY: Department of State.

SUMMARY: Notice is hereby given that the Department of State has issued a Finding of No Significant Impact (FONSI) on the human environment for the Anzalduas International Crossing project sponsored by the Cities of McAllen, Hidalgo and Mission, Texas. An initial draft of the environmental assessment of the proposed Anzalduas International Crossing was prepared by Halff Associates, Inc.; Gutierrez, Smouse, Wilmut and Associates, Inc.; together with Dr. Michael E. Tewes, Mr. Joe Idecker and Dr. John Keller for the sponsors, the Cities of McAllen, Hidalgo and Mission, Texas.

Both the draft Environmental Assessment and the draft Final Environmental Assessment of the Department of State (Draft Final EA) have been reviewed by numerous federal and state agencies. Each such ''cooperating agency'' has approved or accepted the draft Final EA, provided, in certain cases, that mitigation recommendations are followed. These cooperating agencies are:

U.S. Government: The Immigration and Naturalization Service, U.S. Customs Service, Department of Agriculture, General Services Administration, United States Section of the International Boundary and Water Commission, Department of Transportation, Department of the Interior, U.S. Coast Guard, Environmental Protection Agency, Food and Drug Administration, Federal Emergency Management Administration, Department of Defense and Department of Commerce.

State of Texas: Texas Natural Resource Conservation Commission, Department of Public Safety, General Land Office, Texas Historical Commission, Texas Department of Transportation, Texas Parks and Wildlife Department, Lower Rio Grande Valley Development Council and Office of the Secretary of State.

Based upon the Department's independent review of the Draft EA, the Final EA, comments received during their preparation and comments received by the Department from federal and state agencies including measures which are proposed to be taken to prevent or mitigate potentially adverse environmental impacts which the Sponsors intend to take, the Department has concluded that issuance of a Presidential Permit authorizing construction of the proposed Anzalduas International Crossing, as proposed to be constructed in Road Alternative # 3 as set forth in the Final Environmental Assessment, would not have a significant impact on the quality of the human environment within the United States. Accordingly, a finding of no significant impact is adopted and an EIS will not be prepared.

ADDRESSES: Copies of the Presidential Permit may be obtained from Mr. David E. Randolph, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520, telephone (202) 647–8529. A copy of the Department's Final Environmental Assessment is available for inspection in Room 4258 of the Department of State during normal business hours.

SUPPLEMENTARY INFORMATION: The proposed action is to issue a Presidential Permit to the Cities of McAllen, Hidalgo and Mission, Texas, for the construction, operation and maintenance of an international vehicular and pedestrian bridge, its approaches and facilities at the international boundary between the United States and Mexico, southwest of McAllen, Texas, and adjacent to Reynosa, Tamaulipas, Mexico (the proposed ''Anzalduas International Crossing'').

Factors Considered

The Department in this case considered four roadway crossing construction alternatives. It should be noted that each alternative contemplates initial construction of a four-lane road with ultimate build-out to eight lanes. The draft Final Environmental Assessment was prepared with this information in mind. The alternatives are described in detail in the draft Final Environmental Assessment and in summary fashion as follows:

Road Alternative #1: This alternative comprises building a four-lane access road and bridge to a Border Station, assumed to be constructed on fill, immediately south of the Banker Floodway. Beyond the Border Station, a four-lane approach road at grade would be built to the main channel of the Rio Grande, and a four-lane international bridge elevated over the main channel.

Road Alternative #2: This alternative comprises a four-lane access road and bridge to an identical Border Station location for Road Alternative # 1. South of the Border Station, the road to the Rio Grande is entirely on structure using the four-lane international bridge section throughout. The length of this proposed bridge structure is approximately 4,800 feet.

Road Alternative #3: This alternative comprises a four-lane access road to a Border Station located approximately 1,000 feet north of the Banker Floodway. South of the Border Station, the roadway is to be constructed with four roadway lanes and a sidewalk on one side for the entire segment south to the Rio Grande. This segment is to be comprised of 2,200 feet of bridge across the Old Military Highway and the Banker Floodway (identical to the international bridge section), 6,100 feet of approach road at grade south of the Floodway and 700 feet of international bridge to the center of the Rio Grande main channel.

Road Alternative #4: This alternative is identical to Road Alternative # 3, except that with respect to this alternative, the road remains on structure from the south edge of the Border Station all the way to the Rio Grande. The road segment south of the Border Station is therefore 9,000 feet of international bridge.

Other Alternatives: Two other alternative options are addressed in the Final Environmental Assessment: (a) a no-action/no-build option; and (b) a mass transit option. The Department has considered each of these options as an alternative to construction of the Anzalduas International Crossing and has determined that neither is feasible.

In considering option (a), the no-action/no-build alternative, and option (b), the option of Sponsors providing expanded public transportation services between the cities of McAllen, Texas, and Reynosa, Mexico, the Department notes the continuing increase in traffic, including commercial truck traffic, on existing bridges in the general vicinity of the proposed Anzalduas International Crossing.

The Department further notes the significant and growing need for effective transportation of people, goods, and services between the United States and Mexico. (Between 1994 and 1998, the value of U.S. trade with Mexico nearly doubled, from $100.3 billion to $173.7 billion.) In the longer term, trade with Mexico is likely to continue to increase as a result of the increase in ''maquiladoras'' located in the vicinity of the sponsoring cities across the international boundary in Mexico. Reynosa is now one of the most successful cities along the northern Mexico frontier in attracting new maquiladora plants.

No action would likely result in saturation of the existing Hidalgo-Reynosa International Bridge causing worse delays and gradual deterioration of trade in the area. The Hidalgo-Reynosa International Bridge, heavily congested during many hours of each day, ranks among the top of all Texas border crossings with more than 40,000 vehicular crossings (two-way) on an average day. The preferred regional action is to move through traffic and commercial traffic away from the center of Reynosa, out to the Pharr International Bridge on the east and to the Anzalduas International Crossing on the west. The no-action/no-build alternative would force a significant portion of the cross-border trips to travel through the crowded downtown Reynosa street system or else divert up to ten miles to cross at the Pharr International Bridge. The diversion to Pharr could result in extra travel on the order of 30 million vehicle miles per year, with gradually worsening effects thereafter. The no-action/no-build alternative is believed to be detrimental to the region in terms of economic development, energy use and particularly air quality. The increased convenience offered by the new crossing capacity in the area is expected to alleviate these problems.

The provision of mass transit services for the existing international bridges would not meet projected commercial, non-passenger demands. There is currently mass transit offered at the existing Hidalgo-Reynosa International Bridge, which services some 80,000 commuters per month between Reynosa and downtown McAllen. The congestion at Hidalgo remains in spite of the use of mass transit, and the need for the Anzalduas crossing would not be removed by the mass transit proposal. The proposed Anzalduas International Crossing could have a beneficial effect on existing mass transit use in the area because it will reduce delays at the existing Hidalgo-Reynosa International Bridge. The resulting improvement in the frequency and speed of bus service may lead to increased use of this service. In sum, increasing population, urbanization, and commerce in the McAllen, Hidalgo and Mission, Texas/Reynosa, Mexico, area mean that existing problems of traffic congestion, including those caused by commercial traffic, would likely negatively affect the environmental quality of the area if the additional route provided by the Anzalduas International Crossing were not provided.

Road Alternative #3 is the Sponsors' preferred alternative. It differs from Road Alternative #4 only with respect to proposed road construction south of the Banker Floodway. Road Alternative #3 initially contemplates a four-lane at-grade approach road while Road Alternative #4 would be constructed entirely on an elevated structure. Otherwise, and particularly with respect to potential environmental impacts, there is no significant difference between the two alternatives provided that agreed-upon mitigation measures with respect to Road Alternative #3 are taken. Since Road Alternative #3 was the Sponsors' preferred choice due to its substantially lower cost, a more detailed assessment of Road Alternative #4 was not considered necessary. Road Alternatives #1 and #2 involve filling in the flood plain of the Rio Grande and elicited a particularly negative response, based in part on environmental concerns, from federal agencies including the United States Section of the International Boundary and Water Commission (IBWC) and the Fish and Wildlife Service (FWS). Therefore, these Road Alternatives were not further evaluated.

Summary of the Assessment of the Potential Environmental Impacts Resulting From the Proposed Action

The Final Environmental Assessment provides information on the environmental effects of the alternatives outlined above regarding the placement of the Anzalduas International Crossing, and ''no-action/no-build'' and mass transit alternatives. On the basis of the Final Environmental Assessment, the Department makes the following determinations regarding the potential environmental impacts of Road Alternative #3, the preferred alternative.

Air Quality: This project is in an area that is in attainment of the National Ambient Air Quality Standards (NAAQS). A microscale analysis for Carbon Monoxide (CO) found that anticipated CO concentrations are less than the established CO standards of 35 parts per million (ppm) and 9 ppm for one and eight hour periods, respectively. The maximum anticipated CO concentration for the year 2014 is 36% for one hour and 60% for eight hours of the CO level of NAAQS. The impact on air quality from this project will not be significant.

While there is potential during the construction phase for any of the alternatives involving new construction to adversely affect air quality in the short term from fugitive dust emissions in and around the construction site due to construction operations, these effects may be mitigated by requiring contractors to minimize exhaust emissions through emissions control devices, using tarp covers on trucks transporting refuse and construction waste products on-site, wetting unpaved roadways, prohibiting any open burning of construction waste products on-site, and limiting unnecessary idling of construction vehicles. Restoration of the site by introducing grass and other brush-type plantings would further minimize fugitive dust emissions.

Surface Hydrology: Development of the Anzalduas International Crossing will result in an increase in storm water runoff due to the increase in impervious surfaces. The construction of the proposed project will adhere to the applicable portions of the McAllen/Mission surface drainage criteria for the collection and discharge of runoff so as to not adversely impact downstream properties. Long-term adverse impacts to surface waters are not anticipated due to the proposed project.

River Channel and Floodplains: The proposed Border Station will be sited outside the Rio Grande flood plain, consistent with E.O. 11988 regarding a National Policy on Flood Plain Management which requires federal agencies to ''avoid to the extent possible the long- and short-term adverse impacts associated with the occupancy and modification of flood plains. . . .'' The improvements result in zero rise in the upstream water surface and no loss of valley storage in the segment.

Embankments required for the bridge approaches between the Rio Grande and the Banker Floodway will be constructed with earth borrowed from the road right-of-way within the floodway. No new fill dirt will be imported into the floodway and the roadway will be designed to balance the existing conveyance within the floodway. A computer hydraulic analysis performed by the Sponsors indicates that the project should result in no adverse deflection or obstruction of the normal or flood flows of the Rio Grande. However, approval by the IBWC will be considered only after it receives conceptual plans from both the U.S. and the Mexican sponsors covering project components in the United States and Mexico.

Water Quality: The construction phase of the Anzalduas International Crossing may lead to minor temporary impacts on water quality. Existing water lines and sanitary sewer lines would be extended to serve the project site from the Cities of Mission and McAllen. Construction of the Crossing and related facilities will include measures to prevent sediments from entering the adjacent waterways. Refuse and wastes from demolition and excavation will be contained and hauled offsite to a

suitable place of disposal. Trucks will be routed and unloaded so as to prevent materials and debris from spilling into waterways. A storm water retention pond approximately 250 feet by 150 feet will be constructed south of the north abutment of the Rio Grande bridge that is designed to intercept and retain runoff from the bridge deck so as to contain contaminants or spills. A pipe drainage system will be constructed in the bridge superstructure in order to carry storm water to the pond.

Hazardous Wastes: The proposed project is not located on or near any known hazardous waste facilities and will not generate any hazardous wastes. No mitigation is required. The proposed Border Station will contain a hazardous waste containment unit in the truck dock area that would provide temporary storage of hazardous waste if a spill occurred. The international bridge is drained in a contained system back to a retention pond near the north abutment. This pond would provide temporary storage of hazardous waste if a spill occurred on the bridge deck.

Historical and Archeological Resources: The Texas Archaeological Research Laboratory determined that there are no recorded archaeological sites located in the project area. An archaeological and historical reconnaissance survey and shovel testing carried out at the direction of the Texas State Historic Preservation Office found no evidence of archaeological or historic features in the project area. An unmarked cemetery may exist in the vicinity of the entrance to Anzalduas County Park, well to the west of the project site. The La Lomita Historic District, which is listed on the National Register of Historic Places, is also located to the west and outside of the project site.

Land Use and Local Development Impacts: The majority of the land in the project area is used for agriculture and is unincorporated. The Cities of Mission and McAllen have extraterritorial boundaries that extend into the area; the Cities are cooperating in the development of a land use master plan. The City of Granjeno is located north of the bridge site and comprises approximately 90 homes; three other homes in the area are surrounded by farmland. The FWS owns several tracts of land along the Rio Grande which comprise a wildlife corridor. Anzalduas County Park is owned by Hidalgo County on land acquired as part of the Anzalduas Dam and Banker Floodway flood control projects.

The construction of the Border Station will require the displacement of two single-family homes located in agricultural fields. The Border Station and roadway will impact approximately 236 acres of cultivated fields; the Border Station will be located approximately 1,000 feet northwest of Granjeno.

The City of McAllen, under the city's property acquisition and relocation assistance policy, will compensate the property owners being displaced by the Border Station. The Border Station will be designed and constructed to minimize impacts to Granjeno; a large landscaped berm will be constructed along the east side of the Border Station property to shield the facility. A 500-feet-wide open space buffer will be preserved between the Border Station and Granjeno.

Threatened and Endangered Species: The FWS has identified four federally-listed endangered species that may be present in the project area: the jaguarundi, ocelot, northern aplomado falcon and Walker's manioc. The Sponsors have developed a detailed ''Endangered Species Plan'' in consultation and coordination with FWS to ensure that the bridge will not affect the federally-listed wildlife species known to exist in the Rio Grande Floodway corridor. Three large wildlife underpasses will be constructed at agreed locations under the at-grade segment of the roadway.

The Plan also includes the leasing of 160 acres of land located to the east of the proposed bridge to the FWS for $1.00 per acre to allow revegetation of farmlands. The initial lease of the land to the FWS will revert to a donation when traffic begins to cross the Anzalduas International Bridge. The Sponsors will execute payment of $50,000 to the FWS for expenses associated with revegetation after diplomatic notes have been exchanged between the United States and Mexico authorizing bridge construction to begin.

The Sponsors will grant Conservation Easements to the FWS covering a 400-foot-wide strip adjacent to the Rio Grande, a 60-foot-wide strip of land along the western edge of the right-of-way south of the Banker Floodway, and 1.6 acres of unused land under the proposed Banker Floodway Bridge. The Sponsors will also construct a stormwater retention pond south of the north abutment of the international bridge and three large wildlife underpasses under the at-grade segment of the roadway. The revegetation activities should not impede the conveyance of normal or flood flows in the river and its floodplain. Such activities will be considered in the same understandings as in *River Channel and Floodplains* (page 6 of the FONSI) regarding the deflection or obstruction these may present.

Traffic Noise: Construction noise is difficult to predict. Provisions should be included in the plans and specifications that require the contractor to make every reasonable effort to minimize construction noise through abatement measures such as work-hour controls, proper maintenance of equipment muffler systems and usage of noise-controlled construction equipment. An analysis of the existing and future traffic noise levels indicates that the proposed project will not result in any noise impacts at any adjacent land use activity areas.

Wetlands: The U.S. Army Corps of Engineers conducted a site visit and made a wetland determination of the project area on April 29, 1992. The Corps determined that the project would not impact any wetland areas subject to its jurisdiction. Because no wetland impacts are expected from the project, no wetland mitigation is required.

Environmental Justice: The project area is located in Hidalgo County, Texas, which the U.S. Census Bureau in 1995 estimated to have a population of 479,000. The county population is approximately 87% Hispanic. The majority (99%) of land in the project area is used for agriculture. As stated above, two houses in the project area will need to be acquired; one of these two residences is owned by a minority family. Acquisition of these properties will be accomplished under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended. Relocation resources and assistance will be available to all persons regardless of race, color, religion, sex or national origin. The proposed project is expected to have a positive impact on the economic characteristics of the area and therefore no mitigation is required.

Minority and low-income populations will not be impacted disproportionately in an adverse manner by the proposed bridge, nor will there be any negative impacts to community cohesion or neighborhood stability.

Conclusion

Analysis of the Environmental Assessment Submitted by the Sponsors

Based upon the Department's independent review of the Final Environmental Assessment, comments received during its preparation and comments received by the Department from federal and state agencies including measures which are proposed to be taken to prevent or mitigate potentially adverse environmental

impacts which the Sponsors intend to take, the Department has concluded that issuance of a Presidential Permit authorizing construction of the proposed Anzalduas International Crossing, as proposed to be constructed in Road Alternative #3 as set forth in the Final Environmental Assessment, would not have a significant impact on the quality of the human environment within the United States. Accordingly, a finding of no significant impact is adopted and an EIS will not be prepared.

Dated: July 23, 1999.

David E. Randolph,

Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs.

[FR Doc. 99–20900 Filed 8–11–99; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

Office of Mexican Affairs

[Public Notice No. 3110]

Notice of Issuance of a Presidential Permit to the cities of McAllen, Hidalgo and Mission, Texas, To construct, operate and maintain an international bridge, its approaches and facilities at the international boundary between the United States and Mexico

AGENCY: Department of State.

SUMMARY: Notice is hereby given that the Department of State has issued a Presidential Permit to the Cities of McAllen, Hidalgo and Mission, Texas, to construct, operate and maintain an international bridge, its approaches and facilities at the international boundary between the United States and Mexico (the ''Anzalduas International Crossing''). The permit was issued July 23, 1999, pursuant to the International Bridge Act of 1972 (33 U.S.C. 535 *et seq.*) and Executive Order 11423 of 1968, as amended by Executive Order 12847 of 1993.

ADDRESSES: Copies of the Presidential Permit may be obtained from Mr. David E. Randolph, Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs, Room 4258, Department of State, Washington, D.C. 20520, telephone (202) 647–8529.

SUPPLEMENTARY INFORMATION: Notice of the application by the Cities of McAllen, Hidalgo and Mission, Texas, for a permit to build a new bridge, with access road, to be constructed across the Rio Grande river between McAllen, Texas, and Reynosa, Tamaulipas, Mexico, was published in the **Federal Register** on December 22, 1992, at 57 FR 60832. The bridge will carry pedestrian, vehicular and commercial traffic, and is intended to serve growing neighborhoods on the west side of the McAllen-Reynosa area. As a condition for the Presidential Permit, the Cities of McAllen, Hidalgo and Mission have agreed to begin construction of the bridge no earlier than April 1, 2003, and to open the bridge no earlier than January 1, 2005, unless prior to those dates the Secretary of State or the Secretary's delegate determines that the U.S. Congress has provided sufficient funds for construction, operation and support of the bridge.

Furthermore, permanent cargo import facilities will be constructed beginning no earlier than January 1, 2015 unless prior to that date the average northbound cargo traffic at the Pharr-Reynosa International Bridge reaches 15,000 vehicles per week.

The application for the Presidential Permit was reviewed and approved by numerous federal, state and local agencies. The final application and environmental assessment, which resulted in a finding by the Department of State of no significant impact (''FONSI'') on the human environment, were reviewed and approved or accepted by the Immigration and Naturalization Service, General Services Administration, Department of Interior, Department of Agriculture, Department of Commerce, U.S. Customs Service, U.S. Coast Guard, Federal Highway Administration, Food and Drug Administration, International Boundary and Water Commission—U.S. Section, Department of Defense, Environmental Protection Agency, Department of State and appropriate Texas State Agencies: the Texas Parks and Wildlife Department, the Texas Department of Transportation, the Texas Historical Commission and the Texas Natural Resource Conservation Commission.

Dated: July 28, 1999.

David E. Randolph,

Coordinator, U.S.-Mexico Border Affairs, Office of Mexican Affairs.

[FR Doc. 99–20899 Filed 8–11–99; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Lawrence County, Ohio

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that a supplement to a final environmental impact statement will be prepared for a proposed highway project in Lawrence County, Ohio.

FOR FURTHER INFORMATION CONTACT: Scott McGuire, Field Operations Engineer, Federal Highway Administration, 200 North High Street, Room 328, Columbus, Ohio 43215, Telephone: (614) 280–6852.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Ohio Department of Transportation, will prepare a supplement to the final environmental impact statement (EIS) on a proposal to improve State Route (SR) 7 and SR 607 in Lawrence County, Ohio. The original EIS for the improvements (FHWA–OH–EIS–72–8–F) was approved on January 31, 1974. The supplement is being prepared due to the time elapsed since the original approval in 1974 and to adequately address new legislative and regulatory requirements. In response to the October 28, 1995, Federal planning regulations, a major investment study for the corridor has been completed by KYOVA Interstate Planning Commission.

The existing facility, which travels thru the Villages of Chesapeake and Proctorville (on a two-lane roadway) is prone to heavy traffic numbers exacerbated by turning movements and resulting in a high accident situation. SR 7 in this area is also prone to flooding which results in roadway closure and impairs emergency vehicles. The section of roadway to be relocated is situated in southern Lawrence County across the Ohio river from Huntington, West Virginia, a major metropolitan area. This section of roadway is predominantly used for residents living in Ohio and working in the Huntington area. The project is situated in the Ohio River valley with steep hills to the north. The flatter lands to the south along the river have been developed for residential and commercial buildings. Improvements to the corridor are considered necessary to provide for existing and projected traffic demand.

Alternatives under consideration include (1) taking no action; (2) building a 4-lane limited access facility on new alignment. The alignments under consideration are slightly north of Chesapeake, Proctorville, and Rome.

FHWA, ODOT and other local agencies invite participation in defining the alternatives to be evaluated in the supplemental EIS, and any significant social, economic, or environmental issues related to the alternatives. Information describing the purpose and

need of the project, the proposed alternatives, the areas to be evaluated, the citizen involvement program, and the preliminary project schedule may be obtained from the FHWA at the address provided above.

Coordination with concerned federal, state, and local agencies has been ongoing throughout project development. A public meeting was held on June 27, 1996 at a point in time when an EIS was not believed to be necessary. Coordination will be continued throughout the study with federal, state, and local agencies, and with private organizations and citizens who express or are known to have interest in this project. On August 26, 1999, a public meeting will be held to obtain input on a preferred alignment. A Public Hearing will be held and may take place in the year 2000. Public notice will be given of the exact time and place of the meeting and the hearing to be held for the project. The Draft EIS will be available for public and agency review and comment prior to the Public Hearing. No formal scoping meeting will be held.

To ensure that the full range of issues relating to this proposed action are addressed, and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the supplemental EIS should be sent to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: July 29, 1999.

Scott A. McGuire, P.E.,

Field Operations Engineer, Federal Highway Administration, Columbus, Ohio.

[FR Doc. 99–20918 Filed 8–11–99; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB–33 (Sub-No. 70)]

Union Pacific Railroad Company—Abandonment—Wallace Branch, ID

On June 18, 1999, Union Pacific Railroad Company (UP) filed with the Surface Transportation Board (Board), environmental information required to complete the environmental compliance process and to receive final approval to abandon and salvage its Wallace Branch line. The line extends 71.5 miles from milepost 16.5 near Plummer to milepost 80.4 and/or 0.00 near Wallace, and then to milepost 7.6 near Mullan, in Benewah, Kootenai, and Shoshone Counties, Idaho.[1] UP also filed a Notice of Intent to Complete Abandonment Proceeding, which was published once each week for three consecutive weeks in local newspapers in Benewah, Kootenai, and Shoshone Counties on May 26, and June 2 and 9, 1999.

Background

On August 22, 1991, UP filed an application with the ICC seeking authority under 49 U.S.C. 10903 and 10904 to abandon and discontinue operations over the Wallace Branch line. In a decision served November 2, 1992, in Docket No. AB–33 (Sub-No. 70) the ICC found that the public convenience and necessity permitted UP to abandon its Wallace Branch line. In that same decision, the ICC decided that UP could discontinue service immediately but could not fully abandon the line—salvage and permanently remove it from the rail network—until the environmental impact of the proposed abandonment was resolved. Specifically, the ICC imposed six environmental conditions[2] that require consultation and possible permitting and environmental review by various state and federal environmental agencies prior to any salvage of the track.

On judicial review (*State of Idaho, et al.* v. *ICC,* 35 F.3d 585 (D.C. Cir. 1994)), the court affirmed the ICC's decision to permit UP's immediate discontinuance of rail operations. Thus, that portion of this case is administratively final and no longer at issue. In addition, however, the court found that the ICC's environmental analysis was not complete because the ICC did not have all of the information to take a ''hard look'' at the environmental impact of salvage operations on the line. Accordingly, the court remanded the ICC's salvage authorization.

Pursuant to the court's decision, the ICC, by decision issued in December 1994, reopened that portion of the case to complete the environmental analysis of salvage and vacated its conditional authorization of salvage (except for the portion of the line within the Bunker Hill Superfund site).[3] Therefore, the grant of abandonment authority in this proceeding is not final, and UP cannot conduct salvage activities on the portion of the line outside the Superfund site before it submits the necessary environmental documentation to complete the environmental compliance process and receives final approval from the Board to salvage that portion of the line.

Environmental Compliance

On June 18, 1999, UP filed environmental documentation with the Board, that UP believes responds to the ICC's six environmental conditions, the court remand, and the ICC's decision reopening this proceeding. UP's environmental documents include (1)

[1] The line traverses the U.S. Postal Service zip codes 83851, 83861, 83833, 83810, 83839, 83837, 83873, 83846, and 83868. The Wallace Branch no longer has stations because rail service was discontinued in accordance with the approval of the predecessor agency of the Board, the Interstate Commerce Commission (ICC), and the discontinuance was upheld by the United States Court of Appeals for the District of Columbia Circuit.

[2] 1. UP shall not salvage any railroad infrastructure, including the rail and ties, along the entire right-of-way until it has consulted with the Idaho Department of Environmental Quality and the U.S. Environmental Protection Agency. This consultation will ensure that if and when salvage activity ultimately takes place, it will be in compliance with the Comprehensive Environmental Response, Compensation and Recovery Act, 42 U.S.C. § 6901 *et seq.*, and/or other applicable laws and regulations.

2. Pursuant to the U.S. Fish and Wildlife Service (''USFWS'') request, UP, prior to any salvage activity, shall determine, using National Wetland Inventory Maps, if wetlands are located along the right-of-way. If wetlands are located along the right-of-way, UP shall consult with USFWS prior to any disturbance of the right-of-way and comply with any applicable requirement of the U.S. Fish and Wildlife Coordination Act, 16 U.S.C. § 661.

3. UP shall not undertake any salvage activities on the Wallace Branch until compliance with § 7 of the Endangered Species Act of 1973, 16 U.S.C. § 1531, has been completed. As a part of the § 7 compliance process, UP shall retain an independent biological consultant, to work under the supervision of the Board's Section of Environmental Analysis (SEA) and in cooperation with USFWS to prepare a biological assessment.

4. A Water Pollution Control Act permit under 33 U.S.C. § 1251, *et seq.*, may be required prior to salvage of the portion of the Wallace Branch where it crosses the Coeur d'Alene River. Prior to any salvage activities, UP shall contact the Idaho Department of Health and Welfare, Division of Environmental Quality, to determine if such a permit is required and take the necessary steps to secure a permit.

5. The U.S. Army Corps of Engineers (CORPS) has expressed concern regarding impacts to wetlands and water quality if UP salvages the right-of-way. In addition, the CORPS has indicated that materials in the area through which the track passes should be tested prior to any attempt to remove it. Accordingly, UP shall consult with the CORPS prior to undertaking any salvage activities to determine what appropriate mitigation may be required.

6. UP shall retain its interest in and take no steps to alter the historic integrity of all structures, including the line itself, that are 50 years old or older until completion of the § 106 process of the National Historic Preservation Act, 16 U.S.C. § 470f.

[3] Section 121(e)(1), 42 U.S.C. 9621(e)(1), relieves UP of the requirement to obtain ICC or Board approval if it salvages track in connection with remediation carried out in compliance with the Comprehensive Environmental Response, Compensation and Liability Act.

an Environmental Evaluation/Cost Analysis and a Track Salvage Work Plan developed in consultation with and with the approval of the U.S. Environmental Protection Agency and the Idaho Department of Environmental Quality; (2) relevant National Wetland Inventory Maps; (3) a biological assessment required by section 7 of the Endangered Species Act; (4) a cultural resource inventory report; and (5) correspondence from State and local government agencies. UP indicates that copies of these documents were made available for public review and comment for 20 days in May and June, 1999, at several locations near the Wallace Branch and were provided to interested persons who requested them. No comments were received by UP.

Interested persons should be aware that the SEA intends to prepare a Supplemental Environmental Assessment (Supplemental EA)[4] analyzing UP's environmental documentation, including any comments received and preliminarily determining whether the outstanding environmental issues have been resolved and UP has fully complied with the environmental review process. The Supplemental EA will be served on all persons on the Board's service list in Docket No. AB–33 (Sub-No. 70) and upon other affected agencies. Any other persons who would like to obtain a copy of the Supplemental EA must contact SEA.

There will be a 30-day period for all interested persons and agencies to review and comment on the Supplemental EA. Based on SEA's independent review of UP's environmental documentation, any further environmental review and consultation by SEA, and consideration of all timely comments received on the Supplemental EA, SEA will make final environmental recommendations to the Board. The Board will then issue a final decision granting or denying UP final authority to abandon the line and salvage the portion outside of the Superfund site, imposing any future environmental mitigation that it deems appropriate if final approval to abandon is granted.

Any offer of financial assistance (OFA) under 49 CFR 1151.27(b)(2) will be due no later than 10 days after service of a decision granting final approval for abandonment. Each offer must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following any final approval by the Board to abandon and salvage the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than September 7, 1999. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.1(f)(27). If a trail use request is filed, UP will notify the Board whether and with whom it intends to negotiate a trail use agreement no later than September 22, 1999.

On August 3, 1999, the State of Idaho (State) and the Coeur d'Alene Tribe (Tribe) filed a request that a Certificate of Interim Trail Use (CITU) be issued and enclosed its ''Statement of Willingness to Assume Financial Responsibility.''[5] The State and the Tribe need not refile their trail use request, which will be considered by the Board at the time of the issuance of its final decision in this matter.

All interested persons may file written comments with the Board on any remaining issues no later than September 7, 1999.

All filings in response to this notice must refer to Docket No. AB–33 (Sub-No. 70) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001, and (2) Thomas Greenland, Environmental Counsel, Union Pacific Railroad Company, 1416 Dodge Street, Omaha, NE 68179, (402) 271–4634.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 45 CFR part 1152. Questions concerning environmental issues may be directed to Phillis Johnson-Ball at the SEA at (202) 565–1530.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: August 5, 1999.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 99–20874 Filed 8–11–99; 8:45 am]

BILLING CODE 4915–00–P

[4] SEA issued an Environmental Assessment for public review and comment on September 27, 1991, in connection with UP's original abandonment application.

[5] The ICC had received a request for the issuance of a CITU permitting interim trail use on the entire line in August 1995. The Board denied the trail use request as premature by decision issued November 15, 1996.

federal register

Thursday
August 12, 1999

Part II

Department of Housing and Urban Development

Regulatory Waiver Requests Granted; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4512–N–01]

Notice of Regulatory Waiver Requests Granted

AGENCY: Office of the Secretary, HUD.

ACTION: Public Notice of the Granting of Regulatory Waivers from January 1, 1999 through March 31, 1999.

SUMMARY: Under the Department of Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), HUD is required to make public all approval actions taken on waivers of regulations. This notice is the thirty-third in a series, published on a quarterly basis, providing notification of waivers granted during the preceding reporting period. The purpose of this notice is to comply with the requirements of section 106 of the HUD Reform Act.

FOR FURTHER INFORMATION CONTACT: For general information about this notice, contact Camille E. Acevedo, Assistant General Counsel for Regulations, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500; telephone (202) 708–3055 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339. For information concerning a particular waiver action for which public notice is provided in this document, contact the person whose name and address is set out for the particular item in the accompanying list of waiver-grant actions.

SUPPLEMENTARY INFORMATION: As part of the Housing and Urban Development Reform Act of 1989 (the ''HUD Reform Act''), the Congress adopted, at HUD's request, legislation to limit and control the granting of regulatory waivers by HUD. Section 106 of the HUD Reform Act added a new section 7(q) to the Department of Housing and Urban Development Act (2 U.S.C. 3535(q)), which provides that:

1. Any waiver of a regulation must be in writing and must specify the grounds for approving the waiver;

2. Authority to approve a waiver of a regulation may be delegated by the Secretary only to an individual of Assistant Secretary rank or equivalent rank, and the person to whom authority to waive is delegated must also have authority to issue the particular regulation to be waived;

3. Not less than quarterly, the Secretary must notify the public of all waivers of regulations that HUD has approved, by publishing a notice in the **Federal Register**. These notices (each covering the period since the most recent previous notification) shall:

a. Identify the project, activity, or undertaking involved;

b. Describe the nature of the provision waived, and the designation of the provision;

c. Indicate the name and title of the person who granted the waiver request;

d. Describe briefly the grounds for approval of the request;

e. State how additional information about a particular waiver grant action may be obtained.

Section 106 of the HUD Reform Act also contains requirements applicable to waivers of HUD handbook provisions that are not relevant to the purpose of this notice.

Today's document follows publication of HUD's Statement of Policy on Waiver of Regulations and Directives issued by HUD on April 22, 1991 (56 FR 16337). This is the thirty-third notice of its kind to be published under section 106 of the HUD Reform Act. This notice updates HUD's waiver-grant activity from January 1, 1999 through March 31, 1999.

For ease of reference, waiver requests granted by departmental officials authorized to grant waivers are listed in a sequence keyed to the section number of the HUD regulation involved in the waiver action. For example, a waiver-grant action involving exercise of authority under 24 CFR 58.73 (involving the waiver of a provision in 24 CFR part 58) would come early in the sequence, while waivers of 24 CFR part 990 would be among the last matters listed.

Where more than one regulatory provision is involved in the grant of a particular waiver request, the action is listed under the section number of the first regulatory requirement in title 24 that is being waived as part of the waiver-grant action. (For example, a waiver of both § 58.73 and § 58.74 would appear sequentially in the listing under § 58.73.)

Waiver-grant actions involving the same initial regulatory citation are in time sequence beginning with the earliest-dated waiver grant action.

Should HUD receive additional reports of waiver actions taken during the period covered by this report before the next report is published, the next updated report will include these earlier actions, as well as those that occurred between April 1, 1999 through June 30, 1999.

Accordingly, information about approved waiver requests pertaining to HUD regulations is provided in the Appendix that follows this notice.

Dated: August 3, 1999.

Andrew Cuomo,

Secretary.

Appendix—Listing of Waivers of Regulatory Requirements Granted by Officers of the Department of Housing and Urban Development January 1, 1999 Through March 31, 1999

Note to Reader: More information about the granting of these waivers, including a copy of the waiver request and approval, may be obtained by contacting the person whose name is listed as the contact person directly before each set of waivers granted.

For Items 1 Through 10, Waivers Granted for 24 CFR Parts 91 and 92, Contact: Cornelia Robertson Terry, Field Management Division, Office of Executive Services, Office of Community Planning and Development, Room 7184, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone (202) 708–2565 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

1. *Regulation:* 24 CFR 91.10(a), 24 CFR 92.300(a)(1), and 24 CFR 570.207(a)(1).

Project/Activity: The Municipality of Carolina requested the following waivers: waiver to permit the Municipality to use CDBG funds to rehabilitate city hall and construct new housing; waiver to suspend the 15 percent CHDO set-aside requirement; waiver to allow the Municipality to receive its HOME allocation in advance of the program year.

Nature of Requirement: 24 CFR 570.207(a)(1) prohibit grantees from using CDBG funds to assist in the development of city halls or the construction of new housing. 24 CFR 92.300(a)(1) requires that not less than 15 percent of each HOME grant be reserved for investment in housing to be developed, sponsored, or owned by CHDOs. 24 CFR 91.10 requires each grantee to administer the HOME, CDBG, ESG, and HOPWA programs on a concurrent program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: February 4, 1999.

Reasons Waived: HUD determined that these waivers were needed to assist the Municipality in recovering from Hurricane Georges. Section 122 of the Housing and Community Development Act of 1974 authorizes HUD to suspend program requirements for the use of funds designated by the recipient to address damage in a Presidentially declared disaster area.

2. *Regulation:* 24 CFR 91.402(a).

Project/Activity: The Cuyahoga County, Ohio Consortium requested a waiver to permit the Consortium members to continue to operate through the end of the consortium agreement (May 31, 1999) without being fully aligned. The request also asked HUD to permit the consortium members until

December 31, 2000, to revise and align their program years.

Nature of Requirement: 24 CFR 91.402(a) requires all units of general local government that are members of a consortium to be on the same program year for the CDBG, HOME, ESG, and HOPWA programs.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 7, 1999.

Reasons Waived: The consortium agreement was inadvertently approved without the years being aligned. Because this period ends on June 1, 1999, no program purpose would be served by requiring an aligned program year prior to this date. A partial waiver request is granted. The waiver request for an additional extension was denied.

3. *Regulation:* 24 CFR 91.520.

Project/Activity: The City of Des Moines, Iowa requested a waiver of the submission date for the City's Consolidated Annual CDBG Performance and Evaluation Report (CAPER).

Nature of Requirement: 24 CFR 91.520(a) requires each grant recipient to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: February 22, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver. The City needed additional time for the installation of a new accounting and data processing system and to adjust to recent staff changes. As a result of the system change, the City does not yet have complete year-end expenditure data needed to complete its CAPER. HUD is interested in ensuring that the performance report prepared by grantees is complete and accurate.

4. *Regulation:* 24 CFR 91.520.

Project/Activity: The City of New York requested a waiver of the submission date for the City's CAPER.

Nature of Requirement: 24 CFR 91.520(a) requires each grant recipient to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: March 24, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver. The City needed additional time for conversion to the IDIS in the middle of its 1998 program year. HUD is interested in ensuring that the performance report prepared by grantees is complete and accurate.

5. *Regulation:* 24 CFR 91.520.

Project/Activity: The State of Iowa requested a waiver of the submission date for the State's CAPER.

Nature of Requirement: 24 CFR 91.520(a) requires each grant recipient to submit a performance report to HUD within 90 days after the close of the grantee's program year.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: March 26, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver in view of the reasons set forth in the incoming document. The State is in the process of converting its data management system from one based on multiple programs to an integrated Microsoft Office system. The transfer is time consuming and burdensome.

6. *Regulation:* 24 CFR 92.205(e).

Project/Activity: Peoria, Illinois requested a waiver of regulations regarding repayment of HOME funds when there is termination of a project prior to completion.

Nature of Requirement: 24 CFR 92.205(e) requires the repayment of HOME funds spent on a project that is terminated before completion.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 7, 1999.

Reasons Waived: The City disbursed $13,285.00 in HOME funds for this project, which was never completed. The homeowner of the single-family property died prior to completion. The owner had no will or heirs. The County seized the property, and to facilitate the County's disposition of the property, the City released its lien. The repayment of these funds would cause the City a serious financial hardship. HUD determined that, due to the unusual circumstances, there is good cause for a waiver.

7. *Regulation:* 24 CFR 92.214(a)(7).

Project/Activity: The State of Minnesota requested a waiver in order to commit additional HOME funds to a project up to 18 months after the original HOME-funded project was completed.

Nature of Requirement: 24 CFR 92.214(a)(7) of the HOME regulations states that HOME funds may not be used to provide assistance (other than tenant-based rental assistance or assistance to a homebuyer to acquire housing previously assisted with HOME funds) to a project previously assisted with HOME funds during the period of affordability established by the participating jurisdiction under 24 CFR 92.502 or 24 CFR 92.504.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 12, 1999.

Reasons Waived: HUD determined that there is good cause to grant the required waiver. The waiver will enable the Hubbard County Housing Rehabilitation Authority to provide for the construction of an elevator for residents in the Nevis elderly housing project.

8. *Regulation:* 24 CFR 92.251 & 24 CFR 92.502(d).

Project/Activity: The State of Wisconsin requested a waiver of minimum property standards in order to permit a single-family HOME-assisted property in the City of Sheboygen Falls to be considered complete even though it does not meet the minimum rehabilitation standards or local codes, as required by the HOME rule.

Nature of Requirement: 24 CFR 92.251 requires that housing assisted with HOME funds must, at a minimum, meet the housing quality standards.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: April 5, 1999.

Reasons Waived: HUD determined that there was good cause for the waiver. The work on the property could not be completed due to storm damage. The storm, which occurred on August 16, 1998, received a Presidential Disaster Declaration. The City condemned the property. However, prior to the storm, $2,396.69 in HOME funds was expended out of the $25,000.00 set aside for the project.

9. *Regulation:* 24 CFR 92.254(a)(2)(iii).

Project/Activity: The City of Newton, MA and the Brookline Newton Waltham WaterCity (BNWW) Consortium requested a waiver to permit the City of Newton to determine 95 percent of the median area purchase price on the median of housing sales within the City, rather than the sales within the entire Consortium.

Nature of Requirement: 24 CFR 92.254(2)(iii) requires that an increase in the maximum allowable housing purchase price to 95 percent of the median area purchase price must include all areas that are part of the BNWW Consortium.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 12, 1999.

Reasons Waived: Newton would not be able to provide significant homebuyer assistance (even for condominiums) if it had to abide by a single Consortium-wide limit. The waiver will enable Newton to offer a proposed first-time homebuyer's assistance program that will reach income eligible households. HUD determined that there is good cause to grant the requested waiver.

10. *Regulation:* 24 CFR 92.500(d)(1)(C).

Project/Activity: The City of St. Louis requested an extension of the five-year deadline for the expenditure of HOME disaster grant funds.

Nature of Requirement: 24 CFR 92.500 (d)(1)(C) requires HUD to recapture any HOME funds not expended within five years after the last day of the month in which HUD notified the grantee of its execution of the HOME partnership agreement.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 12, 1999.

Reasons Waived: The City will lose the unexpended grant funds if HUD fails to grant the extension. The City would suffer a significant hardship if the unexpended disaster funds cannot be used to complete these projects. HUD finds that these circumstances constitute good cause for an extension of the five year expenditure deadline.

For Item 11, Waiver Granted for 24 CFR Part 203, Contact: Vance T. Morris, Director, Home Mortgage Insurance Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–2700 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the

Federal Information Relay Service at (800) 877–8339.

11. *Regulation:* 24 CFR 203.49(c).

Project/Activity: Corinthian Mortgage Corporation requested a waiver of the requirements of 24 CFR 203.49(c) to extend the initial adjustment dates for adjustable rate mortgage (ARM) loans beyond the 12 to 18 month window currently provided for in the regulation.

Nature of Requirement: 24 CFR 203.49(c) requires that interest rate adjustments for ARMs must occur on an annual basis, except that the first adjustment may occur no sooner than 12 months nor later than 18 months from the date of the mortgagor's first debt service payment.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 20, 1999.

Reasons Waived: Approving the waiver enabled the lender to securitize the loan and rendered no harm to the borrowers or to HUD.

For Item 12, Waiver Granted for 24 CFR Part 291, CONTACT: Art Orton, Deputy Director, Asset Management Division, Office of Insured Single Family Housing, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–1672 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

12. *Regulation:* 24 CFR 291.110(a).

Project/Activity: Waiver of the requirement of 24 CFR 291.110(a) to provide authority for governmental entities and private nonprofit organizations to purchase, on a direct sales basis and with mortgage insurance, HUD-owned single family properties and to provide discounts of 50 percent for use in the Officer Next Door Sales Program.

Nature of Requirement: 24 CFR 291.110(a) permits direct sales at deep discounts off the list price of properties sold without mortgage insurance to governmental entities and private nonprofit organizations for use in HUD and local housing or homeless programs.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 19, 1999.

Reasons Waived: Approving the waiver enables governmental entities and nonprofit organizations to fully participate in the Officer Next Door Sales Program by purchasing properties eligible for mortgage insurance at a 50 percent discount for resale to law enforcement officers. Based on HUD's experience with REO sales, it would not be detrimental to the insurance fund to permit governmental entities and private nonprofit organizations to purchase properties offered with mortgage insurance on a direct sales basis or to provide discounts of 50 percent on properties sold for use in the Officer Next Door Sales Program.

For Items 13 Through 19, Waivers Granted for 24 CFR Parts 570, 574, and 576, Contact: Cornelia Robertson Terry, Field Management Division, Office of Executive Services, Office of Community Planning and Development, Room 7184, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–7000; telephone (202) 708–2565 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

13. *Regulation:* 24 CFR 570.200(h).

Project/Activity: The City of Oxnard requested a waiver to permit the City to reimburse itself over a period of four years for the purchase of property that will be used for the development of single-family housing for low-income families.

Nature of Requirement: 24 CFR 570.200(h) governs CDBG reimbursement for pre-award costs.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 22, 1999.

Reasons Waived: HUD determined that the project, which was included in Oxnard's 1995–1999 Consolidated Plan and was subject to public review and involvement through the citizen participation process, will provide affordable for-sale housing to low-income families. Because increasing homeownership is a priority for the City as well as a goal for the Secretary and the President, there is good cause to grant the waiver.

14. *Regulation:* 24 CFR 570.200(h)(1)(i).

Project/Activity: The City of Hazelton, Pennsylvania requested reimbursement for pre-award costs for an emergency sewer project.

Nature of Requirement: 24 CFR 570.200(h)(1)(i) allows a grantee to be reimbursed for pre-award costs, provided the activity for which the costs are being incurred is included in a consolidated action plan or an amended consolidated action plan (or an application under subpart M of 24 CFR part 570) prior to the costs being incurred.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: March 24, 1999.

Reasons Waived: The project was undertaken to correct street and sewer flooding as a result of a severe thunderstorm. The City would have to raise property taxes by 20 percent to pay for this emergency if CDBG funds could not be used. HUD determined that a failure to grant the waiver would result in an undue hardship for the City and its residents, and would be contrary to the goals of the Housing and Community Development Act of 1974.

15. *Regulation:* 24 CFR 574.330(a)(1).

Project/Activity: The City of Memphis, Tennessee requested a waiver of the HOPWA regulation that provides for a limit on the term of assistance for a resident of a short-term housing facility.

Nature of Requirement: 24 CFR 574.330(a)(1) provides for a limit on the term of assistance for a resident of a short-term housing facility of not more than 60 days during any six month period.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 7, 1999.

Reasons Waived: 24 CFR 574.330(a)(2) allows HUD to waive the limitation in 24 CFR 574.330(a)(1) based on the good faith effort of the grantee to provide permanent housing. The City of Memphis advised that the United Way of the Mid-South is assisting the client in obtaining permanent housing, which was expected to occur in mid-January 1999.

16. *Regulation:* 24 CFR 576.21.

Project/Activity: Morris County, New Jersey requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: January 22, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. Morris County provided information to HUD that indicated it was able to meet its commitment to rehabilitation, as well as its other immediate homeless and homeless prevention assistance needs through a combination of other Federal, State and county sources.

17. *Regulation:* 24 CFR 576.21.

Project/Activity: The State of California requested a waiver of the 30 percent spending limitation on essential services.

Nature of Requirement: 24 CFR 576.21 states that recipients of ESG grant funds are subject to the limits on the use of assistance for essential services established in 42 U.S.C. 11374(a)(2) (section 414(a)(2) of the Stewart B. McKinney Homeless Assistance Act). 42 U.S.C. 11374(a)(2)(B) limits the use of assistance for essential services to 30 percent of the aggregate amount of all assistance to a State or local government under the ESG program.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: February 4, 1999.

Reasons Waived: 42 U.S.C. 11374(b) allows for a waiver if the grantee is able to demonstrate that other eligible activities under the program are already being carried out in the locality with other resources. The State has developed a certification to be executed by all applicants intending to use more than 30 percent of its funds for essential services certifying the availability of other funds to carry out the other eligible activities.

18. *Regulation:* 24 CFR 576.35(a)(1).

Project/Activity: The State of Alabama requested a waiver of the provision requiring recipients to spend their ESG funds within 180 days of the date of the grant award by HUD.

Nature of Requirement: 24 CFR 576.35(a)(1) requires States to spend their ESG funds within 180 days of the grant award by HUD.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: February 12, 1999.

Reasons Waived: Alabama's contracting practices precluded timely expenditure of ESG funds. HUD granted the State an expenditure date of April 30, 1999 for its homeless prevention activities. HUD determined that granting the waiver would further the purposes of the Act.

19. *Regulation:* 24 CFR 576.35(b).

Project/Activity: The City of Chicago, Illinois requested a waiver of the expenditure deadline for ESG funds.

Nature of Requirement: 24 CFR 576.35(b) requires Cities to spend their ESG funds within 24 months of the date of the grant award by HUD.

Granted by: Cardell Cooper, Assistant Secretary for Community Planning and Development.

Date Granted: March 26, 1999.

Reasons Waived: The City of Chicago's contracting practices encouraging the use of local businesses certified as Minority Business Enterprise (MBE) and Woman's Business Enterprise (WBE) have caused delays in contract execution. HUD determined that granting the waiver would further the purposes of the Act.

For Items 20 Through 21, Waivers Granted for 24 CFR Part 761, Contact: Jackie Johnson, Deputy Assistant Secretary for Native American Programs, Office of Public and Indian Housing, Room 4204, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410–5000; telephone (202) 619–8201 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

20. *Regulation:* 24 CFR 761.30(b)(2) and (4).

Project/Activity: A request was made by the Salt River Community Housing Division (SRCHD) for a six-month extension to continue activities that deter juvenile violence and vandalism under the Public and Indian Housing Drug Elimination Grant Program (PIHDEP).

Nature of Requirement: The NOFA for the 1996 PIHDEP states that grant activities must be completed within 24 months, up to and including a maximum period of six months beyond the original grant agreement. Any extension beyond the six months must be approved by the Assistant Secretary for Public and Indian Housing.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: December 16, 1998.

Reasons Waived: The grantee exhibited administrative capability and the extension will permit the SRCHD to accomplish established goals and objectives.

21. *Regulation:* 24 CFR 761.30(b)(2) and (4).

Project/Activity: A request was made by the Absentee Shawnee Housing Authority (ASHA) for a retroactive seven-month extension.

Nature of Requirement: The NOFA for the 1996 PIHDEP states that grant activities must be completed within 24 months, up to and including a maximum period of six months beyond the original grant agreement. Any extension beyond the six months must be approved by the Assistant Secretary for Public and Indian Housing.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: February 23, 1999.

Reasons Waived: The ASHA submitted sufficient evidence that they have successfully completed many drug prevention activities and services for their residents and that additional time will enable them to sustain drug prevention measures.

22. *Regulation:* 24 CFR 761.30(b)(2) and (4).

Project/Activity: A request was made by the Pueblo of Acoma Housing Authority (PAHA) for an 18-month extension of their Fiscal Year 1995 Public and Indian Housing Drug Elimination Grant program (PIHDEP). The grant was originally awarded to the All Indian Pueblo Housing Authority (AIPHA), an umbrella housing authority that served 11 tribes in New Mexico including the Pueblo of Acoma. The AIPHA dissolved and did not take significant steps to implement PIHDEP activities so the grant was transferred to the PAHA.

Nature of Requirement: The NOFA for the 1995 PIHDEP states that grant activities must be completed within 24 months, up to and including a maximum period of six months beyond the original grant agreement. Any extension beyond the six months must be approved by the Assistant Secretary for Public and Indian Housing.

Granted by: Deborah Vincent, General Deputy Assistant Secretary for Public and Indian Housing.

Date Granted: March 18, 1999.

Reasons Waived: The grantee has exhibited administrative capability and the extension will permit the PAHA to implement and complete all original activities in the comprehensive plan.

For Item 23, Waiver Granted for 24 CFR Part 811, Contact: James B. Mitchell, Eastern and Atlantic Servicing Branch, Office of Portfolio Management, Room 6164, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–3730 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

23. *Regulation:* 24 CFR 811.105(c)(3).

Project/Activity: Refunding of bonds that finance two Section 8 assisted projects in Newark, New Jersey: the Avon Hill Apartments, FHA No. 031–35228 and Cathedral Park Apartments FHA No. 031–35231.

Nature of Requirement: The regulation requires that bonds issued under section 11(b) of the United States Housing Act of 1937 (42 U.S.C. 14371i) be issued no more than 60 days after approval of such issuance by the parent entity of the issuer.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 29, 1999.

Reasons Waived: The Refunding Bonds were issued by the Housing Finance Corporation of Newark, New Jersey, 61 days after approval by the parent entity, the Newark Housing Authority. In that the delay of one day in issuance on February 6, 1999, was unavoidable, good cause was found to waive this section.

For Items 24 Through 71, Waivers Granted for 24 CFR Part 891, Contact: Willie Spearmon, Director, Office of Business Products, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telephone (202) 708–3000 (this is not a toll-free number). Hearing- or speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

24. *Regulation:* 24 CFR 891.100(d).

Project/Activity: Bivins Place, Richmond, Kentucky, Project Number: 083–HD040.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 22, 1999.

Reasons Waived: The owner took all reasonable measures to reduce project cost as well as to obtain other financing to cover a majority of the shortfall.

25. *Regulation:* 24 CFR 891.100(d).

Project/Activity: B'nai B'rith, New Haven, Connecticut, Project Number: 017–EE029.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 22, 1999.

Reasons Waived: The high development cost was due in part to delays caused by the city withholding issuance of the building permit for several months and the extraordinary expense for environmental abatement.

26. *Regulation:* 24 CFR 891.100(d).

Project/Activity: Norris Square Senior Housing, Philadelphia, Pennsylvania, Project Number: 034–EE068.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: January 22, 1999.

Reasons Waived: Additional funds were needed to pay for the contractor's price increase resulting from unavoidable delays to the construction start date.

27. *Regulation:* 24 CFR 891.100(d).

Project/Activity: Marian Manor, Louisville, Kentucky, Project Number: 083–EE050.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 2, 1999.

Reasons Waived: The sponsor/owner, architect, contractor, and consultant explored every avenue to save money on design, labor, and materials and, as a result, the shortfall was reduced from $227,100 to $16,928.

28. *Regulation:* 24 CFR 891.100(d).

Project/Activity: AHEPA/Daughters of Penelope #120, Peabody, Massachusetts, Project Number: 023–EE085.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 22, 1999.

Reasons Waived: The owner had to locate alternate source of financing to meet section 106 historic preservation requirement.

29. *Regulation:* 24 CFR 891.100(d).

Project/Activity: Full Harvest Housing, Osceola, Iowa, Project Number: 074–EE032.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 10, 1999.

Reasons Waived: The project was adversely affected by ''economy of scale'' issues connected to a project of 25 total units and by a construction boom in the area.

30. *Regulation:* 24 CFR 891.100(d).

Project/Activity: Clinton House, Detroit, Michigan,Project Number: 044–HD020.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.100(d) allows HUD to amend the amount of an approved capital advance only after an initial closing has occurred.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 18, 1999.

Reasons Waived: The actual cost of the project exceeded the fund reservation amount. Requirements of the City of Detroit caused the additional cost for development of the project.

31. *Regulation:* 24 CFR 891.165.

Project/Activity: Southern New Hampshire Services, Project Number: 024–EE032.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 2, 1999.

Reasons Waived: The sponsor/owner changed sites twice due to denial of discretionary land use approvals by the towns.

32. *Regulation:* 24 CFR 891.165.

Project/Activity: The Elms, Project Number: 024–HD022.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 2, 1999.

Reasons Waived: The sponsor/owner had to change sites.

33. *Regulation:* 24 CFR 891.165.

Project/Activity: Interfaith Housing, Westport, Connecticut, Project Number: 017–HD015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 8, 1999.

Reasons Waived: The sponsor had difficulty obtaining affordable sites in the Country's most affluent county.

34. *Regulation:* 24 CFR 891.165.

Project/Activity: McKinley III, Chicago, Illinois, Project Number: 071–HD093.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 8, 1999.

Reasons Waived: Time was needed for HUD to process the firm application and review the closing documents.

35. *Regulation:* 24 CFR 891.165.

Project/Activity: Barbara Chappelle Manor, Grenada, Mississippi, Project Number: 065–EE018.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 12, 1999.

Reasons Waived: The sponsor/owner was forced to change sites because of local opposition. Additional time was needed to conduct the appraisal and survey of the new site.

36. *Regulation:* 24 CFR 891.165.

Project/Activity: Jackson Place, Project Number: 136–HD009.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 22, 1999.

Reasons Waived: Cost problems resulted in the sponsor/owner having to identify additional funding resources for project feasibility.

37. *Regulation:* 24 CFR 891.165.

Project/Activity: Lake Champlain Housing Development, Project Number: 024–HD024.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 23, 1999.

Reasons Waived: Negotiations with local governmental agencies caused the delay in submission of the firm application.

38. *Regulation:* 24 CFR 891.165.

Project/Activity: Ellery Court Senior Housing, New York, New York, Project Number: 012–EE186.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable

Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 23, 1999.

Reasons Waived: Time was needed for HUD to process the firm application.

39. *Regulation:* 24 CFR 891.165.

Project/Activity: Rockland ARC Living Alternatives, New York, New York, Project Number: 012–HD061.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date granted: February 26, 1999.

Reasons Waived: The sponsor/owner had to complete a very lengthy and complex New York State site approval process.

40. *Regulation:* 24 CFR 891.165.

Project/Activity: Council Towers IV, New York, New York, Project Number: 012–EE211.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date granted: February 26, 1999.

Reasons Waived: It took the professional cost estimator extra time to submit a product acceptable to HUD, and the sponsor's Firm Commitment application was revised several times in the course of 12 months in order to achieve feasibility.

41. *Regulation:* 24 CFR 891.165.

Project/Activity: Independent Living Apartment Complex, Project Number: 140–HD014.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 10, 1999.

Reasons Waived: Time was needed because during the processing of the firm commitment, a legal problem was discovered with the site. A new survey had to be completed in order to revise the legal description of the property. The delay was beyond the control of the owner.

42. *Regulation:* 24 CFR 891.165.

Project/Activity: Cross Lanes Unity Apartments, Cross Lanes, West Virginia, Project Number: 045–EE009.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 12, 1999.

Reasons Waived: Sponsor/owner had to acquire additional sources of funding for the project.

43. *Regulation:* 24 CFR 891.165.

Project/Activity: East 21st Street Midwood Residence, Project Number: 012–HD052.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Several review deficiencies had to be corrected by the sponsor prior to acceptance of the application for processing. Also, a lengthy New York State site review and approval process had to be completed.

44. *Regulation:* 24 CFR 891.165.

Project/Activity: Hale O Mana'O Lana Housing, Wailuku, Hawaii, Project Number: 140–HD015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Additional time was needed for the owners to obtain a survey and file an application to subdivide the property in the Land Court.

45. *Regulation:* 24 CFR 891.165.

Project/Activity: W.K. Nursing Home Housing for the Elderly, New York, New York, Project Number: 012–EE212.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Time was needed for the sponsor/owner to address the site's environmental problems and for HUD to review the firm application.

46. *Regulation:* 24 CFR 891.165.

Project/Activity: Victoria Jennings Residences, Chicago, Illinois, Project Number: 071–HD088.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Time was needed for HUD to process the firm application and review the closing documents.

47. *Regulation:* 24 CFR 891.165.

Project/Activity: Crystal Court Apartments, Chicago, Illinois, Project Number: 071–HD009.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: The sponsor/owner needed additional time to obtain a building permit from the City of Chicago.

48. *Regulation:* 24 CFR 891.165.

Project/Activity: Salvation Army Group Home-Pulaski, New York, New York, Project Number: 012–HD029.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Additional time was required to complete the approval process for city-owned land and to clear project for initial closing.

49. *Regulation:* 24 CFR 891.165.

Project/Activity: Salvation Army Group Home-Topping, New York, New York, Project Number: 012–HD027.

Nature of Requirement: HUD provides capital advances under section 202 of the

Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Additional time was required to complete the approval process for city-owned land and to clear the project for initial closing.

50. *Regulation:* 24 CFR 891.165.

Project/Activity: Randolph Housing Services, Randolph, Vermont, Project Number: 024–EE034.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 16, 1999.

Reasons Waived: Additional time was required for the sponsor/owner to resolve historic preservation concerns.

51. *Regulation:* 24 CFR 891.165.

Project/Activity: Jefferson Cottage, Charles Town, West Virginia, Project Number: 045–HD021.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 17, 1999.

Reasons Waived: The project was delayed due to the owner's inability to obtain subdivision approval from the local county commission in a timely manner.

52. *Regulation:* 24 CFR 891.165.

Project/Activity: Jefferson Villa, Charles Town, West Virginia, Project Number: 045–HD022.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 17, 1999.

Reasons Waived: Sponsor/owner was unable to obtain a timely subdivision approval from the local county commission.

53. *Regulation:* 24 CFR 891.165.

Project/Activity: Kaneohe Elderly, Kaneohe, Oahu, Hawaii, Project Number: 140–EH015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 17, 1999.

Reasons Waived: Additional time was needed by HUD to process the firm commitment application and for the project to reach initial closing.

54. Regulation: 24 CFR 891.165.

Project/Activity: Hale Mahaolu Eono, Kaunakakai, Hawaii, Project Number: 140–EE014.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 17, 1999.

Reasons Waived: Time was needed for HUD to process the firm application.

55. Regulation: 24 CFR 891.165.

Project/Activity: Kaneohe Elderly, Kaneohe, Oahu, Hawaii, Project Number: 140–EH015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 17, 1999.

Reasons Waived: The project is being developed in conjunction with units funded through other funding sources and delays have been caused by trying to get all funding commitments in order.

56. Regulation: 24 CFR 891.165.

Project/Activity: Becerra Apartments, Project Number: 136–HD008.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 18, 1999.

Reasons Waived: The initial closing was delayed due to the length of time it took the sponsor/owner to identify additional funding resources for project feasibility.

57. Regulation: 24 CFR 891.165.

Project/Activity: Accessible Space-Corpus, Corpus Christi, Texas, Project Number: 115–HD022.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 18, 1999.

Reasons Waived: Time was needed for HUD to process the firm application and review the closing documents.

58. Regulation: 24 CFR 891.165.

Project/Activity: Covenant Place, Project Number: 075–EE045.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 20, 1999.

Reasons Waived: Additional time was needed for HUD legal staff to review documents.

59. Regulation: 24 CFR 891.165.

Project/Activity: Tongore Pines, Project Number: 012–EE193.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 1999.

Reasons Waived: The project's original architect failed to produce a feasible project and the sponsor/owner had to retain a new project architect.

60. Regulation: 24 CFR 891.165.

Project/Activity: Royal Gardens, Chicago, Illinois, Project Number: 071–EE125.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 1999.

Reasons Waived: The sponsor/owner had difficulty identifying additional funding for the project.

61. Regulation: 24 CFR 891.165.

Project/Activity: Habilitative Systems, Chicago, Illinois, Project Number: 071-EE115.

Nature of Requirement: Request for fund reservation extension. Duration of capital advance.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 23, 1999.

Reasons Waived: The sponsor/owner filed for secondary financing for money to cover other expenses needed for this project, and the Chicago staff is in the process of completing the mortgage credit review.

62. Regulation: 24 CFR 891.165.

Project/Activity: Evangeline Booth Garden Apartments, Ocala, Florida, Project Number: 063-EE011.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 24, 1999.

Reasons waived: Additional time was required for HUD to complete the processing for the project.

63. *Regulation:* 24 CFR 891.165.

Project/Activity: Passaic Consumer Home, Passaic, New Jersey, Project Number: 031–HD074.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 24, 1999.

Reasons waived: Time was needed for HUD to review the initial closing package and schedule a closing date.

64. *Regulation:* 24 CFR 891.165.

Project/Activity: Abraham Lincoln Centre, Chicago, Illinois, Project Number: 071–HD095.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 1999.

Reasons waived: Delays were caused by a new land acquisition policy for city-owned parcels that involved Aldermanic approval, and owner had to secure additional funding.

65. *Regulation:* 24 CFR 891.165.

Project/Activity: Franklin Place, Elizabethton, Tennessee, Project Number: 087–EE028.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 1999.

Reasons waived: Delays were caused by problems with the site, and HUD needed time to process the firm commitment application.

66. *Regulation:* 24 CFR 891.165.

Project/Activity: Woodgrove Apartments, Maryville, Tennessee, Project Number: 087–HD033.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 1999.

Reasons waived: Due to neighborhood opposition, the owner had to relocate the project to another site.

67. *Regulation:* 24 CFR 891.165.

Project/Activity: Micki Thompson Apartments, Crossville, Tennessee, Project Number: 087–HD030.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 1999.

Reasons waived: Additional time was needed for the owner to obtain additional funds for feasibility and for HUD to process the firm application.

68. Regulation: 24 CFR 891.165.

Project/Activity: Lloyd Street Apartments, Oneida, Tennessee, Project Number: 087-HD031.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 26, 1999.

Reasons Waived: The original site was lost due to a misrepresentation by the seller, and the owner had difficulty locating another site.

69. Regulation: 24 CFR 891.165.

Project/Activity: Chandler Supportive Housing, Chandler, Arizona, Project Number: 123–HD015.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 30, 1999.

Reasons Waived: Time needed for HUD to review firm application.

70. Regulation: 24 CFR 891.165.

Project/Activity: Kuehl Apartments, Project Number: 033–HD031.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 30, 1999.

Reasons Waived: Delays were caused by a change in construction methods from rehabilitation to new construction in order to make the project feasible.

71. Regulation: 24 CFR 891.165.

Project/Activity: Poux Apartments, Project Number: 033–HD030.

Nature of Requirement: HUD provides capital advances under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) and section 811 of the National Affordable Housing Act (42 U.S.C. 8013). 24 CFR 891.165 provides that the duration of the fund reservation for the capital advance is 18 months from the date of issuance, with limited exceptions up to 24 months.

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 31, 1999.

Reasons Waived: The sponsor/owner had to change sites due to public opposition.

For Items 72 Through 74, Waivers Granted for 24 CFR Part 891, Contact: Jerold Nachison, Eastern and Atlantic Servicing Branch, Office of Portfolio Management,

Room 6168, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–8000; telelphone (202) 708–3730 (this is not a toll-free number). Hearing-or speech impaired persons may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339.

72. Regulation: 24 CFR 891.575 and 610(c).

Project/Activity: Long Beach, California (Village Congregational, Project No. 122–EH235). The Los Angeles Multifamily HUB has requested an income and age waiver for this project.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (i.e., households composed of 1 or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: February 22, 1999.

Reasons Waived: The Assistant Secretary granted the waiver, which provides guidance on project oversight and is based on the special circumstances of this case. The waiver is requested to assist the project in reaching full occupancy in the local market.

73. Regulation: 24 CFR 891.575 and 610(c).

Project/Activity: Muskegon, Michigan (Christian Manor, Project No. 047–EH069). The Detroit Multifamily HUB requested an income and age waiver for this project.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (i.e., households composed of one or more persons at least one of whom is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner..

Date Granted: February 22, 1999.

Reasons Waived: The Assistant Secretary granted the waiver because of the area's ''soft'' housing market and the difficulty in renting remaining units. The waiver would allow project management additional flexibility in attempting to rent up these units and perhaps start a waiting list.

74. Regulation: 24 CFR 891.575 and 610(c).

Project/Activity: The Philadelphia Multifamily Hub requested waiver of the age requirement for 10 current heads of household/tenants under the age of 62 at the Sarah Allen Senior Housing Project, Project No. 034–EE018, in Philadelphia, Pennsylvania.

Nature of Requirement: HUD regulations at 24 CFR part 891 require that occupancy be limited to Very Low Income (VLI) elderly persons (i.e., households composed of 1 or more persons at least one of who is 62 years of age at time of initial occupancy).

Granted by: William C. Apgar, Assistant Secretary for Housing-Federal Housing Commissioner.

Date Granted: March 22, 1999.

Reasons Waived: The waiver is based on the circumstances of this case in which the sponsoring organization apparently did not pay attention at the application workshop nor properly read the materials, and used the same occupancy plan that was used with prior Section 202/811 projects. Hub staff have requested immediate revision of the occupancy plan, tenant selection criteria, and management plan as soon as possible for submission to the Hub Director for approval in efforts to restore the project to Section 202/PRAC for the elderly. Additionally, the waiting list for non-elderly disabled individuals or families must be abolished immediately and those inappropriately housed must be helped to locate to other subsidized projects in which they may be housed.

For Items 75 Through 80, Waivers Granted for 24 CFR Parts 982 and 983, Contact: Gloria J. Cousar, Deputy Assistant Secretary for Public and Assisted Housing Delivery, Office of Public and Indian Housing, Room 4204, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–5000; telephone (202) 619–8201 (this is not a toll-free number). Hearing-or speech-impaired persons may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

75. Regulation: 24 CFR 982.302(b) and (c); 982.305(a)(3), (c), (d), and (e); 982.307(b); 982.308(b), (c), and (d); 982.309; 982.310; 982.311; 982.313; part 982, subpart J; 982.622(b)(2) and (b)(4); and 982.623 (c) and (d).

Project/Activity: Section 557 of the Quality Housing and Work Responsibility Act of 1998 provides that HUD shall carry out a demonstration program during fiscal years 1999, 2000, and 2001. The purpose of the demonstration is to test the effectiveness of providing tenant-based assistance payments directly to manufactured home owners who wish to rent the manufactured home space with Section 8 assistance in cases where the owner of the real property (the manufactured home space) refuses to participate in the Section 8 rental assistance program. The statute limits public housing agency participation in this demonstration to the Housing Authority of the County of San Diego and the Housing Authority of the City of San Diego (the San Diego Housing Commission).

Nature of Requirement: The regulations provide that housing assistance payments must be made to the owner of the real property (manufactured home space) and include various other owner requirement (e.g., executing a housing assistance payment contract and security deposits, etc.).

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: February 10, 1999.

Reasons Waived: To permit the San Diego Housing Commission and Housing Authority of the County of San Diego to make Section 8 housing assistance payments for the rental of manufactured home spaces directly to manufactured home owners (participating families) under the manufactured housing demonstration program.

76. Regulation: 24 CFR 982.303(b)(1).

Project/Activity: Shrewsbury Housing Authority, Massachusetts; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate/voucher term of 120 days during which a certificate/voucher holder may seek housing to be leased under the program.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 20, 1999.

Reasons Waived: Approval of the waiver provided the certificate holder additional time to seek housing. The certificate holder experienced extreme difficulty in locating a suitable unit.

77. Regulation: 24 CFR 982.303(b)(1).

Project/Activity: Housing Authority of Alameda County, California; Section 8 Rental Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate/voucher term of 120 days during which a certificate/voucher holder may seek housing to be leased under the program.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: March 2, 1999.

Reasons Waived: The waiver provided extra search time to a certificate holder who was bedridden during the period the certificate was in effect.

78. *Regulation:* 24 CFR 982.303(b)(1).

Project/Activity: Housing Authority of Alameda County, California; Section 8 Certificate Program.

Nature of Requirement: The regulation provides for a maximum rental certificate/voucher term of 120 days during which a certificate/voucher holder may seek housing to be leased under the program.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: March 2, 1999.

Reasons Waived: The waiver permitted a certificate holder to complete the necessary paperwork for moving into a suitable unit.

79. *Regulation:* 24 CFR 982.307(b)(i).

Project/Activity: Linn-Benton Housing Authority, Oregon; Section 8 Certificate Program.

Nature of Requirement: This section of the regulations requires the housing agency to provide the owner with specific information about the tenant.

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: March 26, 1999.

Reasons Waived: As a reasonable accommodation to the family, the housing authority was not required to supply the family's previous address to the new landlord.

80. *Regulation:* 24 CFR 983.7(b)(2), 983.8, 983.101, and 983.203(a)(4).

Project/Activity: The New Brunswick Housing and Redevelopment Authority, New Jersey requested the waivers to provide project-based certificate assistance for 40 units at Providence Square Apartments.

Nature of Requirement: The regulations prohibit attachment of assistance to housing for which rehabilitation is started before an agreement execution (24 CFR 983.7(b)(2)), require a rehabilitation expenditure of $1,000 per unit (24 CFR 983.8), require an agreement to rehabilitate (24 CFR 983.101), and require that participants must be selected from the housing agency's waiting list (983.203(a)(4)).

Granted by: Harold Lucas, Assistant Secretary for Public and Indian Housing.

Date Granted: January 6, 1999.

Reasons Waived: The waivers covered 40 elderly families who were living at Providence Square. Providence Square is a 98-unit apartment building for the elderly. Section 219 of HUD's 1997 Appropriations Act authorized PBC assistance for Providence Square. Approval of the waivers provided assistance to Section 8 eligible in-place elderly tenants and prevented hardship that would otherwise be caused by their displacement.

[FR Doc. 99–20802 Filed 8–11–99; 8:45 am]

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federal register

Thursday
August 12, 1999

Part III

Department of Housing and Urban Development

24 CFR Part 108

Compliance Procedures for Affirmative Fair Housing Marketing; Nomenclature Change; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 108

[Docket No. FR–4514–F–01]

RIN 2529–AA87

Compliance Procedures for Affirmative Fair Housing Marketing; Nomenclature Change

AGENCY: Office of the Assistant Secretary for Fair Housing and Equal Opportunity, HUD.

ACTION: Final rule.

SUMMARY: HUD's regulations at 24 CFR part 108 cover compliance procedures for affirmative fair housing marketing. As a result of internal HUD organizational changes, the offices referred to in these regulations no longer exist as they did when the regulations were issued. This final rule updates these references. This final rule also incorporates language that all correspondence that could lead to an enforcement action against a small entity (such as audits, investigations, or compliance reviews) will notify the small entity of its right to comment to the National Small Business Ombudsman. This requirement is added in accordance with the Small Business Regulatory Enforcement Fairness Act.

DATES: *Effective date:* September 13, 1999.

FOR FURTHER INFORMATION CONTACT: Pamela D. Walsh, Office of Fair Housing and Equal Opportunity, Room 5224, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC, 20410–2000; telephone (202) 708–2288 (this is not a toll-free number). Hearing-or speech-impaired individuals may access this number via TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background Information

HUD's regulations at 24 CFR part 108 cover compliance procedures for affirmative fair housing marketing. These regulations were published in 1979. Since then, HUD and the Office of Fair Housing and Equal Opportunity have experienced several reorganizations. As currently promulgated, the regulations define a compliance process that requires two offices to perform complementary monitoring and reviewing functions. An Area Office is primarily responsible for monitoring functions and a Regional Office is primarily responsible for reviewing functions. As a result of recent internal HUD organizational changes, however, these offices no longer exist as they did when the regulations were issued in 1979.

This final rule replaces references to Area Office and Regional Office with the terms *monitoring office* and *civil rights/compliance reviewing office,* respectively. These terms do not correspond to actual offices within HUD, but are intended to reflect the functions of each office within the compliance process. HUD will publish concurrently with this final rule a notice in the **Federal Register** that designates the specific offices within HUD that will act as monitoring and civil rights/compliance reviewing offices under this part. In the future, should HUD's internal organizational structure change again, the specific offices that will act as monitoring and civil rights/compliance reviewing offices will again be designated through a notice published in the **Federal Register**.

With respect to compliance reviews, which are addressed in 24 CFR part 108, HUD is cognizant that section 222 of the Small Business Regulatory Enforcement Fairness Act (SBREFA) requires the Small Business and Agriculture Regulatory Enforcement Ombudsman to ''work with each agency with regulatory authority over small businesses to ensure that small business concerns that receive or are subject to an audit, on-site inspection, compliance assistance effort or other enforcement related communication or contact by agency personnel are provided with a means to comment on the enforcement activity conducted by this personnel.'' To implement this statutory provision, the Small Business Administration has requested that agencies include the following language on agency publications and notices that are provided to small businesses concerns at the time the enforcement action is undertaken. The language is as follows:

Your Comments Are Important

The Small Business and Agriculture Regulatory Enforcement Ombudsman and 10 Regional Fairness Boards were established to receive comments from small businesses about federal agency enforcement actions. The Ombudsman will annually evaluate the enforcement activities and rate each agency's responsiveness to small business. If you wish to comment on the enforcement actions of [insert agency name], call 1–888–REG–FAIR (1–888–734–3247).

As HUD stated in its notice describing HUD's actions on implementation of SBREFA, which was published on May 21, 1998 (63 FR 28214), HUD intends to work with the Small Business Administration (SBA) to provide small entities with information on the Fairness Boards and National Ombudsman program, at the time enforcement actions are taken, to ensure that small entities have the full means to comment on the enforcement activity conducted by HUD. Accordingly, this rule adopts the language requested by the SBA and it is included in § 108.25(b).

II. Justification for Final Rulemaking

HUD generally publishes a rule for public comment before issuing a rule for effect, in accordance with its own regulations on rulemaking at 24 CFR part 10. Part 10 provides for exceptions to the general rule if the agency finds good cause to omit advance notice and public participation. The good cause requirement is satisfied when prior public procedure is ''impracticable, unnecessary, or contrary to the public interest'' (24 CFR 10.1). For the following reasons, HUD finds that good cause exists to publish this rule for effect without first soliciting public comment.

This final rule makes nomenclature changes to 24 CFR part 108. As a result of internal HUD organizational changes the offices referred to in the current regulations no longer exist as they did when the regulations were issued. This final rule merely replaces references to Area Office and Regional Office with the terms *monitoring office* and *civil rights/compliance reviewing office,* respectively. This rule also amends 24 CFR part 108 to include ''notification'' language to small entities, consistent with SBREFA, which the SBA has requested Federal agencies adopt in their enforcement regulations, and which HUD has agreed to adopt in its enforcement regulations. Neither of these two amendments make any substantive changes to the compliance procedures contained in part 108. Therefore, we have determined that it is unnecessary to publish this rule for public comment prior to publishing the rule for effect.

III. Findings and Certifications

Environmental Impact

This final rule involves regulations that set out fair housing or nondiscrimination standards or enforcement procedures. Accordingly, under 24 CFR 50.19(c)(3), this final rule is categorically excluded from environmental review under the National Environmental Policy Act of 1969 (Public Law 91–190, 83 Stat. 852, codified as amended at 42 U.S.C. 4321–4347).

Regulatory Flexibility Act

Section 605(b). The Secretary has reviewed this final rule before publication and by approving it certifies, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule would not have a significant economic impact on a substantial number of small entities. This final rule implements a nomenclature change only and does not make any substantive changes to the regulations at 24 CFR part 108. Therefore, the action taken by this rule (the nomenclature change) does not create any additional burden.

Section 610. HUD notes, however, that changes were last made to this rule in 1985. Section 610 of the Regulatory Flexibility Act requires Federal Agencies to review every ten years existing regulations that have or will have a significant economic impact on a substantial number of small entities. The purpose of the review is to determine whether existing rules should be left unchanged, or whether they should be revised or rescinded in order to minimize significant economic impacts on a substantial number of small entities. In deciding whether change is necessary, the Regulatory Flexibility Act establishes several factors that must be considered:

(1) Whether the rule is still needed;

(2) What type of complaints or comments were received from the public concerning the rule;

(3) The complexity of the rule;

(4) How much the rule overlaps, duplicates or conflicts with other Federal rules, and, to the extent feasible, with State and local governmental rules; and

(5) How long it has been since the rule has been evaluated or how much the technology, economic conditions, or other factors have changed in the area affected by the rule.

During the years that the regulations in 24 CFR part 108 have been in effect, HUD has not received any data that indicates that the requirements of this part have had a significant economic impact on a substantial number of small entities. Nevertheless, HUD has reviewed this rule in accordance with the principles of section 610.

(1) This rule is only applicable to participants in certain HUD programs, as specified in § 108.1. Because HUD's mission is to provide a decent, safe and sanitary home and suitable living environment for every American, and this mission encompasses fighting for fair housing and increasing affordable housing and homeownership, HUD believes that this rule is needed for HUD's programs. HUD's programs should provide the leadership in marketing sales and rentals of homes that affirmatively furthers fair housing.

(2) HUD has not received complaints about this rule.

(3) The rule is not complex.

(4) The rule does not overlap, duplicate or conflict with other Federal rules, nor, to the extent feasible, with State and local governmental rules. Again, this rule is only applicable to HUD programs.

(5) The rule was last evaluated in 1995 as part of President Clinton's directive to all Federal agencies to review all existing regulations and determine which regulations were obsolete, no longer necessary or could be consolidated with other regulations. In 1995, HUD determined, as it has now, that this rule is needed, and that the rule did not duplicate other HUD regulations, and therefore consolidation with other regulations was not appropriate.

The marketing techniques addressed by this rule have changed given the change in technology. The rule, however, does not regulate the type of marketing techniques used. Rather, the rule provides that whatever marketing techniques the HUD program participant commits to utilize in its Affirmative Fair Housing Marketing (AFHM) plan, the participant utilizes such techniques to affirmatively further fair housing.

As noted earlier, although this rule makes no substantive changes to 24 CFR part 108, only nomenclature changes, HUD welcomes comments from its program participants about its part 108 regulation and their experience with its requirements to date. Comments that provide a factual basis for any views or suggestions presented are particularly helpful to HUD in its evaluation of this regulation. Comments should be submitted to: Office of the General Counsel, Rules Docket Clerk, Room 10276, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Comments should refer to the docket number of FR–4514–F–01.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (Public Law 104–4, 109 Stat. 48, 64, codified at 2 U.S.C. 1531–1538) (UMRA) requires Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and on the private sector. This final rule does not impose, within the meaning of the UMRA, any Federal mandates on any State, local, or tribal governments or on the private sector.

Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612 (entitled ''Federalism''), has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among various levels of government.

List of Subjects in 24 CFR Part 108

Fair housing, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, HUD proposes to amend 24 CFR part 108 as follows:

PART 108—COMPLIANCE PROCEDURES FOR AFFIRMATIVE FAIR HOUSING MARKETING

1. The authority citation for part 108 is revised to read as follows:

Authority: 42 U.S.C. 3608, 3535(d); E.O. 11063, 27 FR 11527, 3 CFR, 1958–1963 Comp., p. 652; E.O. 12892, 59 FR 2939, 3 CFR, 1994 Comp., p. 849.

2. Add new paragraphs (e) and (f) to § 108.1 to read as follows:

§ 108.1 Purpose and application.

* * * * *

(e) The term monitoring office includes any office within HUD designated by HUD to act as a monitoring office. As necessary, HUD will designate specific offices within HUD to act as monitoring offices through a notice published in the **Federal Register**.

(f) The term *civil rights/compliance reviewing office* includes any office within HUD designated by HUD to act as a civil rights/compliance reviewing office. As necessary, HUD will designate specific offices within HUD to act as civil rights/compliance reviewing offices through a notice published in the **Federal Register**.

3. Revise the first and second sentences of § 108.15 to read as follows:

§ 108.15 Pre-occupancy conference.

Applicants shall submit a Notification of Intent to Begin Marketing to the monitoring office no later than 90 days prior to engaging in sales or rental marketing activities. Upon receipt of the Notification of Intent to Begin Marketing from the applicant, the monitoring office shall review any previously approved plan and may schedule a pre-occupancy conference. * * *

4. Revise § 108.20 to read as follows:

§ 108.20 Monitoring office responsibility for monitoring plans and reports.

(a) *Submission of documentation.* Pursuant to initiation of marketing, the applicant shall submit to the monitoring office reports documenting the implementation of the AFHM plan, including sales or rental reports, as required by the Department. Copies of such documentation shall be forwarded to the civil rights/compliance reviewing office by the monitoring office as requested.

(b) *Monitoring of AFHM plan.* The monitoring office is responsible for monitoring AFHM plans and providing technical assistance to the applicant in preparation or modification of such plans during the period of development and initial implementation.

(c) *Review of applicant's reports.* Each sales or rental report shall be reviewed by the monitoring office as it is received. When sales or rental reports show that 20% of the units covered by the AFHM plan have been sold or rented, or whenever it appears that the plan may not accomplish its intended objective, the monitoring office shall notify the civil rights/compliance reviewing office.

(d) *Failure of applicant to file documentation.* If the applicant fails to file required documentation, the applicant shall be sent a written notice indicating that if the delinquent documentation is not submitted to the monitoring office within 10 days from date of receipt of the notice, the matter will be referred to the civil rights/compliance reviewing office by the monitoring office for action which may lead to the imposition of sanctions.

5. Revise § 108.21 to read as follows:

§ 108.21 Civil rights/compliance reviewing office compliance responsibility.

The civil rights/compliance reviewing office shall be responsible for determining whether an applicant's actions are in apparent compliance with its approved AFHM plan, the AFHM regulations, and this part and for determining changes or modifications necessary in the plan after initiation of marketing.

6. Revise paragraphs (a), (b), (d), (e), (f), (g), and (h) of § 108.25 to read as follows:

§ 108.25 Compliance meeting.

(a) *Scheduling meeting.* If an applicant fails to comply with requirements under § 108.15 or § 108.20 or it appears that the goals of the AFHM plan may not be achieved, or that the implementation of the Plan should be modified, the civil rights/compliance reviewing office shall schedule a meeting with the applicant. The meeting shall be held at least ten days before the next sales or rental report is due. The purpose of the compliance meeting is to review the applicant's compliance with AFHM requirements and the implementation of the AFHM Plan and to indicate any changes or modifications which may be required in the Plan.

(b) *Notice of Compliance Meeting.* A Notice of Compliance Meeting shall be sent to the last known address of the applicant, by certified mail or through personal service. The Notice will advise the applicant of the right to respond within seven (7) days to the matters identified as subjects of the meeting and to submit information and relevant data evidencing compliance with the AFHM regulations, the AFHM Plan, Executive Order 11063 and title VIII of the Civil Rights Act of 1968, when appropriate. If the applicant is a small entity, as defined by the regulations of the Small Business Administration, the Notice shall include notification that the entity may submit comment on HUD's actions to the Small Business and Agriculture Regulatory Enforcement Ombudsman, and shall include the appropriate contact information.

* * * * *

(d) *Preparation for the compliance meeting.* The monitoring office will provide information concerning the status of the project or housing involved to be presented to the applicant at the meeting. The monitoring office shall be notified of the meeting and may send representatives to the meeting.

(e) *Resolution of matters.* Where matters raised in the compliance meetings are resolved through revision to the plan or its implementation, the terms of the resolution shall be reduced to writing and submitted to the civil rights/compliance reviewing office within 10 days of the date of the compliance meeting.

(f) *Determination of compliance.* If the evidence shows no violation of the AFHM regulations and that the applicant is complying with its approved AFHM plan and this part, the civil rights/compliance reviewing office shall so notify the applicant within 10 days of the meeting.

(g) *Determination of possible noncompliance.* If the evidence indicates an apparent failure to comply with the AFHM plan or the AFHM regulation, or if the matters raised cannot be resolved, the civil rights/compliance reviewing office shall so notify the applicant no later than ten (10) days after the date the compliance meeting is held, in writing by certified mail, return receipt requested, and shall advise the applicant that the Department will conduct a comprehensive compliance review or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions. The purpose of a compliance review is to determine whether the applicant has complied with the provisions of Executive Order 11063, title VIII of the Civil Rights Act of 1968, and the AFHM regulations in conjunction with the applicant's specific AFHM plan previously approved by HUD.

(h) *Failure of applicant to attend the meeting.* If the applicant fails to attend the meeting scheduled pursuant to this section, the civil rights/compliance reviewing office shall so notify the applicant no later than ten (10) days after the date of the scheduled meeting, in writing by certified mail, return receipt requested, and shall advise the applicant as to whether the civil rights/compliance reviewing office will conduct a comprehensive compliance review or refer the matter to the Assistant Secretary for Fair Housing and Equal Opportunity for consideration of action including the imposition of sanctions.

7. Revise the first and second sentences of § 108.35 to read as follows:

§ 108.35 Complaints.

Individuals and private and public entities may file complaints alleging violations of the AFHM regulations or an approved AFHM plan with any monitoring office, civil rights/compliance reviewing office, or with the Assistant Secretary for FH&EO. Complaints will be referred to the civil rights/compliance reviewing office.

* * *

8. Revise paragraphs (a) and (b) of § 108.40 to read as follows:

§ 108.40 Compliance reviews.

(a) *General.* All compliance reviews shall be conducted by the civil rights/compliance reviewing office. Complaints alleging a violation(s) of the AFHM regulations, or information ascertained in the absence of a complaint indicating an applicant's failure to comply with an AFHM plan, shall be referred immediately to the civil rights/compliance reviewing office. The monitoring office shall be notified as appropriate of all alleged violations of the AFHM regulations or alleged failure to comply with an AFHM plan.

(b) *Initiation of compliance reviews.* Even in the absence of a complaint or other information indicating

noncompliance pursuant to paragraph (a), the civil rights/compliance reviewing office may conduct periodic compliance reviews throughout the life of the mortgage in the case of multi-family projects and throughout the duration of the Housing Assistance Payments Contract with the Department in the case of housing assisted under section 8 of the United States Housing Act of 1937, as amended, 42 U.S.C. 1437.

* * * * *

§ 108.45 [Amended]

9. Remove the last sentence of § 108.45.

Dated: July 26, 1999.

Eva M. Plaza,

Assistant Secretary for Fair Housing and Equal Opportunity.

[FR Doc. 99–20801 Filed 8–11–99; 8:45 am]

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federal register

Thursday
August 12, 1999

Part IV

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 17

Federal Acquisition Regulation; Executive Agent; Proposed Rule

DEPARTMENT OF DEFENSE

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 17

[FAR Case 99–004]

RIN 9000–AI42

Federal Acquisition Regulation; Executive Agent

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council are proposing to amend the Federal Acquisition Regulation (FAR) to add another example of an interagency acquisition that is not subject to the Economy Act.

DATES: Comments should be submitted on or before October 12, 1999, to be considered in the formulation of a final rule.

ADDRESSES: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (MVR), 1800 F Stret, NW., Room 4035, ATTN: Laurie Duarte, Washington, DC 20405.

Address e-mail comments submitted via the Internet to: farcase.99–004@gsa.gov.

Please cite FAR case 99–004 in all correspondence related to this case.

FOR FURTHER INFORMATION CONTACT: The FAR Secretariat, Room 4035, GS Building, Washington, DC 20405, (202) 501–4755, for information pertaining to status or publication schedules. For clarification of content, contact Mr. Ralph DeStefano, Procurement Analyst, at (202) 501–1758. Please cite FAR case 99-004.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends FAR 17.500(b) to add another example of an intergency acquisition that is not subject to the Economy Act. The new example is an acquisition of information technology by an agency that has been designated an executive agent by the Office of Management and Budget under the authority of Pub. L. 104–106, Section 5112(e).

This rule was not subject to Office of Management and Budget review under Section 6(b) of Executive Order 12866. Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

B. Regulatory Flexibility Act

This proposed rule is not expected to 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 rule addresses internal Government administrative procedures. Therefore, an Initial Regulatory Flexibility Analysis has not been performed. Comments from small entities concerning the affected FAR subpart will be considered in accordance with 5 U.S.C. 610 of the Act. Interested parties must submit such comments separately and should cite 5 U.S.C. 601, *et seq.* (FAR case 99–004), in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the changes to the FAR do not impose 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 Part 17

Government procurement.

Dated: August 9, 1999.

Edward C. Loeb,

Director, Federal Acquisition Policy Division.

Therefore, it is proposed that 48 CFR part 17 be amended as set forth below:

PART 17—SPECIAL CONTRACTING METHODS

1. The authority citation for 48 CFR part 17 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. chapter 137; and 42 U.S.C. 2473(c).

2. Revise section 17.500 to read as follows:

17.500 Scope of subpart.

(a) This subpart prescribes policies and procedures applicable to interagency acquisitions under the Economy Act (31 U.S.C. 1535). The Economy Act also provides authority for placement of orders between major organizational units within an agency. Agency regulations address procedures for these intra-agency transactions.

(b) The Economy Act applies when more specific statutory authority does not exit. Examples of interagency acquisitions to which the Economy Act does not apply include—

(1) Acquisitions from required sources of supplies prescribed in part 8, which have separate statutory authority; and

(2) Acquisitions of information technology from agencies designated by OMB as executive agents under the authority of Pub. L. 104–106, Section 5112(e) (40 U.S.C. 1412(e)).

[FR Doc. 99–20848 Filed 8–11–99; 8:45 am]

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